

STATE OF NORTH CAROLINA

COUNTY OF MOORE

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

DECLARATION, made the _____ day of _____, 1998, by WHISPERING PINES LAND COMPANY, L.L.C., a North Carolina Limited Liability Company, of One Clubhouse Boulevard, Whispering Pines, North Carolina 28327 ("Declarant").

W I T N E S S E T H:

THAT WHEREAS, Declarant is the owner of 85.13 acres, more or less, of real property located in McNeill Township, Moore County, North Carolina, which property is more particularly described in Deed Book 1129, Page 280 in the office of the Moore County Register of Deeds; and

WHEREAS, said property, known as "Whispering Winds in Whispering Pines" (hereinafter referred to as "the Development") has been subdivided into Lots 1-107, as shown on a plat prepared by RLS Arpenteurs-Surveyors and Engineers on January 25, 1996 and recorded in Plat Cabinet _____, Slide _____ in the office of the Moore County Register of Deeds; and

WHEREAS, Declarant is desirous of making the Development subject to the covenants, conditions and restrictions contained herein for the purpose of insuring the best use and most appropriate development and improvement of each building site in the Development; and

WHEREAS, Declarant desires to protect itself and future owners of the aforesaid lots against such improper use of surrounding building sites as will depreciate the value of such lots; and

WHEREAS, Declarant desires to preserve as far as practicable the natural beauty of the Development; and

WHEREAS, Declarant desires to guard against the erection on the aforesaid lots of poorly designed or proportioned structures, and structures built of improper or unsuitable materials; and

WHEREAS, Declarant desires to obtain harmonious color schemes; and

WHEREAS, Declarant desires to insure the highest and best development of the Development; and

WHEREAS, Declarant desires to encourage and secure the erection of attractive homes therein, with appropriate locations thereof on the aforesaid lots; and

WHEREAS, Declarant desires to prevent haphazard and inharmonious improvements of such lots; and

WHEREAS, Declarant desires to secure and maintain proper setbacks from streets, and adequate free spaces between structures, and in general to provide adequately for a high type and quality of improvement on such lots and thereby to enhance the values of investments made by purchasers of such lots;

NOW, THEREFORE, Declarant hereby declares that the Development is and shall be held, transferred, sold, and conveyed, subject to the following covenants, conditions and restrictions.

1. REQUIRED LAND AREA. The lay of the lots as shown on the aforesaid plat shall be adhered to, provided, however, that Declarant expressly reserves the right to itself, its successors or assigns, the right to re-plat any two or more lots prior to their sale in order to create a modified lot or lots. With the prior written approval of Declarant, its successors or assigns, additional streets, roadways or driveways, either public or private, may be opened through any lot, subject to the restrictions set forth in Paragraph 31, and the size and shape of any lot may be altered, provided that no remaining or resulting lot may vary from the size of such lot as shown on the aforesaid survey by more than thirty percent (30%) as to the width at street frontage or by more than fifteen percent (15%) as to the area, and provided further that no lot or group of lots may be re-subdivided so as to produce a greater number of smaller lots. More than one lot may be used for the erection or placement of a residential structure, provided that the location of such structure is approved in writing by Declarant, its successors or assigns. The covenants, conditions and restrictions herein shall apply to each lot created under this paragraph.

2. USE OF LAND. The lots shall be used solely and exclusively for residential purposes. No structure shall be erected, altered, placed or permitted to remain on any lot other than one detached, single-family private residence not to exceed the maximum permitted height or lot coverage under

the Residential Single Family IV District zoning ordinance, or the successor thereto, of the Village of Whispering Pines.

3. APPROVAL OF RESIDENCE DESIGN. No residence, building, driveway or structure shall be erected, altered, remodeled, enlarged, or allowed to remain upon any lot unless the plans and specifications therefor have been previously submitted to and approved in writing by Declarant, its successors or assigns, as to conformity and harmony of external design and external materials with existing structures in the area and as to location with respect to topography, lakes, golf courses, and finished ground elevation. Declarant, its successors or assigns, shall have the sole right and authority to approve or disapprove the plans and specifications for any reason, including but not limited to exterior colors and appearances, location of the structure or structures and aesthetics. Without limiting the foregoing, no concrete blocks in either buildings or walls shall be used above finished ground elevations unless said blocks are covered with brick veneer, stone or stucco. No asphaltic coverings of any type shall be used on exterior walls. No changes or deviations in or from the plans and specifications as approved shall be made without the prior written consent of Declarant, its successors or assigns. In the event that Declarant, its successors or assigns, fails to approve or disapprove such design or location within thirty (30) days after said plans and specifications have been submitted to it, or in any event, if no suit to enjoin the erection of such building or the making of such alterations, remodeling or additions has been commenced prior to the completion thereof, such approval will not be required and this covenant will be deemed to have been fully complied with. Declarant, its successors or assigns, shall have the right, whenever there shall have been built on any lot any structure that is in violation of this covenant, to enter upon the lot where the violation of this covenant exists and summarily abate or remove the same at the expense of the owner, and any such entry or abatement or removal shall not be deemed a trespass. The failure promptly to enforce this covenant shall not bar its enforcement.

4. BUILDING LOCATION. No building or any part thereof, shall be erected on any lot in violation of the Residential Single Family IV District zoning ordinance, or the successor thereto, of the Village of Whispering Pines. If one and one-half (1½) lots or two (2) or more lots are acquired as

a single building site as provided herein, the side lot lines shall refer only to the lot lines bordering the adjoining property owners.

5. **BUILDING SPECIFICATIONS.** The exterior of all buildings must be brick or approved siding. Vinyl shall be acceptable for gables, dormers or accents, but shall not exceed twenty-five percent (25%) of the exterior. If brick or stone are used for exterior walls, they must go to finished grade. A minimum of 6/12 roof pitch is required with at least three breaks in the roof line and eight outside and inside corners. A two-car garage is required.

6. **MINIMUM SIZE OF RESIDENCE.** No residential structure that is in violation of minimum size requirements as set forth in the Residential Single Family IV District zoning ordinance, or the successor thereto, of the Village of Whispering Pines shall be erected or placed on any lot.

7. **PROHIBITION AGAINST BUSINESS, MANUFACTURING OR COMMERCIAL USES.** No lot may be used for business, manufacturing or commercial purposes, nor shall any animals or fowls be kept or allowed to remain on said lots for commercial purposes, and no animals other than household pets shall be kept or allowed to remain on said lots for any purpose. No noxious or offensive trade or activity shall be carried on upon any lot. No trade materials or inventories may be stored upon any lot.

8. **OTHER PROHIBITED STRUCTURES.** No trailer, tent, shack, barn, or other outbuilding or accessory building shall be erected or placed on any lot, or occupied thereon, except as specifically permitted under the Residential Single Family IV District zoning ordinance, or the successor thereto, of the Village of Whispering Pines.

9. **COUNTRY CLUB OF WHISPERING PINES MEMBERSHIP REQUIREMENT.** Without the consent of Declarant, its successors or assigns, no lot shall be sold, resold, leased, rented, conveyed or otherwise alienated nor shall the title or possession thereof pass to any person unless the name of such person has previously been submitted to the Membership Committee of the Board of Directors of the Country Club of Whispering Pines, and such person has been approved for membership by the Membership Committee. Nothing contained in this paragraph, however, shall be deemed to require the approval of Declarant, or its successors or assigns, to the mortgaging of any lot or the passage of title under any mortgage foreclosure, nor shall

anything herein be determined to apply to or affect the devolution of title by will or under intestate laws of the State of North Carolina, nor shall anything herein be deemed to require the owner of any lot to remain a member of the Country Club of Whispering Pines, or to require the Country Club of Whispering Pines to retain any lot owner as a member. The right is hereby reserved to Declarant or its successors or assigns, however, to intervene in or to set aside any proceeding to foreclose the mortgage or to set aside any sale or transfer thereunder for the purpose of preventing a collusive transfer of title in violation of the foregoing provision. The purchaser at foreclosure sale, the heirs and devisees of the owners (after acquiring title by foreclosure, devise or under the intestate laws of the State of North Carolina), and lot owners who have ceased for whatever reason to be members of the Country Club of Whispering Pines, and all successors in title of the foregoing persons shall be bound by this paragraph as to any subsequent sale, transfer, leasing or occupancy of said lot. It is understood that the rights hereby reserved to Declarant shall apply with equal force and affect to its successors and assigns, but in the event that ownership and control of the rights hereby reserved pass from the hands of Declarant, or its successors or assigns, either by reason of the appointment of a receiver, assignment for the benefit of creditors, bankruptcy, sale under legal process of any kind, or otherwise, the provision for consent by Declarant in this paragraph shall be deemed to be sufficiently obtained when obtained only from a majority of the owners of the fifteen (15) lots located nearest the lot to be sold or leased.

10. WALLS, FENCES AND HEDGES. No wall, fence or hedge of any height shall be constructed on any lot until after the height, type, design and approximate location of any of the foregoing are approved in writing by Declarant, its successors or assigns. Without limiting the foregoing, no boundary wall or fence shall be constructed with a height of more than four feet (4') and no boundary line hedge or shrubbery shall be permitted with a height of more than four feet (4'). The heights or elevations of any wall, fence or hedge shall be measured from the existing elevations of the property at or along the applicable points or lines. In the event that Declarant, its successors or assigns, fails to approve or disapprove such wall, fence or hedge within thirty (30) days after the plans and specifications for such

wall, fence or hedge has been submitted to it, such approval will not be required and this covenant will be deemed to have been fully complied with.

11. TRASH RECEPTACLES. All trash receptacles, including but not limited to garbage cans, shall be concealed from the view of neighboring lots, roads, or streets. Such trash receptacles shall be in complete conformity with sanitary rules and regulations. No trash or garbage incinerators shall be permitted. Plans for enclosures of such trash receptacles must be approved by the Declarant, its successors or assigns, prior to construction, provided, however, that such approval will be deemed to have been given if Declarant fails to approve or disapprove such plans within thirty (30) days after its receipt of such plans.

12. WEEDS, REFUSE AND REMOVAL. No weeds, underbrush or other unsightly growth shall be permitted to grow or remain on any lot, and no refuse pile, unused motor vehicles, or any unsightly objects shall be allowed to be placed or to remain anywhere on any lot. In the event that any owner of any lot shall fail or refuse to keep such lot free from weeds, underbrush, refuse piles, unused motor vehicles or other unsightly growths or objects, Declarant or its successors or assigns may enter upon such lot and remove the same at the expense of the lot owner, and such entry shall not be deemed a trespass. In the event of such removal a lien shall arise and be created in favor of Declarant, its successors or assigns, and against the owner's lot for the full amount chargeable to the lot, and that amount shall be due and payable to Declarant, its successors or assigns, within thirty (30) days after the lot owner is billed for it.

13. STORAGE. All equipment, wood piles or storage piles permitted on lots under these Covenants, Conditions and Restrictions, shall be concealed from the view of neighboring lots, roads or streets. Plans for all enclosures of such items must be approved by Declarant, its successors or assigns, prior to construction, provided, however, that such approval shall be deemed to have been given if Declarant, its successors or assigns, fails to respond within thirty (30) days of its receipt of such plans.

14. CLOTHESLINES. No clotheslines or drying yards shall be permitted on any lot unless concealed by hedges, lattice work or screening acceptable to Declarant, its successors or assigns.

15. TANKS. Any tanks for use in connection with any lot, including tanks for the storage of fuels, must be buried or concealed sufficiently from the view of neighboring lots, roads or streets. Plans for all enclosures of such tanks must be approved by Declarant, its successors or assigns, prior to construction, provided that such approval shall be deemed to have been given if Declarant, its successors or assigns, fails to respond within thirty (30) days of its receipt of such plans.

16. TOYS, GAMES AND OTHER RECREATIONAL ITEMS. No swing sets, toys, sand boxes, basketball hoops, or other games or recreational items shall be stored, placed or kept in front or side yards.

17. SWIMMING POOLS. No swimming pool that is in violation of the Residential Single Family IV District zoning ordinance, or the successor thereto, of the Village of Whispering Pines shall be constructed or allowed to remain on any lot.

18. SIGNS. No billboards, advertising signs, or any other sign of any character shall be erected, placed, permitted or maintained on any lot or improvement thereon, provided, however, that a name and address sign shall be permitted on any lot if in conformance with the Residential Single Family IV District zoning ordinance, or the successor thereto, of the Village of Whispering Pines, and provided further that Declarant, its successors or assigns, may erect, place or maintain any sign structures in conformance with the aforesaid ordinance.

19. LETTER AND DELIVERY BOXES. Declarant, its successors or assigns, may determine the location, color, size, design, lettering, and all particulars of all mail or paper delivery boxes, provided that all such boxes shall conform to the Residential Single Family IV District zoning ordinance, or the successor thereto, of the Village of Whispering Pines.

20. NOISE. No lot shall be used to cause any noise that will or might disturb the peace, quiet, comfort or serenity of the occupants of the surrounding property, provided, however, that nothing contained herein shall be interpreted to prohibit or prescribe the level of usual and common noise created by the playing of the game of golf, together with all other common and usual activity associated with the game of golf and with all of the normal and usual activities associated with the operation of a country club.

21. COMMERCIAL VEHICLES. No trucks, except small pickup trucks or similar size vans, and no commercial vehicles or recreational vehicle shall be stored or parked on any lot.

22. PARKING. Adequate off-street parking shall be provided by the owner of each lot for the parking of a minimum of two (2) vehicles, and the owners of lots agree not to park their automobiles in the streets in the development.

23. GOLF COURSE. Easements to permit the doing of every act necessary and proper to the playing of golf are granted and established. These acts shall include, but not be limited to, the flight of golf balls over and upon the lots and the recovery of golf balls from the lots. Specifically, all owners and occupants of any lot in the development shall extend to any and all golfers lawfully using the Country Club of Whispering Pines the courtesy of allowing such golfers to retrieve any and all errant golf balls that have taken refuge on any lot in the development, provided that such golf balls may be recovered without damaging any flowers, shrubbery or the property in general of the owner of any such lot.

24. USE OF LAKE. No one other than owners or occupants of any lots in the development, or their guests, shall have any right to use the lake located within the development.

25. DOCKS. For the purpose of avoiding an unsightly or undesirable lake, no boathouse, bath house, private dock, pier, raft or landing stage or other structure shall be erected or maintained at or upon the shoreline adjacent to any lot, provided, however, that Declarant, its successors or assigns, shall have the right to erect any such structure at its sole discretion.

26. SEPTIC TANKS AND SEWAGE DISPOSAL SYSTEMS. Sanitary sewage disposal systems shall conform to the Residential Single Family IV District zoning ordinance, or the successor thereto, of the Village of Whispering Pines.

27. UTILITY LINES AND ANTENNAS. All electrical service lines and telephone lines shall terminate in underground service lines to buildings. Any exposed or exterior radio or television transmitting or receiving antennas in conformance with the Residential Single Family IV District zoning ordinance, or the successor thereto, of the Village of

Whispering Pines, may be erected, placed, or maintained on any part of any lot only with the prior written approval of Declarant, its successors or assigns, provided, however, that if Declarant, its successors or assigns, fails to respond to such request within thirty (30) days of its receipt of such request, it shall be deemed to have consented to such request.

28. UTILITY EASEMENTS AND LINES. Declarant, its successors or assigns and licensees, reserves an easement upon all fifty foot (50') rights-of-way and further reserves all necessary easements for the purpose of installing, operating and maintaining television cables, utility lines and mains thereon, together with the right to trim and/or cut or remove any trees and/or brush and the right to locate wires, braces and anchors wherever necessary for the aforesaid installation, operation or maintenance, together with the right to install, operate and maintain gas and water mains, sewer lines, culverts and drainage ditches and other services and appurtenances thereto, for the convenience of the lot owners, reserving also the right of ingress and egress to such areas for any of the purposes mentioned above. Declarant, its successors or assigns and licensees, reserves an easement on, over and under all road rights-of-way for the purpose of installing, operating and maintaining the above-mentioned utilities and drainage. Declarant, its successors or assigns further reserves the right to change, lay out new streets or discontinue any streets not necessary for ingress or egress to and from an owner's lot, subject to the approval of the Village of Whispering Pines, if such approval is required. Lot owners shall have no cause of action against Declarant, its successors or assigns or licensees, either at law or in equity except with regard to any damages caused to said property by reason of willful negligence in installing, operating, removing or maintaining the above-mentioned installations.

29. CONSTRUCTION. Pursuant to an agreement previously entered into by Declarant and Daniel Adams Construction Company, any person who purchases a lot in the Development may employ a contractor other than Daniel Adams Construction Company only if Daniel Adams Construction Company shall have first consented in writing, and if such person pays a minimum fee of Seven Thousand Five Hundred Dollars (\$7,500.00) to Daniel Adams Construction Company. When the construction of any building on any lot is begun, work thereon must be prosecuted diligently and must be completed

within a reasonable time not exceeding twelve (12) months from the date of commencement of construction, provided, however, that Declarant, its successors or assigns, may modify such requirement in cases of hardship.

30. WHISPERING WINDS LAKE OWNERS ASSOCIATION. There may be established and incorporated under the laws of the State of North Carolina a lake owners' association for ownership, maintenance, and exclusive use of the lake and other property in the Development, which association shall be known as "Whispering Winds Lake Owners Association, Inc." Each lot owner in the Development, by accepting a deed for such lot, agrees to and shall be a member of and be subject to the by-laws, rules, privileges and obligations of such association.

31. ACCESS TO LOTS. No owner of any lot shall be permitted direct vehicular access from such lot to State Roads 1843 or 1802 or to Arrow Drive, through rear or side lines of such lot. Driveways shall be constructed only from streets internal to the Development.

32. COMPLIANCE WITH WETLANDS REGULATIONS. A portion of this lot has been determined to meet the requirements for designation as a regulatory wetland. Any subsequent fill or alteration of this wetland shall conform to the requirements of state wetland rules adopted by the State of North Carolina in force at the time of the proposed alteration. The intent of the deed restriction is to prevent additional wetland fill, so the property owner should not assume that a future application for fill will be approved. The property owner shall report the name of the subdivision, in any application pertaining to said wetland rules. This covenant is intended to ensure continued compliance with wetland rules adopted the State of North Carolina and therefore benefits may be enforced by the State of North Carolina. This covenant is to run with the land and shall be binding on all parties and all persons claiming under them.

33. DEDICATED RIGHTS. The development shall be subject to any and all rights and privileges that the Village of Whispering Pines or Moore County may have acquired through dedication or through filing or recording of maps or plats of such premises, as authorized by law, and provided further, that no covenants, conditions, reservations or restrictions as set forth herein, or acts performed by property owners in the Development shall be in violation of any County zoning ordinance or law, or with the Residential

Single Family IV District zoning ordinance, or the successor thereto, as set forth by the Village of Whispering Pines.

34. BINDING EFFECT. All of the covenants, restrictions, reservations and servitudes set forth in this instrument shall run with the land, and shall be binding on all parties and all persons claiming under them, and a purchaser of a lot, by accepting the deed to such lot, accepts the same subject to the covenants, restrictions, reservations and servitudes and agrees for himself, his heirs, administrators and assigns to be bound by each of the covenants, restrictions, reservations and servitudes jointly, separately and severally. These covenants shall be binding on all parties until January 1, 2025, at which time said covenants shall be automatically extended for successive periods of ten (10) years, unless by vote at any time of a majority of the owners of the lots covered by these or substantially identical covenants, it is agreed to change said covenants in whole or in part.

35. PARTIAL INVALIDATION. Invalidation of any one of these covenants or any part thereof by judgment or court order shall in no way affect any of the other provisions, which shall remain in full force and affect.

36. ENFORCEMENT. If the parties hereto, or any of them, or their heirs, successors or assigns, shall violate or attempt to violate any of the restrictions, conditions, covenants, or reservations herein, it shall be lawful for any other person or persons owning any lot situated in the development and which is subject to these or substantially identical covenants to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such covenant, and either to prevent it, her, him or them from so doing or to recover damages for such violation. Failure by Declarant, its successors or assigns or by any lot owner to enforce any covenant, restriction, condition or reservation herein contained shall in no event be deemed a waiver of a right to do so thereafter. If Declarant, its successors or assigns, or any lot owner hires counsel to enforce any of the foregoing covenants, conditions, reservations or restrictions or to re-enter by reason of a breach, all costs incurred in the enforcement, including a reasonable fee for counsel, shall be paid by the

owner of the lot or lots and Declarant, its successors or assigns shall have a lien upon the lot or lots to secure payment of all such accounts.

IN TESTIMONY WHEREOF, Declarant has caused this instrument to be signed in its name by its Managers duly given, as of the day and year first above written.

WHISPERING PINES LAND COMPANY,
L.L.C.

By: _____ (SEAL)
GEORGE H. ELLIS, Manager

By: _____ (SEAL)
GEORGE W. JAMES, Manager

By: _____ (SEAL)
WALTER H. WIDDOES, Manager

By: _____ (SEAL)
GERALD W. HUFF, Manager

By: _____ (SEAL)
JAMES W. HAWKINS, Manager

STATE OF NORTH CAROLINA
COUNTY OF MOORE

I, _____ a Notary Public for said County and State aforesaid, do hereby certify that GEORGE H. ELLIS, Manager of Whispering Pines Land Company, L.L.C., personally appeared before me this day, and being by me duly sworn, acknowledged the due execution of the foregoing instrument.

Witness my official stamp or seal, this _____ day of _____, 1998.

My Commission Expires:

NOTARY PUBLIC
(NOTARIAL SEAL)