

GUNNERS VIEW CONDOMINIUM
DECLARATION OF CONDOMINIUM

THIS DECLARATION OF CONDOMINIUM made this 26th day of MAY, 1982, in Montgomery County, Maryland, by Ryan Homes, Inc., a corporation organized and existing under the laws of the State of Pennsylvania and SMC-Gunners, Inc. a corporation organized and existing under the laws of the State of Maryland, hereinafter sometimes collectively referred to as the "Grantors".

MISC. 141.

W I T N E S S E T H :

WHEREAS, the Grantors are the owners, in fee simple, of that certain real property located in Montgomery County, Maryland, described in Exhibit A attached hereto and made a part hereof (the "Property"); and

WHEREAS, the Grantors have constructed or will construct upon the Property one (1) condominium building (the "Building") containing twelve (12) condominium units; and

WHEREAS, the Grantors desire to, and by these presents do hereby submit the said Property together with the Building now or to be erected thereon, into a horizontal property regime pursuant to the provisions of the Horizontal Property Act of the State of Maryland, Real Property Article, Sec. 11-101, et. seq., of the Annotated Code of Maryland (1979 Cum. Supp.) as amended (the "Horizontal Property Act"); and

WHEREAS, the Grantors have as heretofore filed on the 26th day of MAY, 1982, in the Office of the Clerk of the Circuit Court for Montgomery County, Maryland, condominium lots entitled Phase One Gunners View Condominium consisting of 3 sheets (the "Plats"), prepared by Johnson, Maresca & Thompson, P.A. dated MAY 24 1982 which Plats are recorded in Condominium Plat Book No. 26 at Plat 5752, et. seq.

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Grantors hereby declare that all of the Property described in Exhibit A attached hereto, together with all improvements heretofore constructed thereon, and all appurtenances thereto, shall be held, conveyed, divided or subdivided, leased, rented and occupied, improved, hypothecated or encumbered, subject to the covenants, restrictions, uses, limitations, obligations, easements, equitable servitudes, charges and liens (hereinafter sometimes referred to as "covenants and restrictions") hereinafter set forth, including the provisions of the By-Laws of Gunners View Condominium, Inc. (the By-Laws) attached hereto as Exhibit B and incorporated herein, all of which are declared and agreed to be in aid of a plan for the improvement of said Property, and the division thereof into condominiums and shall be deemed to run with and bind the land, and shall inure to the benefit of and be enforceable by the Grantors, their successors and assigns, and any person acquiring or owning an interest in said Property and improvements.

Ryan Homes, Inc., 19360 Montgomery Village Ave., Gaithersburg, Maryland 20879; SMC-Gunners, Inc., 1717 Eiton Road, Silver Spring, Maryland 20906 (sole); street address: n/a; title insurer: n/a; PARCEL ID NO.: 9-50-2130392

FIRST: Definitions: Unless the context shall plainly require otherwise, the following words used in this Declaration and/or any and all exhibits hereto shall have the following meanings:

(a) "unit" or "condominium unit" means a unit defined by the Horizontal Property Act and this Declaration, and consists of any one of those parts of the Building which are separately described on the Plats and in paragraph "Third" below.

(b) "condominium project" means the property subject to the Declaration.

(c) "condominium" means property subject to the condominium regime established under the Horizontal Property Act.

(d) "unit owner" means any person, corporation, trust or other legal entity, or any legal combination thereof, which owns a condominium unit within the condominium project, provided, however, that any person, corporation, trust or other legal entity or any combination thereof, which holds such an interest solely as security for the payment of a debt or performance of an obligation shall not be an owner.

(e) "common elements" means all of the condominium except the units.

(f) "general common elements" means all the common elements except the limited common elements.

(g) "limited common elements" means those common elements identified in this Declaration or in the Plats as reserved for the exclusive use of one or more but less than all of the unit owners.

(h) "council of unit owners" means the governing body of the condominium and is comprised of unit owners of Gunners View.

(i) "percentage interests" means the interests expressed as percentages, established in accordance with paragraph "Fifth" below.

(j) "mortgagee" means the holder of any recorded mortgage, or the beneficiary of any recorded deed of trust, encumbering one or more units.

SECOND: Name of Condominium: This Condominium shall be known as "Gunners View Condominium".

THIRD: Condominium Property and Description of Condominium Units: The Condominium property is as described on Exhibit A. Annexed hereto and made part hereof as Exhibit C is a list of all units in the Building, their unit designations, and the percentage interest of each unit in the common elements. The approximate areas and elevations of the units, the Building, and the Property and the immediate common elements to which each unit has access is shown on the Plats. Each Condominium unit in the Building shall consist of an enclosed space of one or more rooms occupying part of one floor in the Building of one or more floors

or stories. The lower vertical boundary of any such condominium unit is a horizontal plane or planes, the elevations of which coincide with the upper surfaces of the floor, extending to intersect the lateral boundaries thereof. The upper vertical boundary is a horizontal plane or planes, the elevations of which coincide with the unexposed upper surfaces of the ceiling dry-wall, extending to intersect the lateral boundaries, thereof. The lateral boundaries of such units are the vertical planes coinciding with the unexposed surfaces of the interior perimeter dry-walls, extending to intersect the upper and lower boundaries thereof and the other lateral boundaries of the unit. All lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring, and any other materials constituting any part of the finished surfaces thereof are a part of the unit and all other portions of the walls, floors or ceilings are a part of the common elements. Except for the common elements as hereinafter described and/or as shown on the Plats, each condominium unit shall include all the space, facilities and equipment located within the area above described for such unit. If any chute, flue, duct, wire, conduit or any other fixture lies partially within and partially outside the designated boundaries of a unit, any portion thereof serving only that unit is a part of that unit, and any portion thereof serving more than one unit or any portion of the common elements is a part of the common elements. The doors and windows of a unit shall be included within the unit. All spaces, interior partitions and other fixtures within the boundaries of a unit are a part of that unit.

FOURTH: (A) Common Elements: The general common elements shall include the real property, improvements, facilities and systems described in Exhibit A, and the Plats, which are not a part of any condominium unit and which are not designated limited common elements; the general common elements shall include but not be limited to, streets, curbs, sidewalks, walks, parking areas, plat areas, lawn and garden areas, trees, shrubbery, recreational area, foundations and stairways, hallways, and roofs. The general common elements shall also include the components of the electrical, power, water, telephone and sewer systems, which are not located within any unit or which are located within a unit but serve more than one unit, including without limitation, the pipes, ducts, water mains, flues, chutes, conduits, utility mains, storm drainage, sewer pipes, cables, and wires which are a part of said systems.

(B) Limited Common Elements: The limited common elements include those designated as such on the Plats, such as balconies, and as limited common elements, are reserved for the exclusive use of the owners of the unit or units to which they are declared to be appurtenant by appropriate designation on the Plats. The lateral boundaries of the limited common elements are the vertical planes coinciding with the outermost boundary of the limited common elements as shown on the Plats. The upper and lower vertical boundaries of the limited common elements are horizontal planes, the elevations of which coincide with the upper and lower vertical boundaries of the units appurtenant thereto. Any shutters, awnings, window boxes, doorsteps, stoops, porches, balconies, patios and all exterior doors and windows or other fixtures designated to serve a single unit, but located outside the unit's boundaries, are limited common elements allocated exclusively to that unit. The limited common elements shall not

include any utility mains, pipes, ducts, water mains and other utility lines which may lie within the boundaries of the limited common elements. Said utility mains, pipes, etc., shall remain common elements and as such, shall not be obstructed, damaged or interfered with by any unit owner. Any unit owner of a unit to which the use of any limited common element is restricted may grant by deed the use of the limited common element to any other unit owner. Thereafter, the Grantor shall have no further right to use the limited common element.

(C) Easement for Support and Access: Each unit owner shall have an easement in common with the owners of all other units to use any pipes, wires, ducts, cables, conduits, public utility lines and other common elements located in any of the other units to serve his unit. Each unit shall be subject to an easement in favor of the owners of all other units to use any pipes, ducts, cables, wires, conduits, public utility lines and other common elements which serve other units and located in such unit. Every portion of a unit which contributes to the structural support of the Building shall be burdened with an easement of structural support for the benefit of all other units and the common elements.

(D) Easements, Rights-of-Way, Licenses: If approved by the unit owners (and their mortgagees) having at least seventy-five percent (75%) of the total percentage interests, the Board of Directors may grant specific easements, rights-of-way, licenses and similar interests affecting the common elements for public utilities or other public purposes consistent with the use of the common elements by the condominium; provided that any such grant shall state that it was approved by the owners having at least seventy-five percent (75%) of the total percentage interests.

FIFTH: Percentage Interests: Each condominium unit shall have the same incidents as real property and the owner of any condominium unit shall have a common right to a share, with the other co-owners, of an undivided interest in the common elements equivalent to the percentage interest of each condominium unit in the common elements as set forth in Exhibit C attached hereto and by this reference made a part hereof. The interest of each unit in the common elements is the percentage designated for that unit on Exhibit C attached hereto and by this reference made a part hereof. Said percentage interest of each unit in the common elements as designated on Exhibit C is also the number of votes appurtenant to the unit, expressed as a percentage. The percentage interests in the common elements herein established shall not be changed without the written consent of all of the unit owners and their mortgagees. Any change shall be evidenced by an amendment to the Declaration, recorded among the Land Records of Montgomery County, Maryland. The percentage interests may not be separated from the unit from which they appertain. Any instrument matter, circumstance, action, occurrence, or proceeding in any manner affecting a unit also shall affect, in like manner, the percentage interests appurtenant to the unit.

SIXTH: Covenant Against Partition: The common elements shall remain undivided. No owner of any condominium unit or any

other person shall bring any action for partition or division thereof except as may be provided for in the Horizontal Property Act.

SEVENTH: (A) Reservation of Right to Expand: Grantors reserve the right to expand the condominium without the consent of the unit owners or mortgagees by annexing to the Property addition of land and improvements. This right to expand the condominium shall expire seven (7) years from the date of the recording of the declaration.

(B) Conditions: The Condominium may be expanded any number of times in accordance with this paragraph SEVENTH by the addition of various sections of land described in Exhibit D attached hereto and made a part hereof. The outline of the land comprising the expanded condominium and the buildings and common elements located or to be located thereon are shown on Exhibit E.

The maximum number of units to be added to the condominium shall be seventy-two (72).

Following each expansion of the condominium each unit owner of the condominium shall have that percentage interest in the common elements, common expenses and profits and voting rights as the square footage of his individual unit bears to the square footage of all units in the expanded condominium. In the event the condominium expands fully to a total of eighty-four (84) units, then each unit owner will have that percentage interest as set forth on Exhibit F.

In the event the Grantors expand the condominium, then all such improvements shall be substantially similar in quality of construction to the existing condominium.

(C) Recordation of Amendments to the Declaration and the Plats: The expansion of the condominium by the addition of sections shall not be effective until Grantors record in the Land Records of Montgomery County (i) an amendment to the Declaration, showing the new percentage interests of the unit owners, in the common elements, common expenses and profits, and the number of votes appurtenant to each unit, as expanded, and (ii) an amendment to the Plats which includes the detail and information concerning the new Section as required to be included in the original Plats by the Horizontal Property Act.

Upon recordation of the proper amendment to the Declaration and Plats, each unit owner, by operation of law, shall have the percentage interests in the common elements, and in the common expenses and common profits, and the number of votes, set forth in said amendments. The interest of any mortgage shall attach, by operation of law, to the new percentage interest in the common elements appurtenant to the unit on which it has a lien.

EIGHT: (A) Construction and Enforcement: The provisions hereof shall be liberally construed to effectuate the purposes of creating a uniform plan for the development and operation of a condominium project. Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate

any covenant or restriction, either to restrain or enjoin violation or to recover damages, or both, and against any condominium unit to enforce any lien created hereby, or by any proceeding permitted by the By-Laws; and the failure or forbearance by the council of unit owners, or the owner of any condominium unit to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

There shall be and is hereby created and declared to be a conclusive presumption that any violation or breach or any attempted violation or breach of any of the within covenants or restrictions cannot be adequately remedied by action at law or by recovery of damages.

(B) Encroachments: If any portion of any common element encroaches on any unit or if any portion of a unit encroaches on any common element or any other unit, as a result of the duly authorized construction, reconstruction, repair, shifting, settlement or movement of any portion of the condominium, a valid easement for the encroachment and for the maintenance of the same shall exist so long as the building stands.

The grant or other disposition of a condominium unit shall include and grant, and be subject, to any easement arising under the provisions herein without specific or particular reference to the easement.

The council of unit owners or its designee, including the management agent, shall have an irrevocable right and easement to enter units to inspect the units, to remove violations therefrom and to make repairs to common elements when the repairs reasonably appear necessary for public safety or to prevent damage to other portions of the condominium. Except in cases involving manifest danger to public safety or property, the council of unit owners shall make a reasonable effort to give notice to the owner of any unit to be entered for the purpose of such repairs. No entry by the council of unit owners for the purposes specified in this subsection may be considered a trespass.

(C) Severability: Invalidation of any one of these covenants and restrictions by judgment, decree or order shall in no way effect any other provisions hereof, each of which shall remain in full force and effect.

(D) Amendment: This Declaration may be amended or merged only with the written consent of every unit owner, mortgagee, and the Veterans Administration, when acting as a mortgagee as defined in Title 11 of the Real Property Article of the Annotated Code of Maryland. No amendment shall be effective until recorded in the same manner as this Declaration.

IN WITNESS WHEREOF, the said Ryan Homes, Inc., a Pennsylvania corporation, has on the 24th day of May, 1982, caused these presents to be executed by W.C.G. Clore, Vice President of Ryan Homes, Inc., and attested to by Carole F. Wadding, Secretary of Ryan Homes, Inc., and the said SMC-Gunners, Inc., a Maryland corporation, has on the 25th day of May, 1982, caused these presents to be executed by Martin K. Alloy, President of SMC-Gunners, Inc., and attested to by Doris Hensley,

Secretary of SMC-Gunners, Inc.

RYAN HOMES, INC.

ATTEST:

By: [Signature]
W.G.C. Clore, Vice President

[Signature]
Carole F. Wadding

SMC-GUNNERS, INC.

ATTEST:

By: [Signature]
Martin K. Alloy, President

[Signature]
Doris Hensley

STATE OF Maryland :
COUNTY OF Montgomery :

I HEREBY CERTIFY that on this 21st day of 11/11 1982, before me, a Notary Public in and for the State and County aforesaid, personally appeared W.G.C. Clore, Vice President of Ryan Homes, Inc., and first being duly sworn, testified that he is authorized to execute this document on behalf of the aforementioned corporation and that the foregoing is the act of the Corporation.

[Signature]
Notary Public

My Commission Expires: 7-1-83

STATE OF Maryland :
COUNTY OF Calvert :

I HEREBY CERTIFY that on this 25th day of Nov 1982, before me, a Notary Public in and for the State and County aforesaid, personally appeared Martin K. Alloy, President of SMC-Gunners, Inc., and first being duly sworn, testified that he is authorized to execute this document on behalf of the aforementioned corporation and that the foregoing is the act of the Corporation.

[Signature]
Notary Public

My Commission Expires: 5-1-83

LAW OFFICES
MERON & CLARKE, P.A.
419 SHADY GROVE COLT
DIVERDING MARYLAND 20877
301.840-9702

EXHIBIT "A"

DESCRIPTION OF PHASE ONE

PART OF PARCEL "D", BLOCK A
GUNNERS VIEW

GAITHERSBURG, (9TH) DISTRICT
MONTGOMERY COUNTY, MARYLAND

Being part of Parcel "D", Block A, as shown on a plat of subdivision entitled "Parcel D, Block A, Gunners View" and recorded among the Land Records of Montgomery County, Maryland, in Plat Book 115 as Plat 13604; and being more particularly described as follows:

Beginning for the same at a point on the easterly right-of-way line of Ridgecrest Drive (60.00) feet wide), said point also being at the end of the South 89°00'00" West 676.26 foot plat line of said Parcel "D", all as shown on the aforesaid plat; and running thence along said right-of-way line, the three (3) following courses and distances, and also running along part of the outline of said Parcel "D", the four (4) following courses and distances

1. 52.83 feet along the arc of a curve deflecting to the left having a radius of 580.00 feet and a chord bearing North 07°28'46" West 52.81 feet to a point; thence
2. North 10°05'20" West 187.64 feet to a point; thence
3. North 34°54'40" East 35.36 feet to a point on the southerly right-of-way line of Middlebrook Road, 75.00 feet opposite centerline of right-of-way station 33 + 25.54, as shown on the aforesaid plat; thence running along part of said right-of-way line.
4. North 79°54'40" East 99.83 feet to a point; thence running in, through, over and across the aforesaid Parcel "D", the five (5) following courses and distances
5. South 08°50'00" East 116.03 feet to a point; thence
6. North 81°10'00" East 45.00 feet to a point; thence
7. South 08°50'00" East 99.00 feet to a point; thence
8. North 81°10'00" East 69.00 feet to a point; thence
9. South 08°50'00" East 85.47 feet to a point on the aforementioned 676.26 foot plat line; thence running with part of said plat line
10. South 89°00'00" West 237.60 feet to the place of beginning; containing 46,566.35 square feet or 1.0690 acres of land.

