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STATE OF NORTH CAROLINA
COUNTY OF UNION

82781

DECLARATION OF COVENANTS, CONDITIONS AND
RESTRICTIONS FOR PRESCOT

THIS DECLARATION is made as of this 5th day of July, 2005, by Prescott Development, LLC, a North Carolina Limited Liability Company, referred to in this instrument as "Declarant".

STATEMENT OF PURPOSE

Declarant is the Owner of that certain parcel of land which is known as Prescott ("Prescot") more particularly described on that final plat of Phase 1, Map 1 prepared by PBS&J, and recorded in Plat Cabinet 1 at File 737 in the Union County Public Registry (the "Submitted Property").

It is in the best interest of Declarant as well as to the benefit, interest and advantage of each Person or other entity later acquiring any property in Prescott, that certain covenants, conditions, easements, assessments, liens and restrictions governing and regulating the use and occupancy of the same be established, fixed and set forth and declared to be covenants running with the land.

Declarant desires to provide for the preservation of the values and amenities and the desirability and attractiveness of the real property in Prescott and for the continued maintenance and operation of Common Elements as may be provided.

DECLARATION

In consideration of the premises and for the purposes stated, Declarant hereby declares that all of the Submitted Property shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions (all of which are collectively referred to in this instrument as "restrictions"), which restrictions shall be construed as covenants running with the land and shall be binding on all parties having any right, title or interest in the described real property or any part thereof, and their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

ARTICLE I: DEFINITIONS

The following words when used in this Declaration or any Supplemental Declaration (unless the context shall prohibit) shall have the following meanings:

(1.1) "Articles of Incorporation" shall mean and refer to the Articles of Incorporation of Prescott Homeowners Association, Inc., as filed with the Secretary of State of the State of North Carolina.

(1.2) "Association" shall mean Prescott Homeowners Association, Inc., a non-profit corporation organized and existing under the laws of the State of North Carolina and its successors and assigns.

DRAWN BY AND MAIL TO:
Cheryl D. Steele, Esq.,
Horack Talley
301 S. College St.
Charlotte, NC 28202 Ste. 2600
HTPL 259782.VI

(1.3) "Board of Directors" or "Board" shall mean the body responsible for administration of the Association, selected as provided in the By-Laws and generally serving the same role as the Board of Directors under North Carolina corporate law.

(1.4) "Builder" or "Builders" shall mean Evergreen Homebuilders, LLC and the record Owner of a fee simple title to two or more Lots whose sole purpose in owning such Lots is to construct a residential dwelling upon each Lot and sell such dwelling to a third party.

(1.5) "By-Laws" shall mean or refer to the By-Laws of Prescott Homeowners Association, Inc. as they may be amended from time to time.

(1.6) "Commercial Tract" shall mean or refer to that property described on Exhibit A attached hereto upon it's acquisition by Declarant.

(1.7) "Common Elements" shall mean all general Common Elements and Private Common Open Space. The Common Elements may include, without limitation, easements, open space, landscaping, signage and entry features, lakes, ponds, wetlands, streams, swimming pool(s), recreational center, parking areas, playing fields, tot lots, paths and trails, and similar active and passive recreational facilities among other things; provided, nothing herein shall obligate the Declarant to provide or include any of the foregoing within the Common Elements.

(1.8) "Private Amenities" shall mean real property and the improvements and facilities thereon located adjacent to, or in the vicinity of, or within the Properties, which are privately owned and operated by Declarant or Persons other than the Association for residential, recreational and/or related purposes and shall include, without limitation a log cabin and related facilities which were preserved by Declarant upon acquiring the Property. The Private Amenities shall not be subject to the provisions of Article VI of the Declaration.

(1.9) "Declarant" shall mean and refer to Prescott Development, LLC and its successors and assigns.

(1.10) "Executive Board" shall mean the Board of Directors of the Association. Evergreen Homebuilders, LLC shall have one representative serve on the Executive Board as long as it owns a Lot.

(1.11) "FHA and VA" shall mean and refer to the Federal Housing Administration, U.S. Department of Housing and Urban Development, and the Veteran's Administration, respectively. If either or both of these federal agencies shall hereafter cease to exist or perform the same or similar functions they now serve, references hereto to FHA or VA shall be deemed to mean and refer to such agency or agencies as may succeed to the duties and services now performed by either or both of these departments.

(1.12) "Lot" shall mean any numbered plot of land to be used for residential purposes shown upon any recorded subdivision plat of the Properties subject to this Declaration designated for separate Ownership or occupancy by a Lot Owner.

(1.13) "Lot Owner" or "Owner" shall mean the Declarant or other record Owner, whether one or more Persons or entities, of a fee simple title to any Lot which is a part of Prescott but excluding those having such interest merely as security for the performance of an obligation.

(1.14) "Member" and "member" shall mean a Lot Owner who is a member of the Association and the owner of the Commercial Tract.

(1.15) "Person" shall mean a natural Person, as well as a corporation, partnership, joint venture, association, trust, business trust, estate, government, governmental

subdivision agency or other legal entity. The use of the masculine pronoun shall include the neuter and feminine, and the use of the singular shall include the plural where the context so requires.

(1.16) "Property" and "Properties" shall mean the Submitted Property and such real property as may subsequently be brought within the jurisdiction of the Association and subjected to this Declaration.

(1.17) "Prescot" or "Prescot Subdivision" shall mean the Submitted Property, together with such additions thereto as may from time to time be designated by Declarant in accordance with Article II hereof, whether or not such additions are contiguous with or adjoin the boundary lines of the Submitted Property.

ARTICLE II: PROPERTY SUBJECT TO THIS DECLARATION

(2.1) The Submitted Property shall be held, transferred, sold, conveyed and occupied subject to this Declaration. Only the Submitted Property is hereby made subject to this Declaration; provided, however, Declarant shall have the right to subject other real property to these restrictions as provided in Section 2.2 and Section 2.4.

(2.2) Without further assent or permit, Declarant hereby shall have the right within five (5) years from the date of recording of this Declaration, exercisable from time to time, to subject other real property within a one (1) mile radius of the Submitted Property in order to extend the scheme of this Declaration to other property to be developed as part of Prescot Subdivision and thereby bring such additional Properties within the jurisdiction of the Association.

(2.3) Any addition of real property shall be made by filing of record one or more Supplemental Declarations in respect to the property to be then made subject to this Declaration, and the jurisdiction of the Association shall thereby then extend to such property and subject such addition to the assessments provided in this instrument for a just and proportionate share of the Association's expenses. Each Supplemental Declaration may contain such complementary additions and modifications of the covenants, conditions and restrictions contained herein as may be necessary to reflect the different character of the added Properties.

ARTICLE III: PROPERTY RIGHTS

(3.1) Owner's Easements of Enjoyment. Every Lot Owner shall have a nonexclusive right and easement of enjoyment in and to the Common Elements which shall be appurtenant to and shall pass with the title to every Lot subject to the provisions of this Declaration, including but not limited to the following:

(a) The right of the Association to limit the use of the Common Elements to Lot Owners, their families and guests and the right of the Board to limit the number of guests who may use the Common Elements and to adopt other rules regulating the use and enjoyment of the Common Elements;

(b) The right of the Association, after notice and opportunity to be heard, to suspend the voting rights of a Lot Owner for any period during which any assessment against his Lot remains unpaid, or for any infraction of the Association's published rules and regulations, if any;

(c) The right of the Association to dedicate, transfer, convey, or subject to security interest, all or any part of the Common Elements to any Person or entity for such purposes and subject to such conditions as may be agreed to by the Association members. No such dedication, transfer, conveyance or subjection to a security interest shall be effective unless the Lot Owners entitled to at least eighty percent (80%) of the votes in the Association agree to such dedication, transfer, conveyance or subjection to a

security interest and signify their agreement by a signed written document, provided that this paragraph shall not preclude the Executive Board of the Association from granting easements for the installation and maintenance of electrical, telephone, cablevision, water and sewerage utilities and drainage facilities upon, over, under and across the Common Elements without the assent of the membership if such easements are requisite for the convenient use and enjoyment of the Properties;

(d) The right of the Board to impose reasonable membership requirements and charge reasonable admission or other fees for the use of any recreational facilities situated upon the Common Elements;

(e) The right of the Declarant, while in control of the Association, and thereafter the Board to permit use of any recreational facilities situated on the Common Elements by Persons other than Lot Owners, their families, lessees, and guests upon payment of use fees established by the Declarant, while in control of the Association, and thereafter the Board;

(f) The right of the Association, acting through the Board, to mortgage, pledge or hypothecate any or all of its real or Personal property as security for money borrowed or debts incurred pursuant to the Declaration and By-Laws;

(g) The right of Declarant to the exclusive use of the Private Amenities.

(3.2) Delegation and Use. The right and easement of enjoyment granted to every Lot Owner in Section 3.1 of this Article may be exercised by members of Lot Owner's family and guests thereof. A Lot Owner may delegate to his tenants his rights of enjoyment in and to the Common Elements and such facilities thereon as may be provided, in accordance with the Association's Bylaws and rules and regulations, if any. The Declarant and/or the Association may terminate any such rights granted to tenants of Lot Owners if such persons fail to abide by the Association rules and regulations.

ARTICLE IV: MEMBERSHIP AND VOTING RIGHTS

(4.1) Membership. Every Lot Owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from Ownership of any Lot which is subject to assessment.

(4.2) Voting and Voting Rights. The Association shall have three (3) classes of voting membership:

(a) Class A. Class A Members shall be all Lot Owners with the exception of Declarant and Builder and shall be entitled to one vote for each Lot owned as provided in the Bylaws. 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 or as set out in N.C.G.S. §47F-3-110, but in no event shall more than one vote be cast with respect to any Lot.

(b) Class B. The Class B Members shall be Declarant and shall be entitled to four (4) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of any of the following events, whichever first occurs:

- (i) When the total votes outstanding in the Class A membership equal the total votes outstanding in Class B membership; or
- (ii) Seven (7) years from the date of recording of this Declaration; or

(iii) When the Declarant voluntarily relinquishes majority control of the Association by a duly recorded instrument.

(c) Class C. The Class C Members shall be the owners of that property described on Exhibit A (the "Commercial Tract") upon Declarant's acquisition of the Commercial Tract. Notwithstanding any general language to the contrary contained herein or in the By-Laws, the Class C Member shall not be entitled to vote nor shall the Class C Member or its representatives be entitled to serve on the Board of Directors of the Association. Although certain rights may be granted to the owners of the Commercial Tract under this Declaration, or by the Declarant or by the Association, neither the owners of the Commercial Tract nor the Commercial Tract shall be subject to the provisions of this Declaration, it being intended that the responsibilities of the owners of the Commercial Tract with respect to the Association be governed by the reasonable terms established by the Declarant while in control of the Association and thereafter by the Association. The Class C Membership may be terminated by the Class C Members in their sole discretion by giving written notice to the Association or terminated by the Declarant and the Association if the Class C Members fail to abide by the reasonable terms and conditions established by the Declarant while in control of the Association and thereafter by the Association.

(d) Class D. The class D Members shall be Evergreen Homebuilders, LLC and shall be entitled to three (3) votes for each Lot owned. The Class D membership shall cease and be converted to Class A membership when the Class B membership ceases and is converted to Class A membership.

(4.3) Suspension of Rights. During any period in which a Member shall be in default in the payment of any annual, special or other periodic assessment levied by the Association, the voting rights and the use of the Common Elements by such Member, their families, and guests may be suspended after a hearing by the Executive Board, until such assessment is paid. In the event of violation by a Member of any rules or regulations established by the Executive Board, such Member's voting rights and the use of the Common Elements by such Member, their families and guests may be suspended by the Executive Board after a hearing. Such hearings shall only be held by the Executive Board or an adjudicatory panel appointed by the Executive Board. The procedure for this hearing shall be as per N.C.G.S §47-3-107.1.

ARTICLE V. COVENANT FOR COMMON EXPENSE ASSESSMENTS

(5.1) Purpose of Assessment. The common expense assessments levied by the Association shall be used: (a) to provide funds for maintenance, upkeep, replacement, and/or repair of property and improvements within the Common Elements, and landscaping and beautification of the Common Elements in Prescott; (b) to provide services for the Association Members to promote the health, safety and welfare of the residents of Prescott, and in particular for the acquisition, improvement and maintenance of Properties, services and facilities related to the use and enjoyment of the Common Elements, including but not limited to the cost of repair, replacement and additions thereto; (c) for the payment of taxes assessed against the Common Elements, for insurance related to the Common Elements, Fidelity Insurance for the Executive Board, for the employment of attorneys, accountants and other professionals to represent the Association when necessary or useful, and for the employment of security Personnel; (d) the provision of any service which is not readily available from any governmental authority related to the use, occupancy and enjoyment of the Properties and which the Association shall decide to provide; (e) for the payment of monthly electric and water bills and other expenses resulting from the maintenance or beautification of entrance monuments, signs, improvements and landscaping; and (f) for the payment of any other expenses related to the maintenance, repair and replacement of the Common Elements.

(5.2) Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Property, hereby covenants, and each Lot Owner of any Lot by acceptance of a Deed therefore, whether or not it shall be so expressed in said Deed, is deemed to covenant and agree to pay to the Association:

(a) Annual common expense assessments ("Annual Common Expense Assessments") for the purposes specified in Section 5.1 in the amount hereinafter set forth; and

(b) Special common expense assessments ("Special Common Expense Assessments") for the purposes specified in Section 5.1 as may be approved by the Executive Board, to be established, and collected as provided herein; and

(c) Specific assessments ("Specific Assessments") for purposes approved by the Executive Board. The Executive Board shall have the power to levy specific assessments as, in its discretion, it shall deem appropriate. Failure of the Executive Board to exercise its authority under this Section shall not be grounds for any action against the Association and shall not constitute a waiver of the Executive Board's right to exercise its authority under this Section in the future with respect to any expenses, including an expense which the Executive Board has not previously exercised its authority under this Section. Fines levied pursuant to this Declaration and the cost of maintenance performed by the Association for which the Lot Owner is responsible shall be Specific Assessments:

(i) expenses of the Association which benefit less than all the Lots may be specifically assessed equitably among all of the Lots which are benefited according to the benefit received; and

(ii) expenses of the Association which benefit all Lots, but which do not provide an equal benefit to all Lots.

In order to secure payment of the Annual and Special Common Expense Assessments and Specific Assessment, such charges as may be levied by the Association against any Lot, together with interest, costs of collection and reasonable attorney's fees, shall be a continuing lien upon the Lot against which each such assessment or charge is made. This lien may be perfected and foreclosed as provided in N.C.G.S. §47-3-116. Each such assessment, together with interest and late charges, costs of collection and reasonable attorney's fees shall also be the Personal obligation of the Person who is the Lot Owner of such Lot at the time when the assessment fell due. The Personal obligation for delinquent assessments shall not pass to a Lot Owner's successor in title unless expressly assumed by them. Such assumption shall not relieve a Lot Owner of his obligation.

(5.3) Exempt Property. The assessments, charges and liens created under this Article shall not apply to the Common Elements, nor shall they apply to any Lot the title to which is vested either in any first mortgagee subsequent to foreclosure or in the Secretary of Housing and Urban Development or the Administrator of Veterans Affairs or any other state or federal governmental agency which acquires title by reason of such agency's guarantee or insurance of a foreclosed mortgage loan; provided, however, that upon the resale of such property by such first mortgagee or such governmental agency the assessments shall again accrue on such Lot. Any Lot which Declarant may hereafter designate for common use as part of the Common Elements shall also be exempt, and all land granted to or used by a utility company shall be exempt from the assessments created herein.

(5.4) Annual Common Expense Assessments. The Annual Common Expense Assessment shall be determined by the Executive Board ("Common Expense Assessment") any shall be payable monthly or quarterly as determined by the Executive Board.

(5.5) Special Assessments. In addition to the Annual Common Expense Assessment authorized above, the Association may levy, in any assessment year, a Special Common Expense Assessment applicable to that year only provided that any such assessment shall have the assent of sixty-seven percent (67%) of the votes of the Association Members who are voting in Person or by proxy at a meeting duly called for this purpose.

(5.6) Notice and Quorum for Any Action Authorized Under Sections 5.4 and 5.5. Written notice of any meeting called for the purpose of taking any action authorized under Sections 5.4 and 5.5 of this Article shall be sent to all members not less than ten (10) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence in Person or by proxy of members entitled to cast ten percent (10%) of all the votes of the Association Members 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 of the required quorum applicable to the meeting adjourned for lack of quorum. The quorum requirement shall continue to be reduced by fifty percent (50%) from that required at the previous meeting, as previously reduced, until such time as a quorum is present and business can be conducted.

(5.7) Date of Commencement of Annual Common Expense Assessments; Due Dates; Certificate of Payment. The Annual Common Expense Assessments shall commence as to all Lots when activated by the Declarant. From the date on which the Annual Common Expense Assessments commence on a Lot until the date on which the Lot is sold by the Declarant or Builder to a purchaser, the Declarant and Builder shall be liable for Annual Common Expense Assessments at a rate which is one-third of the rate otherwise payable except that Declarant shall not be liable for Annual Common Expense Assessments on any Lots if the Association is operating without a deficit. Notwithstanding anything to the contrary herein, the Declarant may contribute assessments due from them in services or materials or a combination of materials and services rather than in money (hereinafter "in kind contribution"). The amount by which monetary assessments shall be decreased as a result of any in kind contribution shall be the fair market value of the contribution as determined by the Declarant. The first Annual Common Expense Assessment shall be adjusted according to the number of months remaining in the calendar year when filed. At least thirty (30) days before January 1 of each year, the Executive Board shall fix the amount of the Annual Common Expense Assessment against each Lot and in the event the Board elects not to fix such assessment rate as herein provided, the amount of the prior year's Annual Common Expense Assessment shall be the fixed amount. The Executive Board shall send each Lot Owner a summary of the budget and a notice of meeting to ratify the budget pursuant to N.C.G.S. § 47F-3-103(c). The budget shall be ratified by the Lot Owners at the meeting pursuant to N.C.G.S. § 47F-3-103(c). Notwithstanding the foregoing, however, in the event the proposed budget is disapproved or the Board fails for any reason to determine the budget for any year, then and until such time as a budget shall have been determined as provided herein, the budget in effect for the immediately preceding year shall continue for the current year. The Annual Common Expense Assessments shall be due and payable in advance on January 1 of each year unless the Executive Board votes to collect such assessments on a monthly or quarterly basis and the due dates for the payment of Special Common Expense Assessments shall be established by the Executive Board. The Association shall, upon demand and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid to date.

(5.8) Effect of Non-Payment of Assessment; Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall be assessed a late charge as determined by the Executive Board and bear interest from the due date at an annual rate of eighteen percent (18%) but in no event above the then maximum legal rate, and to the extent allowed by law. The Association, or its agent or representative, may

bring an action at law against the Lot Owner Personally obligated to pay the same or pursuant to N.C.G.S. §47-3-116 to foreclose the lien against the Lot to which the assessment relates, and interest, costs and reasonable attorney's fees for such action or foreclosure shall be added to the amount of such assessment to the extent allowed by law. No Lot Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Elements or abandonment of his Lot. Each Owner, by acceptance of a Deed or as the party to any other type of a conveyance, vests in the Association or its agents, the right and power to bring all actions against him or her, Personally, for the collection of such charges as a debt or to foreclose the aforesaid lien in the same manner as a mortgage on real estate under power of sale under Article 2A of Chapter 45 of the General Statutes. The lien provided for in this Article shall be in favor of the Association and shall be for benefit of all other Owners. The Association, acting on behalf of the Owners, shall have the power to bid on the Lot at any foreclosure sale or to acquire, hold, lease, mortgage or convey the same. If any such sums are not paid within thirty (30) days after the due date, the Association may, after notice and an opportunity to be heard, suspend the membership rights of the delinquent Owner, including the right to vote, the right of enjoyment in and to the common property and recreational facilities, if any, maintained by the Association, and the right to receive and enjoy such servicing and other benefits as may then be provided by the Association. Any such suspension shall not effect such member's obligation to pay assessments coming due during the period of such suspension and shall not affect any lien on such property in favor of the Association.

(5.9) Subordination of the Lien to First Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first priority deed of trust or first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot which is subject to any first mortgage pursuant to a foreclosure thereof or under a power of sale or any proceeding in lieu of foreclosure thereof shall extinguish the lien of such assessment as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessment thereafter becoming due or from the lien thereof.

(5.10) Collection upon Sale by Declarant. Upon the sale of a Lot by Declarant, the purchaser shall pay to the Association at the closing of the sale that amount of money that is equal to that portion of the Annual Common Expense Assessment attributable to the balance of the year in which the closing takes place. After receipt of said payment, any amounts prepaid by the Declarant or Builder shall be refunded by the Association. Any Special Common Expense Assessment made before, but falling due after, the date of closing of the sale of a Lot by Declarant or Builder shall be paid in full to the Association by the purchaser at the closing of the sale. In addition, each purchaser of a Lot containing a residential dwelling shall pay at closing an amount equal to two (2) months of the Common Expense Assessment as a contribution to the working capital of the Association.

ARTICLE VI: ARCHITECTURAL, MAINTENANCE AND USE RESTRICTIONS

(6.1) Architectural Control Committee. Declarant shall appoint an Architectural Control Committee consisting of not less than three members with one member being a representative of Evergreen Homebuilders, LLC to serve as representatives of the Association's Executive Board and enforce the restrictions hereafter set forth.

Prior to the formation of said Committee, Declarant shall have the responsibility of enforcing the restrictions set forth in this Article. Upon the later of the following two dates, the Architectural Control Committee shall be appointed by the Executive Board: (1) Upon the termination of the Class B membership; or (2) seven (7) years following the date of recording of this Declaration. Reference herein to the Committee shall mean the Declarant until such Committee is appointed. The following architectural, maintenance

and use restrictions shall apply to each and every Lot now or hereafter subject to this Declaration.

(6.2) Approval of Plans and Architectural Control Committee. After the initial construction of the dwelling on a Lot has been completed by Declarant or Builder, no construction, reconstruction, remodeling, alteration, roofing or addition to any structure, building, fence, wall, drive or walkway, or exterior color change, shall be commenced or maintained upon any Lot, nor shall any exterior addition to or change or alteration therein be made after completion of construction of said dwelling, unless and until the plans and specifications showing the nature, kind, shape, height, color, material and location of the same shall have been mailed to the Architectural Control Committee by certified mail with return receipt requested and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Architectural Control Committee. If the Architectural Control Committee fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications shall have been submitted to it, further approval will not be required and this Article will be deemed to have been fully complied with. Upon giving approval to such plans and specifications, construction shall be started and promptly completed in strict conformity with such plans as have been previously approved by the Architectural Control Committee. The Architectural Control Committee or the Executive Board of the Association shall be entitled to stop any construction in violation of these restrictions.

(6.3) Residential Use. All Lots shall be used for residential purposes only.

(6.4) Building Line Requirements. No building shall be located nearer to the front property line than the front building setback line as shown on the recorded maps of the Property, and no building shall be located nearer to the side street line than the side street setback line shown on the recorded maps of the Property. It is provided, however, that eaves, steps, stoops, porches and chimneys shall not be considered a part of the building for purposes of interpreting this paragraph of this Declaration. Minimum setback lines which may be shown on any recorded plat of the Properties are not necessarily intended to create uniformity of setbacks; they are meant primarily to avoid overcrowding and monotony. It is intended that setbacks may be staggered where appropriate so as to preserve the trees and other natural vegetation, and to insure each Lot Owner the greatest benefit and enjoyment of his/her Lot. Any deviation from the building line requirements not in excess of ten (10) percent thereof shall not be construed as a violation of the building line requirements.

(6.5) Building Requirements. No dwelling shall be erected or placed on any Lot having a heated living area (exclusive of uncovered porches, stoops, terraces, attached garages or carports) of less than 1600 square feet.

(6.6) Walls, Fences and Hedges. No fence, hedge or wall of any type or kind shall be erected or maintained on a Lot except such split-rail fencing as may be installed, constructed or erected with the initial construction of the main dwelling located on said Lot, or as may later be approved by the Architectural Control Committee as described in Paragraph (6.2) above.

(6.7) Use of Outbuildings and Similar Structures. No structure of a temporary nature shall be erected or allowed to remain on any Lot, and no trailer, shed, tent, garage, carport, or any other structure of a similar nature shall be used as a residence either temporarily or permanently. Provided, however, this paragraph shall not be construed to prevent the Declarant or Builder from using sheds or other temporary structures during construction for such purposes as Declarant or Builder deems necessary or later approved by the Association. No television satellite dishes shall be erected on any Lot, except that a television satellite dish not exceeding 18 inches in diameter which is attached to the house and is not visible from the street shall be permitted. No radio or television antenna shall be allowed on the roof of any house or structure located on a Lot which is visible

from the street in front of such dwelling and no separate towers for antenna shall be erected on any Lot unless approved by the Architectural Control Committee. No solar panels, solar collectors or other solar power apparatus shall be allowed on any Lot. No metal storage buildings, metal sheds, metal trailers or metal garages shall be permitted on any Lot. All other types of storage buildings, sheds, trailers or garages shall not be allowed on a Lot unless approved by the Architectural Control Committee as described in Paragraph (6.2) above.

(6.8) Animals and Pets. No animals, livestock or poultry of any kind shall be raised, bred, pastured, or maintained on any Lot, except household pets (which shall not include poultry of any kind) which may be kept thereon in reasonable numbers as pets for the sole pleasure and use of the occupants, but not for any commercial use or purpose. All household pets shall be kept under Lot Owner's control so as not to be a nuisance to other Lot Owners and must be on leashes while on the Common Elements. Birds shall be confined in cages.

(6.9) Signs. No signs of any type or kind shall be erected, placed or permitted to remain upon or above any Lot or Common Elements with the exception of a single sign "For Rent" or "For Sale," which sign shall not exceed two feet by two feet in dimension and shall refer only to the premises on which displayed, there being only one sign to a Lot. Notwithstanding the above, the Declarant or Builder may erect and place permanent and temporary signs on or above any unsold Lot. Declarant or Builder shall also have the right of ingress, egress and regress over the aforesaid Lots in order to maintain and replace any such signs until 100% of the Lots have been sold.

(6.10) Nuisances. No offensive or illegal activity shall be carried on upon any Lot, nor shall anything be done thereof which is or may become an annoyance or nuisance to any other Lot Owner. No Lot shall be used in whole or in part for storage of rubbish of any character whatsoever, nor for the storage of any property or thing that will cause such Lot to appear in any unclean or untidy condition or that is unsightly; nor shall any substance, thing or material be kept upon any Lot that will emit a foul odor or that will cause any noise that will or might disturb the peace and quiet of the occupants of surrounding Lots. No trash, rubbish, stored materials, wrecked, unlicensed or inoperable vehicles, tractor trailers, boats and/or trailers, recreational vehicles or similar unsightly items shall be allowed to remain on any Lot outside an enclosed structure. However, the foregoing shall not be construed to prohibit temporary deposits of trash, rubbish and other such debris for pick up by governmental and other similar garbage and trash removal service units on the day of pickup. In the event any Lot Owner fails or refuses to keep his Lot free from unsightly objects, weeds or underbrush in a manner satisfactory to a majority of the Association Executive Board, the Association may, through its agent or representative, five days after posting a notice on such Lot or mailing a notice to the Lot Owner thereof at his property requesting the Lot Owner to comply with the requirements of this paragraph, enter and remove all such unsightly objects, debris or other vegetation at Lot Owner's expense and Lot Owner, by acquiring any Lot subject to this Declaration, agrees to pay such costs incurred by the Association in the enforcement of this paragraph promptly upon demand. No such entry as provided herein shall be deemed a trespass. The foregoing provisions shall not apply to the Declarant or Builder while constructing residences upon any Lots.

(6.11) Clotheslines, Garbage Cans, Etc. All garbage cans, lawnmowers and similar equipment shall be kept in an enclosed structure or screened by adequate planting or fencing so as to conceal same from the view of neighboring Lot Owner and streets. Incinerators for garbage, trash or other refuse shall not be used nor permitted to be erected or placed on any Lot. No exterior clothesline shall be permitted upon a Lot.

(6.12) Use of Common Elements. No planting or gardening by individual Lot Owners shall be done upon any Common Elements unless approved by the Declarant or the Association. Except for the right of easement of enjoyment in and to the Common

Elements herein given to each Lot Owner, Lot Owners are hereby prohibited and restricted from using any of the Common Elements except as may be allowed and prescribed by the Association's Executive Board or as expressly provided for herein. It is Declarant's intent that this paragraph inure to the mutual benefit of all Lot Owners within the Properties.

(6.13) Maintenance.

(a) Exterior maintenance, upkeep and repair to the main dwelling on each Lot, yard, fence, walkway and shrubbery shall be the sole responsibility and expense of the Lot Owner of the Lot subject to such reasonable requirements as may from time to time be established by the Architectural Control Committee to insure the continuity and harmony of exterior design of Prescott. Should a majority of the Association Executive Board determine that any Lot Owner has failed or refused to discharge properly his obligations with respect to such maintenance, upkeep and repairs, the Association, through its agent or representative, may provide same as it may deem necessary and proper.

(b) All Lots, together with the exterior of all improvements thereon, shall be maintained in a neat and attractive condition by their respective Lot Owners. Such maintenance shall include, but shall not be limited to, painting, repairing, replacing or caring for roofs, gutters, downspouts, building surfaces, trees, shrubs, walks or other exterior improvements. In the event an Lot Owner shall fail to maintain the premises and the improvements thereon in a manner satisfactory to the Association Executive Board, the Association may, through its agent or representative, after approval by majority vote of the Board, have the right to enter upon said Lot and repair, maintain and restore the Lot and the exterior of the buildings and any other improvements thereon. The cost of such exterior maintenance shall be added to and become part of the assessment to which such Lot is subject and the Lot Owner shall be Personally liable to the Association for the costs of such maintenance, and the cost, until paid, shall be a permanent charge and lien upon such Lot, enforceable to the same extent and collectible as provided for in Article V. Such entry as provided herein shall not be a trespass, nor shall the Association be liable for doing anything reasonably necessary or appropriate in connection with carrying out those provisions, provided such entry shall be at reasonable times and places so as not to interfere with the right of quiet enjoyment of the individual Lot Owner.

(6.14) Above Ground Swimming Pools. No above ground swimming pools, except for small wading pools which shall be permitted in the rear yard, are permitted on any Lot.

(6.15) Decorative Structures. No decorative statues, birdbaths, fountains, ornaments, figurines, or any other decorative structures or items are permitted in the front or side yards of any Lot.

(6.16) Boats, Commercial Vehicles and Recreational Vehicles. No boats, boat trailers, tractors, mobile homes, trailers (either with or without wheels), tractor trailers, campers, camper trailers, watercraft, commercial vehicles (as determined by the Executive Board), or recreational vehicles shall be permitted on any Lot except in an enclosed garage. All parking shall be subject to such rules and regulations as the Executive Board shall adopt.

(6.17) Mailboxes. Mailboxes on each Lot shall conform to specifics set forth by the Architectural Control Committee and/or the U.S. Postal Service.

(6.18) Leasing. All Lot Owners are prohibited from leasing the house on their Lot for a period of less than six (6) months with the following exception. Builder shall have the right to construct houses on three (3) Lots and enter into leases with options to purchase with a tenant for each of the three (3) Lots and houses. Provided, however, that when Builder conveys a Lot and house to tenant pursuant to the lease with option to

purchase, that tenant and all future Lot Owners of that particular Lot and house shall be prohibited from leasing the house and Lot for a period of less than six (6) months.

ARTICLE VII: EASEMENTS

(7.1) General. Each Lot now or hereafter subjected to this Declaration shall be subject to all easements shown or set forth on the recorded plat or plats of survey upon which such Lot is shown. No structure of any type shall be erected or placed upon any part of a Lot or the Common Elements which will interfere with rights and use of any and all easements shown on said recorded plat.

(7.2) Utility and Drainage. An easement on each Lot is hereby reserved by Declarant for itself and its successors and assigns along, over, under and upon a strip of land ten feet (10') in width parallel and contiguous to the rear or back Lot line of each Lot and easements five feet (5') in width over, under and along the side Lot lines of each Lot, in addition to such other easements as may appear on a recorded subdivision plat for Prescott. The purpose of these easements shall be to provide, install, maintain, construct and operate drainage facilities now or in the future and utility service lines to, from or for each of the Lots. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation or maintenance of utilities, or which may change the direction or flow of drainage channels in the easements without approval of the Architectural Control Committee. The easement area of each and all improvements in it shall be maintained continuously by Lot Owner, except for those improvements for which a public authority or utility company is responsible. With ten (10) days prior written notice to Lot Owner, Declarant or Builder may exercise the right to remove obstructions in such easements upon Lot Owner's failure to do so. For the purpose of this covenant, Declarant and Builder reserves the right to modify or extinguish the herein reserved easements along any Lot lines when in its sole discretion adequate reserved easements are otherwise available for the installation of drainage facilities and/or utility service lines. For the duration of these restrictions, no such utilities shall be permitted to occupy or otherwise encroach upon any of the easement areas reserved without first obtaining the prior written consent of Declarant; provided, however, local service from utilities within easement areas to residences constructed upon any such Lots may be established without first obtaining separate consents therefore from Declarant. The Association may likewise reserve and grant easements for the installation and maintenance of sewerage, utility and drainage facilities in, across, under and over the Common Elements.

(7.3) Emergency. There is hereby reserved without further assent or permit and to the extent allowed by law, a general easement to all firemen, ambulance Personnel, policemen and security guards employed by Declarant and all similar Persons to enter upon the Properties or any portion thereof, in the performance of their respective duties.

(7.4) Entry Monuments, Signs and Landscaping Easements. Declarant hereby reserves for the Declarant, Association, and the designees of each, perpetual easements over the portion of those Lots on which Declarant installs entry monuments, walls, signs, street lights, street trees, and landscaping. Easements over these areas shall be for the purpose of the installation, maintenance and repair of the Prescott entry monuments, walls, signs, street lights, street trees, and landscaping, and the Association is also granted a perpetual easement for ingress, egress and regress over these Lots to fulfill these purposes.

(7.5) Additional Easements. There are hereby reserved unto the Declarant, so long as the Declarant owns any property within a one mile radius of the Subdivided Property, the Association, and the designees of each, access and maintenance easements upon, across, over, and under all of the Properties to the extent reasonably necessary for the purpose of replacing, repairing, and maintaining cable television systems, master television antennae systems, roads, walkways, bicycle paths, lakes, ponds, wetlands,

drainage systems, street lights, signage, and all utilities, including, but not limited to water, sewer, meter boxes, telephone, gas and electricity, and for the purpose installing any of the foregoing on property which it owns or within easements designated for such purposes on recorded plats of the Properties. Notwithstanding anything to contrary herein, this easement shall not entitle the holders to construct or install any of the foregoing facilities or utilities over, under, or through any existing dwelling on a Lot, and any damage to a Lot resulting from the exercise of this easement shall promptly be repaired by and at the expense of the Person exercising the easement. The exercise of this easement shall not unreasonably interfere with the use of any Lot and, except in an emergency, entry onto any Lot shall be made only after reasonable notice to the Owner or occupant.

(7.6) Easements to Serve the Commercial Tract. The Declarant and its duly authorized agents, representatives, employees, as well as its successors, assigns, licensees and mortgagees, shall have and hereby reserves an easement over the Common Elements for the purpose of enjoyment, use, access, and development of the Commercial Tract whether or not such Commercial Tract is made subject to this Declaration. This easement includes, but is not limited to, right of ingress, egress and installing utilities, and Common Elements for construction of roads, for connecting and installing utilities, and for connecting walking trails, etc. on the Commercial Tract provided such use does not unduly interfere with the use of the Common Elements by Owners. Declarant agrees that it and its successors or assigns shall be responsible for any damage caused to the Common Elements as a result of vehicular traffic connected with development of the Commercial Tract. Declarant further agrees that if the easement is exercised for permanent access to the Commercial Tract and such Commercial Tract or any portion thereof is not made subject to this Declaration, the Declarant, its successors and assigns shall enter into a reasonable agreement with the Association to share the cost of maintenance of any access roadway serving the Commercial Tract.

ARTICLE VIII: GENERAL PROVISIONS

(8.1) Covenants Running with the Land. All provisions of this Declaration shall be construed to be covenants running with the land, and with every part thereof and interest therein, and every Lot Owner or any other Person or legal entity claiming an interest in any Lot, and his heirs, executors, administrators, successors and assigns, shall be bound by all of the provisions of this Declaration.

(8.2) Duration. The covenants, conditions and restrictions of this Declaration shall be binding for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive and additional periods of ten (10) years each.

(8.3) Amendments and Termination. This Declaration may be terminated only by agreement of Lot Owners to which at least eight percent (80%) of the votes in the Association are allocated. This Declaration may be amended upon the affirmative vote or written agreement signed by Lot Owners to which at least sixty-seven percent (67%) of the votes of the Association are allocated and the consent of the Declarant; provided, however, that the Declarant may amend this Declaration to correct minor and clerical errors, as determined by the Declarant, without approval of Lot Owners and should the FHA, VA, Federal National Mortgage Association (FNMA) or the Federal Home Loan Mortgage Corporation (FHLMC) subsequently require certain provisions or delete any of their requirements which necessitate certain provisions of this Declaration or make any such requirements less stringent, the Declarant, without approval of Lot Owners may amend this Declaration to reflect such changes. Any such amendment or termination shall not be effective until an instrument evidencing such change has been filed of record in the Mecklenburg County Public Registry.

(8.4) Enforcement. If any Lot Owner shall violate or attempt to violate any of these restrictions, failure to comply with any of the same shall be grounds for an action to recover sums due, for damages or injunctive relief, or both, maintainable by the Executive Board on behalf of the Association, or, in proper case, by an aggrieved Lot Owner. Any failure by Association or any other Lot Owner to enforce any of the foregoing restrictions or other provisions shall in no event be deemed a waiver of their right to do so thereafter. Invalidation of any covenant, condition or restriction or other provision of this Declaration shall not affect the validity of the remaining portions thereof which shall remain in full force and effect.

(8.5) Headings. Headings are inserted only for convenience and are in no way to be construed as defining, limiting, extending or otherwise modifying or adding to the particular paragraphs to which they refer.

(8.6) Unintentional Violation of Restrictions. In the event of unintentional violation of any of the foregoing restrictions with respect to any Lot, the Declarant or its successors reserves the right (by and with the mutual written consent of the then Lot Owner or Lot Owners of such Lot) to change, amend, or release any of the foregoing restrictions as the same may apply to that particular Lot.

(8.7) Severability. The provisions of this Declaration are severable and the invalidity of one or more provisions hereof shall not be deemed to impair or affect in any manner the validity, enforceability or effect of the remainder hereof.

(8.8) Special Declarant Rights. Declarant reserves all Special Declarant Rights defined in N.C.G.S. §47F-1-103(28). This Declaration and the covenants, conditions, and restrictions contained herein are intended to promote and maintain a common scheme of development. This Declaration and any amendment thereto whether made unilaterally by the Declarant or by the Association shall become a part of this common scheme of development, and be enforceable uniformly by and against all Lots hereunder.

Any or all of the special rights and obligations of the Declarant set forth in this Declaration or the By-Laws may be transferred to other Persons, and no such transfer shall be effective unless in a written instrument signed by the Declarant and duly recorded in the public registry of Union County North Carolina.

Notwithstanding any provisions contained in the Declaration to the contrary, so long as construction and the initial sale of Lots shall continue, it shall be expressly permissible for Declarant to maintain and carry on upon portions of the Common Elements such facilities and activities as in the sole opinion of Declarant may be reasonably required, convenient, or incidental to the construction or sale of such Lots, including, but not limited to, business offices, signs, model units, and sales offices, and the Declarant and any designated Builder shall have an easement for access to and use of such facilities. The right to maintain and carry on such facilities and activities shall include specifically, without limitation, the right to use Lots owned by the Declarant and any improvements on the Common Elements which may be owned by the Association, as models and sales offices, respectively.

So long as Declarant continues to have rights under this paragraph, no Person shall record any Declaration of Covenants, Conditions, and Restrictions, or Declaration of Condominium or similar instrument affecting any portion of the Property without Declarant's review and written consent. Any attempted recordation without compliance herewith shall result in such Declaration of Covenants, Conditions, and Restrictions, or Declaration of Condominium or similar instrument being void and of no force and effect unless subsequently approved by recorded consent signed by Declarant and recorded in the public registry. This Article shall not be amended without the express written consent of the Declarant; provided however, the rights contained in this Article shall terminate upon the earlier of:

- (a) 20 years from the date this Declaration is recorded; or
- (b) upon recording by Declarant of a written statement that all sales activities have ceased.

The Declarant further reserves the right to grant licenses to Persons for use of the Common Elements provided such Persons pay such reasonable fees as established by the Declarant or the Association for use of such Common Elements.

As long as Declarant owns a portion of the Property, Declarant reserves the right to amend this Declaration for the purpose of removing any portion of the Property which has not yet been improved with structures from the coverage of this Declaration. Such amendment shall not require the consent of any persons other than the Owner of the Property to be withdrawn, if not the Declarant. If the Property is Common Elements, the Association shall consent to such withdrawal.

(8.9) Litigation. No judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by a vote of 67% of the Members and by the consent of Declarant. This section shall not apply, however, to: (a) actions brought by the Association to enforce the provisions of this Declaration (including, without limitation) the foreclosure of liens; (b) the imposition and collection of assessments as provided in this Declaration; (c) proceedings involving challenges to *ad valorem* taxation, or (d) counterclaims brought by the Association in proceedings instituted against it. This provision shall not be amended unless such amendment is made by the Declarant.

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be executed under its seal on the day and year first above written.

Prescot Development, LLC
a North Carolina limited liability company

By: *Terry J. Przedzinski*, Manager
Terry J. Przedzinski, President

STATE OF NORTH CAROLINA
COUNTY OF

I, *Dale E. Vanhook*, a Notary Public in and for the County and State aforesaid, do hereby certify that on this *5th* day of *July*, 2005, *Terry J. Przedzinski* Personally appeared before me and, being by me duly sworn, said that he is President of Diamond Oak Development, Inc., a North Carolina corporation which is manager of Prescott Development, LLC, a North Carolina limited liability company, that the statements contained in the foregoing instrument are true, and s/he acknowledged said instrument to be the duly authorized act and deed of said company.

WITNESS my hand and notarial stamp or seal.

Dale E. Vanhook
NOTARY PUBLIC

My Commission Expires: *January 8, 2008*



NORTH CAROLINA-JUNIOR COUNTY
To be certified by:
Dale E. Vanhook
Notary (Full Name)
to be certified
by:
Cynthia D. Gruber, REGISTER OF DEEDS
RE: *Prescot Development, LLC*
-RECORD-

EXHIBIT A

"Commercial Tract"

BEGINNING at an iron spike in the centerline of Providence Road (N. C. Highway No. 16) where the same intersects with the centerline of Pine Oak Road, it extended, and running thence along with the centerline of Providence Road (N. C. Highway No. 16) two (2) calls as follows: 1st., North 03 degrees 51 minutes 08 seconds West 289.48 feet to a point; and 2nd., North 03 degrees 23 minutes 39 seconds West 1,423.02 feet to a nail in the centerline of N. C. Highway No. 16 in the bridge over Twelve-Mile Creek; thence along and with the various courses of Twelve-Mile Creek, the center channel thereof being the property line, 25 calls as follows: 1st., South 85 degrees 27 minutes 42 seconds West 301.61 feet; 2nd., South 67 degrees 43 minutes 01 second West 159.12 feet; 3rd., South 59 degrees 28 minutes 21 seconds West 263.99 feet; 4th., South 70 degrees 15 minutes 32 seconds West 293.28 feet; 5th., North 36 degrees 45 minutes 02 seconds West 145.89 feet; 6th., South 68 degrees 20 minutes 37 seconds West 603.35 feet; 7th., South 58 degrees 40 minutes 13 seconds West 211.66 feet; 8th., South 55 degrees 49 minutes 03 seconds West 400.32 feet; 9th., South 59 degrees 02 minutes 40 seconds West 220.51 feet; 10th., North 63 degrees 36 minutes 53 seconds West 327.48 feet; 11th., South 69 degrees 23 minutes 44 seconds West 458.74 feet; 12th., South 75 degrees 00 minutes 09 seconds West 177.90 feet; 13th., South 59 degrees 22 minutes 50 seconds West 167.03 feet; 14th., South 48 degrees 15 minutes 15 seconds West 209.28 feet; 15th., South 57 degrees 03 minutes 15 seconds West 157.78 feet; 16th., North 78 degrees 18 minutes 47 seconds West 50.31 feet; 17th., North 43 degrees 47 minutes 49 seconds West 279.39 feet; 18th., North 62 degrees 34 minutes 03 seconds West 205.02 feet; 19th., South 49 degrees 07 minutes 06 seconds West 483.94 feet; 20th., South 28 degrees 51 minutes 33 seconds West 161.12 feet; 21st., South 38 degrees 22 minutes 14 seconds West 342.03 feet; 22nd., South 35 degrees 03 minutes 15 seconds West 351.23 feet; 23rd., South 40 degrees 47 minutes 09 seconds West 315.83 feet to a point in the centerline of Waxhaw-Marvin Road (S. R. No. 1201) in the bridge over Twelve-Mile Creek; 24th., South 34 degrees 09 minutes 38 seconds West 496.33 feet; and 25th., South 20 degrees 39 minutes 02 seconds West 309.66 feet to a point in the center of the channel of Twelve-Mile Creek; thence South 75 degrees 29 minutes 10 seconds East, passing an existing iron pipe on the east bank of said creek at 43.37 feet, a total distance of 468.63 feet to an existing iron pipe; thence North 12 degrees 12 minutes 37 seconds East 394.78 feet to an existing iron pipe; thence South 57 degrees 22 minutes 13 seconds East 535.03 feet to a spike in the centerline of said road two (2) calls as follows: 1st., South 41 degrees 28 minutes 13 seconds East 306.92 feet; and 2nd., South 40 degrees 30 minutes 47 seconds East 213.42 feet to a nail; thence North 49 degrees 54 minutes 45 seconds East 153.26 feet to an existing iron pipe; thence North

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CONDITION OF DOCUMENT PRESENTED

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52 degrees 37 minutes 40 seconds East 64.92 feet to an existing iron pipe; thence South 57 degrees 47 minutes 01 second East 572.64 feet to an existing iron pipe; thence North 11 degrees 28 minutes 22 seconds East 255.09 feet to an existing iron pipe; thence South 86 degrees 54 minutes 04 seconds East 1,108.57 feet to an existing iron pipe; then South 10 degrees 42 minutes 41 seconds West 249.72 feet to an existing iron pipe, a corner of the Maxhav United Methodist Church property; thence South 78 degrees 26 minutes 17 seconds East 293.81 feet to a nail in the centerline of Pine Oak Road (S. R. No. 1304) and crossing an iron pipe in the western line of said right of way at 258.85 feet; thence along and with the centerline of Pine Oak Road 14 calls as follows: 1st., North 08 degrees 58 minutes 32 seconds West 100.00 feet to a nail; 2nd., North 11 degrees 18 minutes 56 seconds West 86.19 feet to a nail; 3rd., North 13 degrees 35 minutes 36 seconds West 113.83 feet to a nail; 4th., thence with the arc of a curve to the left, in a generally northerly direction with a radius of 2,204.36 feet, an arc distance of 800.07 feet and with a chord bearing North 23 degrees 18 minutes 37 seconds West 795.69 feet; 5th., North 35 degrees 04 minutes 12 seconds West 99.99 feet to a nail; 6th., thence with the arc of a curve to the right, in a generally northerly direction with a radius of 688.11 feet, an arc distance of 199.94 feet and with a chord bearing North 29 degrees 34 minutes 25 seconds West 199.24 feet; 7th., thence with the arc of a curve to the right, in a generally northeasterly direction with a radius of 173.1 feet, an arc distance of 301.41 feet and with a chord bearing North 27 degrees 00 minutes 00 seconds East 264.75 feet to a nail; 8th., a nail in a bridge over a small stream; 9th., thence with the arc of a curve to the right, in a generally easterly direction with a radius of 6,193.47 feet, an arc distance of 499.83 feet and with a chord bearing North 75 degrees 08 minutes 55 seconds East 499.69 feet; 10th., thence with the arc of a curve to the right, in a generally easterly direction, having a radius of 2,207.5 feet, an arc distance of 699.95 feet and with a chord bearing North 84 degrees 44 minutes 22 seconds East 697.02 feet; 11th., South 87 degrees 19 minutes 24 seconds East 170.03 feet to a nail; 12th., thence with the arc of a curve to the left, in a generally easterly direction with a radius of 1,671.47 feet, an arc distance of 399.69 feet and with a chord bearing North 87 degrees 32 minutes 28 seconds East 398.73 feet; 13th., North 80 degrees 52 minutes 28 seconds East 199.97 feet to a nail; and 14th., North 80 degrees 03 minutes 09 seconds East 496.64 feet to the point and place of BEGINNING, containing 213.379 acres, more or less, per plat and survey by Gordon D. Svedberg, NCRLS, dated July 9, 1987.

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DEGRADATION OF DOCUMENT PRESENTED

EXHIBIT A (cont'd)

"Commercial Tract"

LESS AND EXCEPT the following:

Tract I:

RECORD IS OF POOR QUALITY DUE TO
DEGRADATION OF DOCUMENT PRESENTED

Lying and being in Sandy Ridge Township, Union County, North Carolina and being more particularly described as follows:

BEGINNING at the point of intersection of the center line of Twelve Mile Creek and the center line of that public right of way known as Waxhaw-Marvin Road (SR #1301) in which center line is located a railroad spike; and running from said Beginning Point along the center line of the aforesaid Twelve Mile Creek, the following twelve (12) courses and distances: (1) North 47-13-04 East 142.19 feet to a point, (2) North 26-49-23 East 437.30 feet to a point, (3) North 36-06-30 East 375.24 feet to a point, (4) North 24-50-11 East 376.96 feet to a point, (5) North 55-58-52 East 121.79 feet to a point, (6) North 48-18-33 East 192.55 feet to a point, (7) South 89-09-39 East 82.32 feet to a point, (8) South 63-23-11 East 95.58 feet to a point, (9) South 54-11-21 East 156.13 feet to a point, (10) South 43-10-59 East 153.01 feet to a point, (11) South 82-17-27 East 62.92 feet to a point and (12) North 60-10-56 East 33.88 feet to a point in the easterly margin of the 30 foot sanitary sewer easement as described in Deed recorded in Book 300 at Page 115 in the Union County Public Registry; and thence running along the easterly and northerly margins of the aforesaid 30 foot sanitary sewer easement, the following four (4) courses and distances: (1) South 05-25-09 West 160.89 feet to a point, (2) South 61-02-31 East 647.58 feet to a point, (3) South 86-20-34 East 497.24 feet to a point and (4) South 52-01-11 East 310.10 feet to a point in the center line of the public right of way of Pine Oak Road (SR #1304); thence running along the center line of the aforesaid right of way known as Pine Oak Road, the following seven (7) courses and distances: (1) with the arc of a circular curve to the left having a radius of 818.18 feet, an arc length of 147.33 feet and a chord bearing and distance of South 65-08-27 West 147.29 feet to a point, (2) with the arc of a circular curve to the left having a radius of 165.00 feet, an arc length of 250.31 feet and a chord bearing and distance of South 19-21-23 West 226.99 feet to a point, (3) thence with the arc of a circular curve to the left having a radius of 700.00 feet, an arc length of 179.86 feet and a chord bearing and distance of South 32-42-15 East 179.37 feet to a point, (4) South 40-03-55 East 125.51 feet to a point, (5) with the arc of a circular curve to the right having a radius of 1962.66 feet, an arc length of 601.71 feet and a chord bearing and distance of South 31-16-57 East 599.35 feet to a point, (6) South 22-29-58 East 57.85 feet to a point and (7) thence with the arc of a circular curve to the right having a radius of 2964.71 feet, an arc length of 92.99 feet and a chord bearing and distance of South 21-36-04 East 92.98 feet to a railroad spike set along the center line of the aforesaid right of way known as Pine Oak Road; thence running South 69-30-02 West 173.30 feet to an existing iron pin marking the northeasternmost corner of that property conveyed to Wendy S. Daniel and David R. Daniel, Jr. in Deed recorded in Book 1489 at Page 308 in the Union County Public Registry; thence running along the northerly margin of the aforesaid Daniel property (now or formerly) South 87-52-01 West 458.48 feet to an existing iron pin marking the northeasternmost corner of that property conveyed to David Dwayne Sloan and Tracey O. Sloan in Deed recorded in Book 1221 at Page 536 in the Union County Public Registry; thence running along the northerly and westerly margins of the aforesaid Sloan property (now or formerly) the following two (2) courses and distances: (1) South 87-50-51 West 650.02 feet to an existing iron pin and (2) South 06-12-20 West 254.99 feet to an existing iron pin marking the northeasternmost corner of that property conveyed to David Lee Sloan and Nancy H. Sloan in Deed recorded in Book 1483 at Page 895 in the Union County Public Registry; thence running along the northerly and westerly margins of the aforesaid David Lee Sloan property (now or formerly) the following three (3) courses and distances: (1) North 63-02-29 West 572.67 feet to an existing iron pin, (2) South 45-28-19 West 65.07 feet to an existing iron pin and (3) South 45-27-27 West 152.43 feet to a railroad spike in the center line of the aforesaid right of way known as Waxhaw-Marvin Road; thence

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running along the center line of the aforesaid right of way known as Waxhaw-Martin Road, the following two (2) courses and distances: (1) with the arc of a circular curve to the left having a radius of 842.41 feet, an arc length of 162.58 feet and a chord bearing and distance of North 45-50-13 West 162.58 feet to a point and (2) North 46-23-23 West 355.85 feet to a point; thence running along the northerly and westerly margins of that property conveyed to Jack H. Towell and Elizabeth T. Towell in Deed recorded in Book 1750 at Page 401 in the Union County Public Registry, the following three (3) courses and distances: (1) North 62-34-59 West 537.46 feet to an old pipe, (2) South 06-59-51 West 394.68 feet to an existing iron pin and (3) North 80-41-08 West 514.29 feet to a point in the center line of the aforesaid Twelve Mile Creek (passing an existing iron pin at 468.60 feet); thence continuing along the center line of the aforesaid Twelve Mile Creek, the following three (3) courses and distances: (1) North 17-37-08 East 399.46 feet to a point, (2) North 27-23-23 East 323.55 feet to a point and (3) North 40-26-53 East 84.88 feet to the Point and Place of BEGINNING, and containing 104.37 acres as shown on subdivision survey for Diamond Oak Development, LLC prepared by Jack R. Christian & Associates Surveying dated December 29, 2003 for a more particular description of said property.

Tract II:

Lying and being in Sandy Ridge Township, Union County, North Carolina and being more particularly described as follows:

BEGINNING at a point in the center line of the 60 foot public right of way known as Pine Oak Road, said point having N.C. Grid Coordinates $N = 438,451.24$ and $E = 1,472,148.46$ NAD 83, said point also marking the northeasternmost corner of that property conveyed to Waxhaw United Methodist Church in Deed recorded in Book 344 at Page 849 in the Union County Public Registry; thence running from said beginning point along the northerly margin of the aforesaid Waxhaw United Methodist Church property (now or formerly) North 83-41-29 West a total of 293.90 feet to an existing iron pin (passing an existing iron pin at 35.07 feet), said iron pin marking the southeasternmost corner of that property conveyed to Wendy S. Daniel and David R. Daniel, Jr. in Deed recorded in Book 1489 at Page 308 in the Union County Public Registry; thence running along the easterly margin of the aforesaid Daniel property (now or formerly) North 05-28-18 East 249.61 feet to an existing iron pin marking the northeasternmost corner of the aforesaid Daniel property (now or formerly); thence running North 69-30-02 East 173.30 feet to a railroad spike in the center line of the aforesaid public right of way known as Pine Oak Road; thence running along the center line of the aforesaid public right of way known as Pine Oak Road with the arc of a circular curve to the right having a radius of 2964.71 feet, an arc length of 357.74 feet and a chord bearing and distance of South 17-14-44 East 357.53 feet to the Point and Place of BEGINNING, and containing 1.58 acres as shown on survey of Portion of T. Alfred Browne Property prepared by Jack R. Christian & Associates dated September 24, 2004 for a more particular description of said property.

Filed for record
On 08/16/2005
Time 2:30 PM
Official D. Crump, Register of Deeds
Union County, Merree, North Carolina

STATE OF NORTH CAROLINA

COUNTY OF UNION

94335

FIRST SUPPLEMENTARY DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR PRESCOT

THIS FIRST SUPPLEMENTARY DECLARATION, made on this 14th day of September, 2005, by PRESCOT DEVELOPMENT, LLC, a North Carolina limited liability company (referred to in this instrument as "Declarant").

WHEREAS, Declarant is the only owner of lots in Prescott Phase I Map 2A as shown on a map recorded in Plat Cabinet I, File 832 in the Union County Public Registry (hereinafter referred to as "Phase I Map 2A Lots"); and

WHEREAS, the DECLARATION OF PROTECTIVE COVENANTS FOR PRESCOT recorded on July 11, 2005 in Book 3838 at Page 160 in the Union County Public Registry (hereinafter referred to as the "Declaration"); and

WHEREAS, Article 2, Section 2.2 of the Declaration provides that Declarant shall have the right to subject other real property within a one (1) mile radius of the Submitted Property in order to extend the scheme of the Declaration to other property to be developed as part of Prescott Subdivision; and

WHEREAS, the Phase I Map 2A Lots are within a one (1) mile radius of the Submitted Property and Declarant is the owner of such property and is Declarant under the Declaration; and

WHEREAS, Declarant desires to incorporate the aforesaid Phase I Map 2A Lots within the property subject to the aforesaid Declaration; and

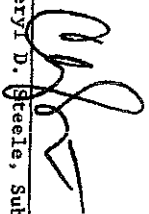
Drawn by and attested by:
Cheryl D. Steele
Hornick, Talley, Piatt & Lowmides, P.A. (Box 194)
2600 One Westovria Center
301 S. College Street
Charlotte, NC 28202-6038
HTPL: 265904 v1

NOW, THEREFORE, pursuant to the provisions of the aforesaid Declaration, Declarant does hereby subject the Phase I Map 2A Lots to the Declaration, to the end that Phase I Map 2A Lots shall be within the scheme of said Declaration and to the further end that all present and future owners of Phase I Map 2A Lots shall be subject to the terms and conditions of the aforesaid Declaration and shall have the rights and privileges therein set out.

IN WITNESS WHEREOF, Declarant has caused this Supplementary Declaration to be executed as of the day and year first above written.

PRESCOT DEVELOPMENT, LLC,
a North Carolina limited liability company

By: Diamond Oak Development, Inc.,
Its Manager


Cheryl D. Steele, Subscribing Witness

By: 
Terry J. Predzinski, President

STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

I, Terry J. Predzinski, a Notary Public of the County and State aforesaid, certify that Terry J. Predzinski personally came before me this day and acknowledged that he is President of Diamond Oak Development, Inc., Manager of Prescott Development, LLC, a limited liability company organized under the laws of North Carolina, and that by authority given and as the act of said company, the foregoing instrument was signed in its name by him/her.

Witness my hand and official stamp or seal, this _____ day of _____, 200__.

Notary Public

~~My Commission Expires: _____~~

PK 3917 PG 077

STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

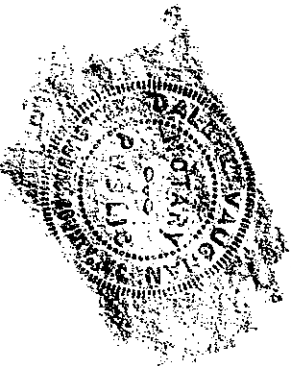
I, Dale E. Vaughan, a notary public of Mecklenburg County, North Carolina, certify that Cheryl D. Steele personally appeared before me this day, and being duly sworn, stated that in her presence Terry J. Predzinski personally appeared before her this day and acknowledged that he is President of Diamond Oak Development, Inc., a North Carolina corporation, manager of Prescott Development, LLC, a limited liability company, and signed the foregoing instrument.

WITNESS my hand and official seal, this 14th day of September, 2005.

SEAL-STAMP

Dale Clark
Notary Public

My Commission Expires: January 8, 2008



NORTH CAROLINA - LENO COUNTY

The undersigned Clerk of
Dale C. Vaughan

I hereby certify that _____
_____ is _____ Public

being certified _____
to be correct.

CRYSTAL B. GUMP, REGISTRAR OF DEEDS

Dale C. Vaughan

DEPT.
ASSISTANT

3978 -
0326

BK 3978 PG 326

04349

Filed for record
Date 11/10 2005
Time 9:10 at 12
Clerk D. Clegg, Register of Deeds
Union County, North Carolina
SC

STATE OF NORTH CAROLINA
COUNTY OF UNION

**SECOND SUPPLEMENTARY DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR PRESCOT**

THIS SECOND SUPPLEMENTARY DECLARATION, made on this 7th day of November, 2005, by PRESCOT DEVELOPMENT, LLC, a North Carolina limited liability company (referred to in this instrument as "Declarant").

WHEREAS, Declarant is the only owner of lots in Prescott Phase I Map 2B as shown on a map recorded in Plat Cabinet I, File 969 and the Lots in Prescott Phase I Map 3B as shown on map recorded in Plat Cabinet I, File 968 in the Union County Public Registry (hereinafter referred to as "Phase I Map 2B and 3B Lots"); and

WHEREAS, the DECLARATION OF PROTECTIVE COVENANTS FOR PRESCOT recorded on July 11, 2005 in Book 3838 at Page 160 in the Union County Public Registry (hereinafter referred to as the "Declaration"); and

WHEREAS, Article 2, Section 2.2 of the Declaration provides that Declarant shall have the right to subject other real property within a one (1) mile radius of the Submitted Property in order to extend the scheme of the Declaration to other property to be developed as part of Prescott Subdivision; and

WHEREAS, the Phase I Map 2B and 3B Lots are within a one (1) mile radius of the Submitted Property and Declarant is the owner of such property and is Declarant under the Declaration; and

Drawn by and mailed:
Cheryl D. Steele
Hosack, Talley, Platt & Lowndes, P.A. (Box 194)
2500 One Westovia Center
301 S. College Street
Charlotte, NC 28202-6038

HTPL 271034 v1

WHEREAS, Declarant desires to incorporate the aforesaid Phase I Map 2B and 3B Lots within the property subject to the aforesaid Declaration; and

NOW, THEREFORE, pursuant to the provisions of the aforesaid Declaration, Declarant does hereby subject the Phase I Map 2B and 3B Lots to the Declaration, to the end that Phase I Map 2B and 3B Lots shall be within the scheme of said Declaration, to the to the further end that all present and future owners of Phase I Map 2B and 3B Lots shall be subject to the terms and conditions of the aforesaid Declaration and shall have the rights and privileges therein set out.

IN WITNESS WHEREOF, Declarant has caused this Supplementary Declaration to be executed as of the day and year first above written.

PRESCOT DEVELOPMENT, LLC,
a North Carolina limited liability company

By: Diamond Oak Development, Inc.,
Its Manager

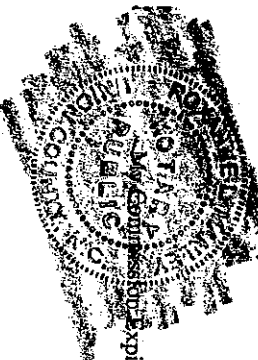
By: Terry J. Predzimirski
Terry J. Predzimirski, President

STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

I, Rosanne L. Wampler, a Notary Public of the ^{Union} County and State aforesaid, certify that Terry J. Predzimirski personally came before me this day and acknowledged that he is President of Diamond Oak Development, Inc., Manager of Prescott Development, LLC, a limited liability company organized under the laws of North Carolina, and that by authority given and as the act of said company, the foregoing instrument was signed in its name by him/her.

Witness my hand and official stamp or seal, this 7 day of November, 2005.

Rosanne L. Wampler
Notary Public



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0042

9K4039PG042

Filed for record
Date 1-13 2010
Time 2:15 of day A in
Cyril D. Gunn, Register of Deeds
Union County, Warren, North Carolina
Cm

STATE OF NORTH CAROLINA
COUNTY OF UNION

01435

**THIRD SUPPLEMENTARY DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR PRESCOT**

THIS THIRD SUPPLEMENTARY DECLARATION, made on this 28th day of November, 2005, by PRESCOT DEVELOPMENT, LLC, a North Carolina limited liability company (referred to in this instrument as "Declarant").

WHEREAS, Declarant and Evergreen Homebuilders, LLC ("Evergreen") are the only owners of lots in Prescott Phase I Map 3A as shown on a map recorded in Plat Cabinet I, File 833 in the Union County Public Registry (hereinafter referred to as "Phase I Map 3A Lots"); and

WHEREAS, the DECLARATION OF PROTECTIVE COVENANTS FOR PRESCOT recorded on July 11, 2005 in Book 3838 at Page 160 in the Union County Public Registry (hereinafter referred to as the "Declaration"); and

WHEREAS, Article 2, Section 2.2 of the Declaration provides that Declarant shall have the right to subject other real property within a one (1) mile radius of the Submitted Property in order to extend the scheme of the Declaration to other property to be developed as part of Prescott Subdivision; and

WHEREAS, the Phase I Map 3A Lots are within a one (1) mile radius of the Submitted Property and Declarant and Evergreen are the owners of such property and Declarant is the Declarant under the Declaration; and

Drawn by and mailed
Cathy D. Steele
Horeck, Talley, Pharr & Lowmder, P.A. ~~Phone 104~~
2600 One Wachovia Center
301 S. College Street
Charlotte, NC 28202-6038

HTPL 271054 v1

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0043

SK4039PG043

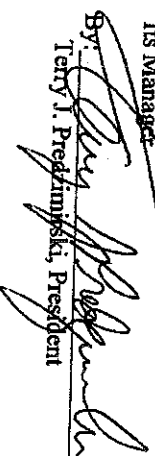
WHEREAS, Declarant and Evergreen desire to incorporate the aforesaid Phase I Map 3A Lots within the property subject to the aforesaid Declaration; and

NOW, THEREFORE, pursuant to the provisions of the aforesaid Declaration, Declarant and Evergreen do hereby subject the Phase I Map 3A Lots to the Declaration, to the end that Phase I Map 3A Lots shall be within the scheme of said Declaration, the further end that all present and future owners of Phase I Map 3A Lots shall be subject to the terms and conditions of the aforesaid Declaration and shall have the rights and privileges therein set out.

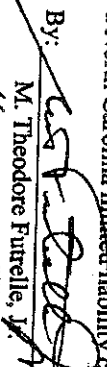
IN WITNESS WHEREOF, Declarant has caused this Supplementary Declaration to be executed as of the day and year first above written.

PRESCOT DEVELOPMENT, LLC,
a North Carolina limited liability company

By: ~~Diamond Oak Development, Inc.,~~
Its Manager

By: 
Terry J. Predzinski, President

EVERGREEN HOMEBUILDERS, LLC,
a North Carolina limited liability company

By: 
M. Theodore Futelle, Jr.
Manager

4039
0044

BK 4039PG044

STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG Union

I, Ronald M. Mink a Notary Public of the County and State aforesaid, certify that Terry J. Predzinski personally came before me this day and acknowledged that he is President of Diamond Oak Development, Inc., Manager of Prescott Development, LLC, a limited liability company organized under the laws of North Carolina, and that by authority given and as the act of said company, the foregoing instrument was signed in its name by him/her.

Witness my hand and official stamp or seal, this 22 day of November, 2005.



Ronald M. Mink
Notary Public

STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

I, Ken Demcoole, a Notary Public in and for the County and State aforesaid, do hereby certify that on this 22nd day of November, 2005, M. Theodore Futrelle, Jr. personally appeared before me and, being by me duly sworn, said that he is a manager of Evergreen Homebuilders, LLC, a North Carolina limited liability company, that the statements contained in the foregoing instrument are true, and he acknowledged said instrument to be the duly authorized act and deed of said company.

WITNESS my hand and notarial stamp or seal.

Ken Demcoole
Notary Public

My Commission Expires: 11-16-09

