

FORSYTH CO, NC 26 FEE: \$ 48.00  
PRESENTED & RECORDED: 03/05/1999 10:01AM  
DICKIE C. WOOD REGISTER OF DEEDS BY: THOMAS  
BK2055 P 107 - P 127

DECLARATION  
OF COVENANTS, CONDITIONS AND RESTRICTIONS

WELLSPRINGS SUBDIVISION

THIS DECLARATION, made on the 3<sup>RD</sup> day of March, 1999, by Jade Associates, LLC, a North Carolina Limited Liability Company (hereinafter referred to as "Declarant"), for itself, its successors and assigns;

WITNESSETH:

WHEREAS, Declarant is the owner of certain real property in Vienna Township, Forsyth County, North Carolina, which is more particularly described on Exhibit A attached hereto and incorporated herein by reference; and

WHEREAS, Declarant hereby declares by this Declaration that property described on Exhibit A shall be held, sold and conveyed subject to the following easements, restrictions, covenants, conditions, liens and charges which are for the purpose of enhancing and protecting the value and desirability and attractiveness of, and which shall run with the real property and be binding on all parties having any right, title or interest in the property described on Exhibit A identified as **WELLSPRINGS**. It is the desire and intention of the Declarant to sell lots out of the property described on Exhibit A to various purchasers subject to the covenants, conditions, obligations and restrictions herein reserved to be kept and observed;

NOW, THEREFORE, Declarant hereby declares that all of the land described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants, conditions, liens, and charges which are for the purpose of enhancing and protecting the value and desirability and attractiveness of, and which shall run with, the real property described on Exhibit A 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

**Section 1.** "Association" shall mean and refer to **WELLSPRINGS ASSOCIATION** and, if incorporated, to **WELLSPRINGS ASSOCIATION, INC.**, its successors and assigns.

**Section 2.** "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 part of the Properties as defined herein, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

**Section 3.** "Properties" shall mean and refer to that certain real property hereinbefore described on Exhibit A, and such additional land as by Supplementary Declaration may hereafter be brought within the jurisdiction of the Association.

**Section 4.** "Common Area" shall mean and refer to those areas of land shown on any recorded subdivision plat of The Properties labeled as "Common Area" or shown as streets or roads or such other areas specifically designated as "Common Area" or reserved for use of the Association and as such intended to be devoted to the common use and enjoyment of the Owners of the Lots, subject to special reights, if any, granted Owners of particular Lots, which are part of The Properties.

**Section 5.** "Common Expenses" shall mean and include:

- (a) All sums lawfully assessed by the Association against its members;
- (b) Expenses of administration, maintenance, repair or replacement of the Common Area;
- (c) Expenses described to be Common Expenses by this Declaration and/or the Bylaws of the Association (hereinafter the "Bylaws")
- (d) Hazard, liability or such other insurance premiums as the Declaration, the Bylaws or applicable laws or ordinances may require the Association to purchase;
- (e) Expenses agreed by the members to be Common Expenses of the Association; and
- (f) Ad valorem taxes and governmental assessments levied against the Common Areas.

**Section 6.** "Lot" shall mean and refer to any lots designated by number on the recorded or revised plat of **WELLSPRINGS**.

**Section 7.** "Declarant" shall mean and refer to Jade Associates, LLC, a North Carolina Limited Liability company, its successors and specific assigns, to which the rights of Declarant are specifically assigned by recorded document of assignment or by specific assignment within a deed of conveyance of such rights.

**Section 8.** "Member" shall be every Owner of a Lot as set forth in ARTICLE III of this Declaration.

## ARTICLE II

### PROPERTY RIGHTS

**Section 1. Owner's Easements of Enjoyment.** Every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every lot, subject to the following provisions:

(a) The right of the Declarant, in its sole discretion, and at no cost to any Owner, to use any of the Common Area for the installation of utility lines of all types, drainage ditches or swales, lighting, to grade and pave roadways or easements of access, and to do all things and acts necessary to develop the properties to its final development, together with the right to grant easements to the proper utility and/or governmental authority for such use;

(b) The right of the Association to charge reasonable admission and other fees for the use of any recreational facilities, if any, situated upon the Common Area;

(c) The right of the Association to suspend the voting rights and right to use of the recreational facilities of an Owner, if any, for any period during which any assessment against his Lot remains unpaid;

(d) The right of the Association, through its President and Secretary, to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed by the Members. No such dedication or transfer shall be effective unless approved by two-thirds (2/3) of Class A and B Members present in person or by proxy of a duly called and noticed meeting where one of the stated purposes of the meeting will be a vote or the granting of such dedication or transfer. At such meeting, a quorum for this purpose shall be no less than sixty percent (60%) of the Class A and B Members. Provided, in the event the required quorum for this purpose is not present, a subsequent meeting may be called and noticed and at such meeting a quorum shall constitute thirty percent (30%) of the Class A and B Members, and two-thirds (2/3) of the Members present in person or by proxy at such meeting may approve such dedication or transfer. Such subsequent meeting shall not be held later than sixty (60) days beyond the originally called meeting;

(e) The right of the Association through the Board of Directors to impose rules and regulations for the use and enjoyment of the Common Area and Lots and improvements thereon, which regulations may further restrict the use of the Common Area and Lots, and to impose fines and/or methods of enforcement of compliance.

**Section 2. Declaration of Use.** Any Owner may delegate, in accordance with the By-Laws, his rights of enjoyment of the Common Area and facilities to the Members of his family, his tenants, or contract purchasers who reside on the property.

**Section 3. Title to Common Area.** The Declarant hereby covenants for itself, its successors and assigns, that it will convey fee simple title to the Common Area to the

Association, free and clear of all encumbrances and liens except utility easements and the easements, restrictions, covenants and conditions set forth herein. Further, if ad valorem taxes for the current year have been separately assessed against the Common Area, the same shall be prorated between Declarant and the Association as of the transfer date; otherwise such taxes shall be paid by Declarant.

### ARTICLE III

#### MEMBERSHIP AND VOTING RIGHTS

**Section 1.** Every Owner of a Lot shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot.

**Section 2.** The Association shall have two classes of voting membership:

**Class A.** Class A Members shall be all Owners with the exception of the Declarant and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

**Class B.** The Class B Member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership when seventy-five percent (75%) of the Lots are sold to Owners other than the Declarant or on or before five (5) years from the date of recording this Declaration, whichever comes first.

### ARTICLE IV

#### COVENANT FOR MAINTENANCE ASSESSMENTS

**Section 1. (a) Creation of the Lien and Personal Obligation for Assessments.** The Declarant, for each Lot owned, within the Property, 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, (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided, and (3) direct assessments as hereinafter defined. The annual, special and direct assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the Property against which each such assessment is made and when filed of record in the Office of the Clerk of Superior Court of Forsyth County, North Carolina, shall be a lien upon the land to all who acquire an interest therein. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Property at the time

when the assessment fell due and any heir or devise shall be deemed to have consented to make such payments. The personal obligation for the delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

(b) **Direct Assessments.** Each Owner shall have the obligation to maintain and keep in good repair and replace the improvements on his Lot, including the roof, gutters, windows, doors, shutters and exterior walls of the dwelling unit thereon, and any other exterior improvement such as garden walls, carports or garages and landscaping, including the routine cutting of grass, trimming of shrubs, and other maintenance and replacement to present a good exterior appearance. If any Owner shall fail to properly comply with the provisions of this subsection, and in the opinion of the Architectural Control Committee of the Association as established under ARTICLE V of this Declaration, such failure impairs the aesthetic harmony of **WELLSPRINGS** subdivision, the Association may make demand upon such Owner to comply. In the event such Owner shall, after written notice has been given, fail to take necessary steps to comply within 30 days of receipt of notice, the Association may proceed to remedy such Owner's default, but does not have the obligation to do so. Any expenses incurred by the Association for such purposes, including labor, materials and professional fees shall become a lien upon the Lot of such Owner and the personal obligation of the Owner, collectible as other assessments as provided for herein. Amounts incurred in the foregoing manner shall be deemed "Direct Assessments" and shall be in addition to any other assessments herein provided for and shall be due immediately upon demand. Interest shall accrue at the rate of ten percent (10%) per annum on any unpaid direct assessment not paid within the (10) days from date of demand for payment.

**Section 2. Purpose of Assessment.** The assessments levied by the Association shall be used exclusively to promote recreation, health, security, safety and welfare of the residents in the Properties and in particular for the acquisition, improvement and maintenance of property, services and facilities devoted to this purpose for the maintenance, use and enjoyment of the Common Area, including but not limited to, the cost of repairs, replacements and additions, the cost of labor, equipment, materials, security, management and supervision, the payment of taxes, if any, assessed against the Common Area, the procurement and maintenance of insurance related to the Common Area, its facilities and use in accordance with the Bylaws, the employment of attorneys to represent the Association when necessary, and such other common needs as may arise.

**Section 3. Maximum Annual Assessments.** Until January 1 the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be One Thousand and 00/100 Dollars (\$1,000.00) per Lot; provided, however, the assessment for Class B Member for any vacant Lot or a Lot containing an unoccupied, unsold home shall be fifty percent (50%) of the regular assessment for other occupied lots.

From January 1 of the calendar year immediately following the first conveyance of a Lot to an Owner:

- (a) The maximum annual assessment increase shall be established by the

Board of Directors without approval by the membership by an amount not to exceed the greater of ten percent (10%) of the maximum annual assessments of the previous year, or the percentage increase over the previous year as shown on the U. S. Bureau of Labor Statistics Consumer Price Index for Urban Wage Earners or, if such index shall cease to be published, by the index most nearly comparable thereto.

(b) The maximum annual assessment may be increased without limit by a vote of two-thirds (2/3) of each class of Members who are voting in person or by proxy, at a meeting duly called for this purpose.

At any time the Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

(c) In establishing the annual assessments for an assessment year the Board of Directors shall consider all current costs and expenses of the Association, accrued debts, and reserves for future needs, but it may not fix the annual assessment in an amount in excess of the sum derived by application of the increase allowed in Section 3(a) hereof without the consent of Members required by Section 3(b) hereof.

**Section 4. Special Assessments for Capital Improvements.** In addition to the annual assessments authorized above, the Association may levy special assessments for the purpose of defraying, in whole or in part, the cost of construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto. In the event that such assessments for a particular calendar year exceed, in the aggregate, \$10,000.00, then, and in such event, there shall be required the assent of 60% of the votes of each class of Members who are voting in person or by proxy at a meeting duly called for this purpose.

**Section 5. Uniform Rate of Assessment.** Both annual and special assessments must be fixed at a uniform rate for all Lots subject to assessment and may be collected on a monthly, quarterly or annual basis in advance or as the Board of Directors may direct, except as herein provided.

**Section 6. Notice and Quorum for any Action Authorized under Section 3 and 4.** Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than thirty (30) days not more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all votes of each class of membership entitled to vote shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

**Section 7. Date of Commencement of Annual Assessment: Due Dates.** The

annual assessments provided for herein shall be collected on a monthly, quarterly or annual basis as determined by the Board of Directors and shall commence as to all Lots on the first day of the month following the conveyance of the first Lot. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. At least thirty (30) days in advance of each annual assessment period, the Board of Directors shall fix the amount of the annual assessment against each Lot, and if there is a change from the prior year, send written notice of each assessment to every Owner subject thereto. Failure to timely forward or failure of receipt shall not invalidate or reduce the assessment fixed. The Board of Directors may at any time during the calendar year increase the annual assessments, but not in excess of the ten percent (10%) maximum annual increase limit, if they determine in their discretion that funds are not adequate for current or anticipated expenses. The due dates shall be established by the Board of Directors.

**Section 8. Effects of Nonpayment of Assessments: Remedies of the Association.**

Any assessments not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of ten percent (10%) per annum, and the Board of Directors may impose a late payment fee. The association may bring an action at law against the Owners personally obligated to pay the same and/or foreclose the lien against the Property, and interest, costs, fees and reasonable attorney's fees for such action or foreclosure shall be added to the amount of such assessment. No Owner may waive nor otherwise escape the liability for any of the assessments provided for herein by inability to use, or non-use of the Common Area or abandonment of his Lot. Election to sue a defaulting Owner shall not bar subsequent filing of lien and foreclosure. The Association may pursue either or both remedies without bar to the other remedies. A prospective purchaser or lender may request a written certificate from the Association as to the status of assessments on any Lot they or it is concerned with and as to such purchaser, lender or subsequent purchaser from them, such statement of the Association shall be binding on the Association as of the date of issuance. The Association may charge a fee for such certificate if it advises the requesting party of the charge before or at the time of delivery of the certificate.

**Section 9. Subordination of the Lien to Mortgagees.** The liens provided for herein shall be subordinate to the lien of any mortgage, mortgages, deed of trust or deeds of trust filed prior to a lien for assessment. Sale or transfer of any Lot which is subject to any mortgage or deed of trust, pursuant to a foreclosure thereof or any proceeding, conveyance or assignment in lieu of foreclosure thereof, shall extinguish the lien of such assessment as to the payment thereof which became due prior to such sale or transfer, but the personal obligation of the Owner of the Property when the assessment fell due shall survive. No such sale or transfer shall relieve such Lot from liability for any assessments which thereafter become due or from the lien thereof, but the liens provided for herein shall continue to be subordinate to the lien of any mortgage, mortgages, deed of trust or deeds of trust filed prior to a lien for assessments being filed.

## ARTICLE V

### ARCHITECTURAL CONTROL

#### Section 1. "Architectural Control".

(a) Purpose. The Declarant desires to establish an Architectural Control Committee in order to provide and maintain certain standards as to harmony of external design and location in relation to surrounding structures and topography.

(b) Architectural Control. Unless expressly authorized in writing by the Architectural Control Committee (the "Committee") no building, fence, wall, driveway or other structure nor any exterior addition or alteration to any existing structure, nor any clearing or site work shall be commenced, erected or maintained upon the designated property, until plans and specifications therefore showing the shape, dimensions, materials, basic exterior finishes and colors, location on site, driveway, parking, septic tank, drain field, floor plan, and elevations therefore (all of which is hereinafter referred to as the "Plans"), shall have been submitted in duplicate to and approved in writing, as to the harmony of external design and location in relation to any surrounding structures and topography, by the Committee. The Committee shall have the absolute and exclusive right to refuse to approve any such Plans and specifications which are not suitable or desirable in the opinion of the Committee for any reason, including purely aesthetic reasons which in the sole and uncontrolled discretion of the Committee shall be deemed sufficient; provided that the Committee shall not refuse to approve any Plans and specifications which are substantially similar to any other Plans and specifications which previously have been approved for or constructed on any other Lot which is similarly situated. A structure or other item on a Lot backing up to a buffer strip may not be similar to a Lot adjoining a lake. However, if the Committee denies a request, it shall articulate its reasons for denial.

(c) The Architectural Control Committee. The Architectural Control Committee shall be composed of three (3) persons appointed by the Declarant. At the time when Declarant's Class B membership shall cease, the Architectural Control Committee shall be appointed by the Board of Directors of the Association. In no event shall representatives such as Executors or Trustees be entitled to be members of the Committee.

(d) Architectural Control Committee: Decisions Relating to Declaration. Any covenant, conditions or restrictions herein set forth under ARTICLE V may be removed, modified or changed by written consent signed by a majority of the Committee members and kept with the records of the Committee, which such written consent may be given or withheld within the uncontrolled and sole discretion of the Committee, or its successors. In the event of disagreement among members of the Committee, a Committee decision shall require the assent of a majority of the members of the Committee.

(e) Architectural Control Committee: Plans Review Procedure. At least



thirty (30) days prior to the commencement of any construction, the Plans shall be submitted to the Committee. The Committee's approval, disapproval or waiver as required in these covenants shall be in writing, and the decision of a majority of the Committee, in case of any disagreement among Committee members, as to the approval, disapproval or waiver of the Committee, shall be controlling. The Committee shall make its decision within thirty (30) days from the date the Plans are submitted to it. If the Committee fails to act within such thirty (30) day period, the Plans shall be deemed accepted. The Member submitting the Plans shall obtain a written dated receipt from the Committee member to whom the plans were submitted or a return receipt for the submission by Certified U. S. Mail. If additional materials or information are requested by the Committee, the time for approval shall be extended for up to thirty (30) additional days after the materials or information requested are delivered to the Committee.

(f) **Bonding Requirements.** The Architectural Committee may, in its sole discretion, require any Owner to post a bond in an amount up to \$2,500.00 prior to the commencement of any construction by such Owner as security for compliance by such Owner with such reasonable requirements as the Architectural Committee may require or the covenants and conditions set forth in this Declaration relating to construction.

**Section 2. Restriction on Use and Rights of the Association and Owners.**

(a) **Permissible Uses.** No Lot shall be used except for residential purposes, and no building of any type shall be erected, altered, placed, or permitted to remain on any Lots other than one single-family dwelling, including garage and any other appurtenances customary to a single-family dwelling which shall comply with any applicable zoning regulations. Moreover, no Lot shall be used for access to any adjoining Lot or other Property. When construction of any building, structure, improvements, or addition has once begun, work thereon shall be pursued diligently and continuously, and completion shall occur within eighteen (18) months. No living unit shall be built which contains cement or cinder blocks which are visible from the outside.

(b) **Division of Lots.** No Lot shall be further divided, without the prior consent of the Committee. The boundary lines of any Lot or any Road, as shown on any recorded plat of The Properties, shall not be changed, without the written consent of the Board.

(c) **Minimum Square Footage.** In no event shall any living unit contain less than the following minimum square feet of heated living area; however, the requirements herein referred to shall be exclusive of outside and screened porches, garages, breezeways, terraces and basement areas, whether heated or not. This minimum square footage requirement can be waived by the Declarant in its sole discretion.

(i) The main level of a one-story dwelling shall contain at least 3,000 square feet.

(ii) The main two levels of a two-story dwelling shall contain at least

3,200 square feet with no less than 2,000 square feet of such space on the first level of the dwelling.

(iii) The main or first level of a one and one-half story dwelling shall contain either at least 2,000 square feet with at least 1,200 square feet of finished space on the half story level.

(d) **Building Set-Back Lines.** No building shall be placed or erected nearer the front Property line than fifty (50) feet. The rear yard shall have a depth of not less than thirty (30) feet. Every building erected on the Property shall have side yards of not less than thirty (30) feet, with no one side yard being less than fifteen (15) feet. On corner lots, the side yard closest to the street must be at least twenty (20) feet. Measurements shall be made to the exterior walls. If in question, clarification of the property line from which setbacks are to be measured shall be made by the Committee. No building (including any eaves, steps and porches attached thereto) shall be located on any Lot nearer to the front property lines, side property line, or rear property line than the minimum building setback lines required by applicable zoning regulations.

(e) **Temporary Structures.** No structure of a temporary character shall be placed upon any portion of the properties at any time; provided, however, that this prohibition shall not apply to shelter or huts used by contractors during the construction of a living unit, or improvements or additions thereto, on any Lot. Temporary shelters, tents, recreational vehicles, trailers (whether attached or unattached to the realty), and detached storage buildings may not, at any time, be placed on any portion of a Lot or Property.

(f) **Other Prohibitions or Requirements.**

(i) Any living unit shall comply with all applicable building, plumbing, electrical and other codes.

(ii) No vent or other pipes or appendages may extend from the front of any living unit, unless screened from public view by a screening material or shrubbery approved by the Committee.

(iii) Any exterior air-conditioning or heating equipment must be screened from public view by a screening material or shrubbery approved by the Committee.

(iv) Downspouts and gutters must be so constructed so as not to promote the erosion of the soil of any Lot.

(v) Driveway entrances shall be constructed as to be compatible with other neighboring drives and shall be approved by the Architectural Control Committee. Parking on private drives and any other common land shall be subject to rules and regulations adopted from time to time by the Board of Directors of the Association.

(vi) Standardized mailboxes and/or posts shall be provided at a fee to initial Lot purchasers, and the continuing use thereof shall be mandatory throughout the Property.

(vii) No outbuildings shall be allowed on any Lot without prior approval of the Committee.

(viii) No above ground pools except children's wading pools shall be located on any Lot in the subdivision.

(ix) In the event public natural gas service is made available to The Properties, no above ground fuel tanks or similar units will be permitted on any Lot. If public natural gas service is not made available to The Properties, no above ground fuel tank or similar unit may extend from the front of any living unit and must be screened from public view by a screening material or shrubbery approved by the Committee.

(x) All utility lines of every type, including but not limited to water, electricity, telephone, sewage and television cables, running from the main trunk line or service location to any Living Unit must be underground.

(xi) Tennis courts, swimming pools, and other outdoor recreational areas of such nature must be screened from public view by a screening material approved by the Architectural Committee. Moreover, any lighting used to illuminate such facilities must be so shielded as to cast no direct light upon adjacent Lots such that it is obtrusive or offensive and such lighting plan must be approved by the Architectural Committee.

(g) Screening. Erection of clothes lines, the maintenance of any exterior garbage cans, the storage of boats, campers, and trailers in view of the street or common properties or recreational areas shall not be permitted. Each Owner shall provide receptacles for garbage, and all garbage receptacles, tools and equipment for use on the Lot of any Owner or otherwise shall be placed in a fenced area in accordance with reasonable standards established by the Committee to shield same from general visibility from roads abutting the Lots.

(h) Antennas. In the event cable television service is made available to the Properties, no television antennas, radio receiver or sender, or other similar device shall be attached to or installed on the exterior portion of or detached from any living unit. Satellite dishes, not to exceed 18" in diameter, may be allowed if placement is not able to be viewed from the street or any adjacent Lot, subject to approval by the Architectural Control Committee. No large short wave radio or other types of antennas shall be permitted.

(i) Unsightly Conditions. It is the responsibility of each Owner to prevent any unclean, unsightly, or unkept conditions on the grounds of a Lot of any Owner which shall tend to substantially decrease the beauty of the Properties specifically and/or as a whole.

(j) No Offensive Activity. No noxious or offensive activity shall be

carried on upon any portion of the Properties, nor shall anything be done tending to cause embarrassment, discomfort, annoyance or nuisance to any Owner, tenant or guest thereof, on any portion of the Properties.

(k) **Animals and Pets.** Except as otherwise permitted herein, or in any supplementary declaration hereto, no plants, animals, or device or thing of any sort whose normal activities or existence is in any way noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of other Lots by any Owner, tenants, or guests thereof, may be maintained. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, or permitted to become a nuisance to the neighborhood. Dogs, cats and other household pets shall be confined and maintained as the Board of Directors from time to time direct.

(l) **Driveways and Fences.** Any driveway located on a Lot must be paved with concrete at a width of ten (10) feet or more for depth of 20 feet or more at the driveway connection to the roadway. Without the prior consent of the Board, no fencing may be located closer to any street than the closest point of the living unit to any such street. No chain-link fencing shall be allowed on any lot. Wooden fences shall be allowed on any lot subject to the approval of the Architectural Review Committee.

(m) **Discharge of Firearms.** Hunting and trapping of wild animals, fowl and game and the discharge of firearms and/or bows and arrows within the Properties is prohibited.

(n) **Signage.** No sign of any kind shall be displayed to the public view on any Lot except one (1) sign with dimensions of not more than two (2) feet by three (3) feet advertising any Lot for sale or rent. All other signs on any Lots must be approved in writing by the Committee.

(o) **Landscaping.** A completed landscaping plan shall be submitted by an Owner to the Architectural Control Committee in connection with the initial construction of a dwelling on any Lot. This landscaping plan shall describe the proposed landscaping, if any, for all areas of a Lot in addition to those areas immediately adjacent to the construction site. The Architectural Control Committee must approve the landscaping plan prior to the initial construction; provided, however, such committee may allow commencement of construction prior to final approval under certain conditions in its discretion if it feels that it will and can successfully resolve any landscaping plan problems.

(p) **Garages and Carports.** Garages must be attached to, or built within a residence and must be fully enclosed. No carports shall be allowed. As part of the Plan approval it will be determined whether garage doors may face the front elevation (side street) or whether side entrance will be required. Each Owner must also provide on his Lot at least two (2) additional parking spaces (which may be on the driveway, not necessarily covered), for off-street parking.

(q) **Commercial Vehicles.** No commercial or recreational vehicle, construction, or like equipment, or mobile, or stationary trailer of any kind shall be kept or permitted to remain on any Lot of the Properties, unless approved by the Architectural Control Committee and stored in an enclosure away from view, which definition "Away from View" shall be in the sole discretion of the Architectural Control Committee.

(r) **Sewage Disposal.** Prior to the occupancy of any Living Unit located on a Lot, proper and suitable provisions shall be made by the Owner for the disposal of sewage by means of a septic tank or tanks constructed on such Lot. No sewage disposal system shall be used unless such system is designed, located, constructed and maintained in accordance with the requirements, standards and recommendations of the appropriate public health authority. Each septic tank and the nitrification field relating thereto shall be maintained in good condition so that its use and existence shall not constitute a nuisance to any other Owner.

(s) **Docks, etc.** No owner of any Lot shall erect or maintain a private dock or similar structure on any Common Properties, including lakes.

(t) **Boats.** No boat, canoe or water craft shall be operated upon any lake, pond or other waterway if such boat, canoe or other water craft shall be propelled by an internal combustion engine or by any other form of motorized operation which may discharge liquids or gases into the water, except for emergency rescue or maintenance purposes.

(u) **Lake.** Use of any lakes, ponds, or any other waterways will be governed by rules and regulations as are hereafter approved, promulgated and published by the Board.

(v) **Motorized Vehicles and Boats.** All motorized vehicles (including motorcycles) and boats must be properly mufflered so as to eliminate noise which might be offensive to others. Minibikes and similar two or three wheeled vehicles are prohibited from being used or operated on or within The Properties, unless the prior written consent of the Board is first secured.

## **ARTICLE VI**

### **MAINTENANCE, ORDINARY REPAIRS AND ALTERATIONS**

**Section 1. By the Association.** The Association shall maintain, repair and replace all parts of the Common Areas and Facilities, if any, except as may be otherwise stated herein.

**Section 2. By the Owners.** Each Owner shall maintain, repair, and/or replace all improvements located on the Owner's Lot and those associated with the Owner's Lot and all pipes, wires, conduits and machinery associated with and servicing only the Owner's Lot, wherever located. Each Owner shall maintain, repair and replace the landscaping between his Lot and the pavement of any private drive or public street.

Each Owner shall be responsible for keeping his property in a neat, clean, sightly and proper manner. Such maintenance shall include routine mowing of the grass, trimming of shrubs and other landscaping items, and the removal of all trash and debris.

**Section 3. By the Owner and Association.** All damages to the Common Area and facilities intentionally or negligently caused or resulting by an Owner, his or her family, tenants, guests, invitees, agents, servants, employees or contractors, shall be repaired promptly at the expense of such Owner, except to the extent such damage or loss is covered by insurance proceeds received by the Association, if any.

**Section 4. Restrictions on Owners.** No Owner shall perform or cause to be performed any maintenance, repair or replacement work upon a Lot which disturbs the rights of other Owners. If any Owner shall cause any work so performed, which in the sole opinion of the Board of Directors violates the terms of this paragraph, it shall be immediately corrected and such Owner shall refrain from recommencing or continuing any such work without written consent of the Board. An Owner shall not repair, alter, replace, add to or move any of the Common Areas and Facilities or landscaping at any location without the prior written consent of the Board. An Owner shall not change the outside appearance of any building, including doors and windows and storm doors, or any appurtenance thereto without the written consent of the Architectural Review Committee as set forth in ARTICLE V.

**Section 5. Duty to Report.** Each Owner shall promptly report in writing to the Board or its agent any known defect or need for repairs to or replacement of any Common Areas or Facilities for which the Association is responsible.

**Section 6. Default of Owner.** If the Owner defaults in any obligations under this Article and such default is not cured within ten (10) days from written demand by the Association or a longer period specified in the Notice, then the Association may, but is not obligated to, perform the necessary maintenance, repair, and/or replacement, or remove an unauthorized repair, alteration or addition and the costs thereof shall be assessed against the Owner and Lot of the Owner and the Association may, in addition to the actual cost, add an administrative fee of up to fifteen percent (15%) of such costs as an additional cost and direct assessment to the Owner which is due on demand. Such assessment shall be the obligation of the Owner and a lien on the Lot and may be collectable as other assessments are.

**Section 7. Alterations to Common Areas and Facilities.** The Association is authorized to make minor improvements to and alterations to the improvements located in and on the Common Areas and Facilities, as Common Expenses; however, no major or structural improvements or alterations costing in excess of \$3,000.00 shall be made by the Association without first obtaining approval of at least sixty percent (60%) of the Owners. This Section does not apply to required repair, maintenance and replacement of Common Areas Facilities.

**Section 8 Approval of Payment Vouchers.** All vouchers for payment of expenses incurred by the Association in the maintenance, repair, alteration and replacement of

the Common Areas and Facilities shall be approved in writing jointly by the President and Treasurer of the Association. In the absence or disability of the President, the Vice President may perform the duties herein of the President, and the Assistant Treasurer may perform the duties of the Treasurer herein in the absence or disability of the Treasurer. Notwithstanding the foregoing, the Board may authorize any officer, Member, committee or independent manager to approve or disapprove all vouchers for payment of routine expenses incident to the maintenance, repair, alteration or replacement of the Common Areas or Facilities, so long as the resolution granting such authority specifically limits the maximum amount which may be authorized on each occasion, and so long as the subject resolution describes the items which may be so authorized.

**Section 9. Erosion Control.** The Owners are responsible for the maintenance and implementation of erosion control until the land is stabilized. The Declarant retains the right to pass on the fine through to the Owner in the event the Declarant is fined for erosion control issues with respect to the Owner's Lot. The Declarant retains the right to enter onto the Owner's property to install or correct any erosion control violation and will pass that cost and expense, including reasonable attorney fees, through to the Owner.

#### ARTICLE VII

#### EASEMENTS

**Section 1. Utilities Easements.** Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat, and the properties shall be further subject to such additional easements for installation and maintenance of utilities and drainage facilities as are reasonably necessary for the construction of dwelling units by Declarant and purchasers of undeveloped Lots from Declarant. Within these easements no structure, planting or other material shall be placed or permitted to remain which may interfere with the utilities or which may change the direction of flow or drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels. Easements as required to correct drainage and utility installation are reserved by the Declarant over the Common Area and for a distance of ten (10) feet along and with all Lot lines until development is complete and functional. If corrections are necessary over a Lot that has been conveyed and improved, the party performing the correction shall repair and replace any damage to the landscaping and improvements in a reasonable manner.

**Section 2. Easements Reserved to Declarant.** Declarant reserves and retains non-exclusive easements for ingress, egress and regress and for the installation of all types of utilities and drainage over the Common Area and Lots necessary and desirable in the development of the subdivision to completion and for access over all roads until the Property is totally developed with dwellings on each lot.

#### ARTICLE VIII

**COVENANTS OF OWNER TO KEEP UNITS INSURED AGAINST LOSS, TO REBUILD  
AND TO KEEP IN GOOD REPAIR**

The Declarant covenants with the Association, on behalf of itself and on behalf of each subsequent Owner of a Lot within the Properties, and each Owner of any Lot within the Properties, by acceptance of a deed therefore, whether or not it shall be so expressed in said deed, or by exercise of any act of ownership, is deemed to covenant:

- (1) To keep each dwelling unit upon a Lot insured against loss by fire with what is commonly called extended coverage in an amount equal to at least ninety percent (90%) of the replacement value of such dwelling unit;
- (2) Subject to the provisions and covenants contained in any mortgage or mortgages, deed or trust or deeds of trust creating a lien against any Lot, to apply the full amount of any insurance proceeds to the rebuilding or repair of any dwelling;
- (3) To rebuild or restore the dwelling in the event of damage thereto; and
- (4) To keep the dwelling and appurtenances, excluding common ground, in good repair as provided by the Bylaws of the Association, this Declaration and Rules and Regulations adopted from time to time by the Board of Directors.

In the event of non-payment of any premium for insurance required under this ARTICLE VIII, the Association is authorized to pay such premium, and sums so paid shall be due on demand and become a lien upon the insured Lot and a personal obligation of the Owner which shall be enforceable in the same manner and to the same extent as provided for enforcement of liens for assessments hereunder. This is a right to do so and not an obligation of this Association.

**ARTICLE IX**

**GENERAL PROVISIONS**

**Section 1. Enforcement.** The Association, through its Board of Directors, 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 this Declaration.

Failure by the Association 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. Severability.** Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

**Section 3. Amendment by Members.** The covenants and restrictions of this



Declaration shall run with and bind the land, for a term of thirty (30) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended by an instrument signed by not less than sixty-six and two-thirds percent (66 2/3%) of the Lot Owners, provided, that no amendment shall alter any obligation to pay ad valorem taxes or assessments, as herein provided, or affect any lien for the payment thereof established herein. Any amendment is to be properly recorded in the Forsyth County Register of Deeds Office.

**Section 4. Annexation.** Additional contiguous residential property and Common Area may be annexed to the properties only with the consent of two-thirds (2/3) of the Class A Members and of the Declarant, until Declarant sells the Properties.

Additional properties as annexed shall become a part of the Properties as defined herein and shall be subject to the provisions of this Declaration, the Bylaws and the Articles of Incorporation of the Association.

**Section 5. Amendment by Declarant.** In the event Declarant shall seek to obtain approval of this Declaration, the Bylaws, Rules and Regulations and/or the Articles of Incorporation and the development plan, as the same may be changed or supplemented, in order that Lots will be eligible for loan approval, guarantee or insured by Veterans Administration ("VA"), the Department of Housing and Urban Development ("HUD"), the Federal Housing Loan Association ("FNLA"), the Federal National Mortgage Association ("FNMA"), or other governmental or lending or insuring agency, it is possible that such agency or agencies will require change in this Declaration and other documents in order to make the Lots and units eligible for such loans. In such event, Declarant, in its sole discretion, without the consent or approval of any other Owner (Member), shall have the right to amend the Articles of Incorporation, Bylaws, this Declaration and/or Supplemental Declarations, and other documentation and the amendment shall become effective upon recordation of the amendment, along with attached evidence of approval by the appropriate governmental, insuring or lending agency, in the Office of the Register of Deeds of Forsyth County, North Carolina. A letter from an official or a current published regulation, guideline or statement of policy, of the VA, HUD, FLMC, FNMA, or such other agencies' requirements of changes shall be sufficient evidence for Declarant to amend. Each Owner (Member) and his respective mortgagees, by acceptance of a deed conveying a Lot or a mortgage including the same, as the case may be, hereby irrevocably appoint Declarant, his or their attorney-in-fact, such power of attorney being coupled with an interest, and authorize, direct and empower Declarant, in the event that Declarant exercises the rights reserved herein to amend this Declaration and any Supplemental Declaration, and other documentation as herein provided, to execute, acknowledge and record for and in the name of such respective mortgagee to execute a consent and joinder of such amendment or amendments. This right of amendment shall exist and continue until Declarant disposes of all land described in Exhibit "A" attached hereto and may not be amended without the written consent of the Declarant, its successors or specific assigns to whom such right is assigned.

**Section 6. Membership Approval.** At any place herein where it is required that a certain percentage of Members approve the adoption of an amendment, an approval or consent

of any other matter, such percentage requirement may be obtained after any required meeting, provided the motion for approval was not defeated, by obtaining the signatures of Members sufficient to meet the required percentage.

**Section 7. Modifications by Declarant.** Declarant reserves and retains the absolute right for a period of sixty (60) days from the recording of this Declaration to delete, amend, modify, change or expand the terms and conditions hereof and any documents associated herewith after which date this right shall terminate; however, other rights of Declarant reserved herein shall remain. Such documents will be recorded in the Office of Register of Deeds of Forsyth County, North Carolina, within sixty (60) days from the date of the recording of this Declaration. All purchasers of Lots, their heirs, successors and assigns shall be bound by the subsequent recordings, if any.

#### ARTICLE X

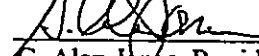
#### RIGHTS OF FIRST MORTGAGEES

**Section 1. Notification of Default by Mortgagor.** Any first mortgagee of any Lot shall be entitled, upon written request to the Association, to written notification by the Association of any default by the Owner - mortgagor of such Lot in the performance of such Owner - mortgagor's obligations under this Declaration when such default is not cured within thirty (30) days from its occurrence.

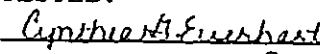
**IN TESTIMONY WHEREOF,** Jade Associates, LLC has caused this instrument to be signed in its name by its duly authorized member/managers, the day and year first above written.

JADE ASSOCIATES, LLC

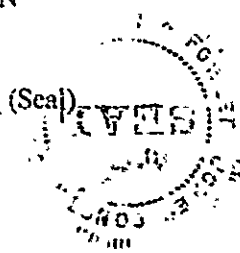
By: FOWLER-JONES CONSTRUCTION  
COMPANY, Member/Manager

By:  (Seal)  
G. Alan Jones, President of Fowler-  
Jones Constuction Company

ATTESTED:

By:   
Secretary

(CORPORATE SEAL)



By: Paigebrooke Properties, LLC  
Member/Manager

By: Donald C. Ehlers, Jr. (Seal)  
Donald C. Ehlers, Jr., Member of  
Paigebrooke Properties, LLC

By: James H. Pernell, Jr. (Seal)  
James H. Pernell, Jr., Member of  
Paigebrooke Properties, LLC

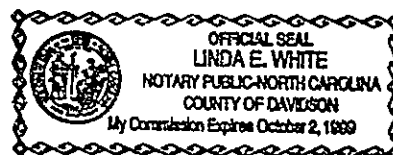
Davidson  
NORTH CAROLINA - FORSYTH COUNTY

I, Linda E. White, a Notary Public of Davidson Forsyth County, North Carolina do hereby certify that Cynthia G. Everhart personally appeared before me this day and acknowledged that she is the Secretary of Fowler-Jones Construction Company, Member/Manager of Jade Associates, LLC, and by authority duly given and as the act of the corporation as a Member/Manager of Jade Associates, LLC, the foregoing instrument was signed in its name by its President, sealed with its corporate seal, and attested by herself as its Secretary.

WITNESS my hand and Official Seal or Stamp, this the 3rd day of March, 1999.

10-2-99  
My Commission Expires

Linda E. White  
Notary Public



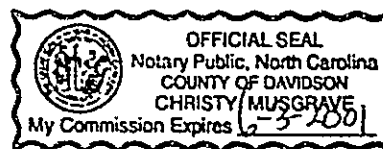
DAVIDSON  
NORTH CAROLINA - FORSYTH COUNTY

I, Christy Musgrave, a Notary Public of Forsyth County, certify that Donald C. Ehlers, Jr. and James H. Pernell, Jr., Members of Paigebrooke Properties, LLC, Member/Manager of Jade Associates, LLC personally appeared before me this day and acknowledged the due execution of this instrument as Member/Managers of Paigebrooke Properties, LLC and for and on behalf of Jade Associates, LLC.

Witness my hand and official stamp or seal, this the 4th day of MARCH 1999.

6-3-2001  
My Commission Expires

Christy Musgrave  
Notary Public



\*\*\*\*\*

STATE OF NORTH CAROLINA - FORSYTH COUNTY

The foregoing certificate  
is certified to be correct.

This the 5 day of

(s) Linda E. White and Christy Musgrave  
March 1998. 1999

REGISTER OF DEEDS

Rick C. Wood

BRUCE C. WOOD, REGISTER OF DEEDS

# EXHIBIT A

BEGINNING at an iron rebar set in the northern right-of-way line of Yadkinville Road (SR 1525) (Old U.S. 421), said iron rebar set being located at the southeast corner of the herein described tract and being located at the southwest corner of the J.C. Shelton property, Deed Book 1034 at Page 179; running thence from the point and place of BEGINNING with the northern right-of-way line of Yadkinville Road (SR 1525) (Old U.S. 421) the following eight (8) courses and distances: South 76° 08' 20" West 188.23 feet to an iron rebar set; South 78° 01' 10" West 206.87 feet to an iron rebar set; South 78° 20' 40" West 699.59 feet to an iron rebar set; South 77° 58' 30" West 204.21 feet to an iron rebar set; South 75° 11' 00" West 204.44 feet to an iron rebar set; South 73° 33' 35" West 88.06 feet to a 3/4" existing iron pipe; South 70° 54' 50" West 161.30 feet to a 1" existing iron pipe; South 69° 47' 45" West 53.71 feet to a 1/2" existing iron rebar set in the eastern line of the Charles S. Fulk and wife, Martha Ann Fulk property, Deed Book 1182 at Page 477; running thence with the eastern line of the Fulk property North 02° 11' 10" East 747.29 feet to a 1" existing iron pipe; running thence with the northern line of said Fulk property North 74° 59' 45" West 563.19 feet to a 1" existing iron pipe located in the eastern line of the property of John E. Hauser and wife, Wilma F. Hauser, Deed Book 952 at Page 321; running thence with the eastern line of the Hauser property North 10° 32' 40" East 514.52 feet to a stone; running thence North 51° 01' 40" West 500.24 feet to a stone (tack existing); running thence with the northern line of the Hauser property South 82° 57' 30" West 610.50 feet to an iron rebar set; running thence North 09° 11' 40" East 780.59 feet to a 1" existing iron pipe; running thence North 10° 48' 25" West 111.31 feet to a point; running thence North 68° 45' 40" East 200.08 feet to a point; running thence North 12° 57' 10" East 104.12 feet to a 1 1/4" existing iron pipe (bent); running thence North 78° 00' 50" East 192.05 feet to a point; running thence South 51° 09' 05" East 133.38 feet to a point; running thence South 65° 03' 30" East 57.67 feet to an axle; running thence South 87° 19' 10" East 346.04 feet to an axle; running thence South 76° 03' 55" East 85.65 feet to a 1" existing iron pipe; running thence North 73° 10' 35" East 164.59 feet to a 3/4" existing iron pipe; running thence South 85° 19' 05" East 401.40 feet to a 3/4" existing iron pipe; running thence South 84° 56' 20" East 199.58 feet to a 1/2" existing iron pipe; running thence South 84° 57' 50" East 59.84 feet to a 3/4" existing iron pipe; running thence South 04° 08' 40" West 106.14 feet to a 5/8" existing iron rebar; running thence South 84° 52' 15" East 198.49 feet to a 3/4" existing iron rebar; running thence North 04° 56' 25" East 106.18 feet to a 3/4" existing iron pipe; running thence South 84° 56' 50" East 190.35 feet to a 3/4" existing iron pipe; running thence South 84° 58' 30" East 59.85 feet to a 3/4" existing iron pipe; running thence South 84° 49' 05" East 174.75 feet to a 1" existing iron pipe; running thence South 84° 56' 45" East 295.09 feet to an axle; running thence South 24° 54' 00" West 283.10 feet to a 3/4" existing iron pipe; running thence North 84° 50' 25" East 499.15 feet to an iron bar (bent/nail); running thence South 02° 41' 15" East 19.69 feet to an iron bar; running thence South 01° 34' 50" East 1518.57 feet to a 3/4" existing iron pipe; running thence South 72° 09' 55" West 61.97 feet to a 3/4" existing iron pipe; running thence South 01° 46' 20" West 308.69 feet to an iron rebar set, the point and place of BEGINNING, containing 131.63 acres, more or less, according to a survey for Jade Development Company dated 6-11-98 by Richard Parks Bennett, Registered Land Surveyor, bearing Job No. 8089 and Map No. 8089.

BK2055PG0127