

REQUEST FOR BOARD ACTION

HENDERSON COUNTY

BOARD OF COMMISSIONERS

MEETING DATE: 3 December 2007

SUBJECT: Amended Declaration of Condominium for Partners in Health

ATTACHMENT(S): Draft amendment

SUMMARY OF REQUEST:

You are requested to approve the attached changes proposed by Henderson County Hospital Corporation to the declaration of condominium for the Partners in Health condominium, located adjacent to Blue Ridge Community College's main campus in Flat Rock. The changes would allow the sale by Henderson County Hospital Corporation of the Pardee Care Center facility located within the condominium, and allow for the purchaser to have representation on the condominium board.

The Board of Trustees of Henderson County Hospital Corporation is expected to review and approve the proposed changes at its next meeting, on 12 December 2007.

County staff will be present and prepared if requested to give further information on this matter.

BOARD ACTION REQUESTED:

Approval of the proposed changes.

If the Board is so inclined, the following motion is suggested:

I move that the Board approve the proposed changes to the Declaration of Condominium for the Partners in Health Condominium, subject to their approval by the Board of Trustees of Henderson County Hospital Corporation.

**AMENDMENT TO
DECLARATION OF CONDOMINIUM
OF
PARTNERS IN HEALTH CONDOMINIUM
A North Carolina Condominium
511 South Allen Road
Flat Rock, North Carolina 28731**

AMENDMENT to that Declaration of Condominium made April 6, 2000, by Henderson County, North Carolina, a North Carolina body politic (the "Developer"), for itself, its successors, grantees, and assigns.

(1) The purpose of this Amendment to Declaration is to amend the Declaration of Condominium of Partners in Health Condominium dated April 6, 1999 and recorded in Deed Book 985 at page 710 in the office of the Register of Deeds for Henderson County, North Carolina to reflect the addition of certain units and the relative rights and responsibilities of the unit owners and the Association. This amendment has been approved by and is made by the owners and lessees of all units within the condominium, Henderson County, Hospice of Henderson County, Inc. and Henderson County Hospital Corporation.

(a) The name by which this condominium is to be identified is Partners in Health Condominium, a condominium, herein called the "Condominium", and its address is 511 South Allen Road, Flat Rock, North Carolina 28731.

(b) The condominium is and shall be situated in Henderson County;

(2) The condominium association shall consist of owners of Units 1, 2 and 3 and is known as Partners in Health Condominium Association, Inc. The Association shall be governed by a board of directors, as more particularly described in the bylaws thereof. The board of directors shall consist of seven (7) members, of whom three (3) shall be appointed by the owner of Unit 1, two (2) shall be appointed by Unit 2 and two (2) appointed by the owner of Unit 3.

(3) The real property included in the condominium is described in Exhibit A attached hereto and made a part hereof by this reference.

(4) The maximum number of units which the declarant reserves the right to create is amended from two to four.

(5) A description by reference to the plats or plans described in N.C.G.S. §47C-2-109 of the boundaries of each unit created by the declaration including the unit's identifying number, is recorded at _____ in the office of the Register of Deeds for Henderson County, North Carolina.

(6) The condominium shall have no limited common elements.

(7) No real estate may be allocated subsequently as limited common elements.

(8) The declarant reserves no right to develop any unit of the Condominium.

(9) Unit 1 shall be allocated 66% of the undivided interest in the common elements; Unit 2 shall be allocated 25 % of the undivided interest in the common elements; Unit 3 shall be allocated 08% of the undivided interest in the common elements; and Unit 4 shall be allocated 01% of the undivided interest in the common elements. Unit 1 shall be allocated 66% of the common expenses of the association; Unit 2 shall be allocated 25 % of the common expenses of the association and Unit 3 shall be allocated 08% of the common expenses of the association ; and Unit 4 shall be allocated 01% of the common expenses of the association.

(10) All portions of the condominium other than the units are and shall be common elements. The common elements include the driveways, parking areas, lawn, patios, gardens and other landscaping, sidewalks, and utility buildings.

(11) Each unit may be used only for the purposes of providing health care, for the purpose of adult day care facilities, or for administration of health care facilities to be conducted by the unit owner within North Carolina.

(12) The invalidity in whole or in part of any covenant or restriction, or any section, subsection, sentence, clause, phrase, or word, or other provision of this Declaration and the Articles of Incorporation, Bylaws, and regulations of the Association shall not affect the validity of the remaining portions thereof.

(13) This Declaration may be amended in the following manner:

(a) Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting of the association at which a proposed amendment is considered.

(b) Either the Board of Directors or the members of the Association may propose a resolution adopting a proposed resolution. Directors and members not present in person or by proxy at the meetings considering the amendment may express their approval in writing, providing such approval is delivered to the Secretary at or prior to the meeting. Except as elsewhere provided, such approvals must be by not less than 100% of the entire membership of the Board of Directors and by not less than 100% of the votes of the unit owners.

(c) No amendment shall discriminate against any unit owner unless the unit owner so affected shall consent. No amendment shall change any unit nor the share in the common

elements appurtenant to it, nor increase the owner's share of the common expenses, unless the record owner of the unit therein shall join in the execution of the amendment.

(d) A copy of each amendment shall be certified by the President and Secretary of the Association as having been duly adopted and shall be effective when duly recorded in the office of the Register of Deeds of Henderson County, North Carolina.

(14) The annual budget for all expenditures to be made by the Association for repair and maintenance of the common elements must be approved by all of the owners of Units 1, 2 and 3.

(15) The title to Unit 4 may not be conveyed separate and apart from the title to Unit 1, and both such units shall always remain in common ownership.

(16) A true copy of the bylaws of the Association is attached hereto as Exhibit B.

Done in Henderson County, North Carolina, this ____ day of _____, 2007.

HENDERSON COUNTY

By: _____(SEAL)

WILLIAM MOYER
Chair, Board of Commissioners

HOSPICE OF HENDERSON COUNTY, INC.
d/b/a FOUR SEASONS HOSPICE AND PALLIATIVE CARE

By: _____(SEAL)

HENDERSON COUNTY HOSPITAL CORPORATION
d/b/a MARGARET R. PARDEE MEMORIAL HOSPITAL

By: _____(SEAL)

STATE OF NORTH CAROLINA
COUNTY OF HENDERSON

I, a Notary Public of the County and State aforesaid, certify that William Moyer, Chairman of the Henderson County Board of Commissioners personally appeared before me this day and acknowledged the voluntary execution of the foregoing instrument for the purpose stated therein. Witness my hand and official stamp or seal, this ____ day of _____, 2007.

Notary Public

My commission expires:

STATE OF NORTH CAROLINA
COUNTY OF HENDERSON

I, a Notary Public of the County and State aforesaid, certify that _____, Chairman of the Board of Directors for Henderson County Hospital Corporation, personally appeared before me this day and acknowledged the voluntary execution of the foregoing instrument for the purpose stated therein. Witness my hand and official stamp or seal, this ____ day of _____, 2007.

Notary Public

My commission expires:

STATE OF NORTH CAROLINA
COUNTY OF HENDERSON

I, a Notary Public of the County and State aforesaid, certify that _____, Chairman of the Board of Directors for Hospice of Henderson County, Inc., personally appeared before me this day and acknowledged the voluntary execution of the foregoing instrument for the purpose stated therein. Witness my hand and official stamp or seal, this ____ day of _____, 2007.

Notary Public

My commission expires:

_____, President of the Board of Directors of Partners In Health Condominium Association, Inc. hereby certifies that the foregoing Amendment to the Declaration of Condominium was duly adopted by the aforesaid Board of Directors on November ____, 2007.

President

Attest:

Secretary

EXHIBIT A

BEGINNING at a point in the right-of-way of South Allen Road (State Road 1756), said point being the northeasternmost corner of that property described in deed of record in Deed Book 985, at Page 708, in the office of the Register of Deeds for Henderson County, North Carolina; and running thence South 03 deg. 46 min. 52 sec. East 110.28 feet to a point; thence South 83 deg. 30 min. 48 sec. East 10.50 feet to a point; thence South 04 deg. 45 min. 49 sec. East 165.84 feet to a point; thence South 05 deg. 27 min. 41 sec. East 110.48 feet to a spike set; thence North 73 deg. 43 min. 04 sec. West 125.19 feet to a point; thence South 83 deg. 31 min. 09 sec. West 62.76 feet to a point; thence South 62 deg. 42 min. 40 sec. West 48.43 feet to a point; thence South 00 deg. 59 min. 32 sec. East 28.22 feet to a point; thence North 85 deg. 55 min. 08 sec. West 36.70 feet to a point; thence South 80 deg. 27 min. 56 sec. West 62.74 feet to a point; thence South 63 deg. 49 min. 53 sec. West 86.06 feet to a rebar set; thence South 51 deg. 04 min. 59 sec. West 39.16 feet to an existing rebar at a control corner; thence South 83 deg. 40 min. 28 sec. West 449.84 feet to an existing rebar; thence North 11 deg. 33 min. 46 sec. West 315.48 feet to an existing rebar; thence North 06 deg. 29 min. 45 sec. East 319.55 feet to an existing spike in the base of the Chestnut Oak; thence South 83 deg. 32 min. 16 sec. East 649.95 feet to a point; thence South 83 deg. 32 min. 16 sec. East 229.98 feet to the point and place of BEGINNING, and containing 10.37 acres, more or less, as shown on that survey of Hill and Associates Surveyors, P.A., dated October 12, 2007, bearing File No. 24064.

THERE IS ALSO CONVEYED all easements appurtenant to the above-described tract.