

STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR
SOUTHPOINT AT LANDEN PHASE II
(ALSO KNOWN AS POLOVIEW)

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR SOUTHPOINT AT LANDEN PHASE II (ALSO KNOWN AS POLOVIEW) (the "Declaration") is made and entered into this 2nd day of November, 1992 by SOUTHPOINT PARTNERS, INC., a North Carolina corporation (hereinafter "Declarant");

W I T N E S S E T H:

WHEREAS, Declarant is the owner of the real property described in Section 1 of Article II of this Declaration, which real property is a portion of a residential development known as SOUTHPOINT AT LANDEN PHASE II (ALSO KNOWN AS POLOVIEW); and

WHEREAS, Declarant desires to insure the attractiveness of entrances into SOUTHPOINT AT LANDEN PHASE II (ALSO KNOWN AS POLOVIEW) and to prevent any future impairment thereof, to prevent nuisances, to preserve, protect and enhance the values and amenities of the said property and to provide for the maintenance of a twenty foot strip along Landen Ford Road and the subdivision entrances located within sign easements on lots at the entrances into SOUTHPOINT AT LANDEN PHASE II (ALSO KNOWN AS POLOVIEW) and; in order to accomplish these objectives, deems it advisable to subject the real property described in Section 1 of Article II, together with such additions as may hereafter be made thereto (as provided in Article II) to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth; and

WHEREAS, Declarant deems it desirable in order to insure the efficient preservation, protection and enhancement of the values in SOUTHPOINT AT LANDEN PHASE II (ALSO KNOWN AS POLOVIEW) and the residents' enjoyment of the specific rights, privileges and easements in the community properties that an organization be created to which will be delegated and assigned the powers of maintaining common areas and entrances, administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter imposed; and

WHEREAS, Declarant has caused to be created for the purposes aforesaid, a North Carolina non-profit corporation under the name

and style of Southpoint at Landen Phase II (also known as Poloview) Homeowners Association, Inc.

NOW, THEREFORE, Declarant declares that the real property described in Section 1 of Article II, and such additions thereto as may hereafter be made pursuant to Article II hereof, is and shall be owned, held, transferred, sold, conveyed, and occupied subject to the following covenants, conditions, restrictions, easements, charges and liens which shall run with the real property (except as provided in Article V Section 10 hereafter) and be binding upon and inure to the benefit of all owners thereof, their heirs, personal representatives, successors and assigns.

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to Southpoint at Landen Phase II (also known as Poloview) Homeowners Association, Inc., a North Carolina non-profit corporation, 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 a part of the Properties, including contract sellers and owners of an equity of redemption, but excluding those having such interest in a lot solely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to the "Existing Property" described in Article II, Section 1 hereof and any additions thereto, as are or shall become subject to this Declaration and any Supplementary Declaration under the provisions of Article II hereof.

Section 4. "Sign Easement" shall mean and refer to the easements designated "Sign Easement" or "Sight Triangles" or shown as 10 x 70 foot or 35 x 35 foot sight triangles on Lot 1 in Block 1 and on Lot 1 in Block 2 of SOUTHPOINT AT LANDEN PHASE II Subdivision in Map Book 25 at Page 58 as revised by Map Book 25 at Page 105 in the Mecklenburg Public Registry at the intersection of Longmont Drive with Landen Ford Road.

Section 5. "Lot" shall mean and refer to any plot of land, with delineated boundary lines, shown upon any recorded subdivision map of the Properties, with the exception of any streets, walkways or easements shown on any recorded map. In the event any lot is increased or decreased in size by resubdivisions, through recordation of new subdivision plats, any such newly platted lot shall thereafter constitute a lot for the purposes of this Declaration.

Section 6. "Declarant" shall mean and refer to Southpoint Partners, Inc. and shall also mean and refer to any person, firm or corporation which shall hereafter become vested, at any given time, with title to two or more undeveloped lots for the purpose of causing residence building(s) to be constructed thereon, and any such successor- in title to Southpoint Partners, Inc. shall be a Declarant during such period of time as said party is vested with title to two or more such lots so long as said lots are undeveloped, developed but unconveyed, or improvements constructed thereon are unoccupied, but only during such period.

Section 7. "Member" shall mean and refer to every person or entity who holds membership in the Association.

Section 8. "Landscape Easement" shall mean and refer to the twenty foot strip of property adjacent to the northwesterly margin of the right-of-way of Landen Ford Drive and any easement designated "Landscape Easement" on any plat of the property described on Schedule A attached hereto and duly recorded in the Mecklenburg Public Registry, and annexed into the Properties under this Declaration or Supplementary Declaration under Article II hereof. The lots affected by the Landscape Easement are Lots 1, 17, 18 and 19 in Block 1 and Lots 1, 8, 9, 10, 11, 12 and 13 in Block 2 of SOUTHPOINT AT LANDEN PHSE II. The "Landscape Easement" shall be in favor of the Association and shall be for the maintenance of any fences, walls, and other improvements, if any, including landscaping installed by the Declarant or the Association.

ARTICLE II

PROPERTY SUBJECT TO THIS DECLARATION

ADDITIONS THERETO

Section 1. Existing Property. The real property which is, and shall be held, transferred, sold, conveyed, and occupied subject to this Declaration, irrespective of whether there may be additions thereto as hereinafter provided, is located in Mecklenburg County, North Carolina and is shown on maps recorded in Map Book 25 at Page 58, as revised by Map Book 25 at Page 105 in the Office of the Register of Deeds for Mecklenburg County.

This property shall be herein referred to as "Existing Property".

Section 2. Additions to Existing Property. Additional property may be brought within the scheme of this Declaration and the jurisdiction of the Association in the following ways:

a) Additional land within the area described in the metes and bounds description attached hereto as Schedule A and

incorporated herein by reference may be annexed to the Properties by Declarant or its designated assign and brought within the scheme of this Declaration and within the jurisdiction of the Association, in future stages of development, without the consent of the Association or its members; provided, however, that said annexations, if any, must occur within five (5) years after the date of this instrument.

(b) Additional residential property (and common area), outside of the area described aforementioned SCHEDULE A may be annexed to the Properties and brought within the scheme of this Declaration and the jurisdiction of the Association with the consent of the members entitled to at least two-thirds (2/3) of the votes appurtenant to all Class A lots and at least two-thirds (2/3) of the votes appurtenant to all Class B lots, if any, as hereinafter defined in Article III, Section 2. The Association may participate in mergers or consolidations with other non-profit corporations organized for the same or similar purposes as the Association, thereby adding to the Association, or to a surviving homes association, the properties, rights and obligations of the non-profit corporation with which it merges or consolidates. Any such merger or consolidation shall have the assent of the members as provided above in this subsection (b), and no such merger or consolidation shall revoke, change or add to any of the provisions of this Declaration except as herein provided.

(c) The additions authorized under Subsection (a) and (b) shall be made by filing of record Supplementary Declarations of Covenants, Conditions and Restrictions with respect to the additional properties which shall extend the scheme of this Declaration and the jurisdiction of the Association to such properties and thereby subject such additions to assessment for their just share of the Association's expenses. Said Supplementary Declarations may contain such complementary additions and modification of the covenants, conditions and restrictions contained in this Declaration as may be necessary to reflect only the different character of the added properties and as are not inconsistent with the provisions of this Declaration.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Every 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.

Section 2. The voting rights of the membership shall be appurtenant to the ownership of the lots. There shall be two classes of lots with respect to voting rights:

(a) Class A Lots. Class A lots shall be all lots except Class B lots as the same are hereinafter defined. Each Class A lot shall entitle the Owner(s) of said lot to one (1) vote. When more than one person owns an interest (other than a leasehold or security interest) in any lot, all such persons shall be members and the voting rights appurtenant to said lot shall be exercised as they, among themselves, determine.

(b) Class B Lots. Class B lots shall be all lots owned by Declarant which have not been converted to Class A lots as provided in paragraphs (1) or (2) below. The Declarant shall be entitled to three (3) votes for each Class B lot owned by Declarant.

The Class B lots shall cease to exist and shall be converted to Class A lots: (1) When the total number of votes appurtenant to the Class A lots equals the total number of votes appurtenant to the Class B lots; provided, that the Class B lots shall be reinstated with all rights, privileges and responsibilities of such Class, if, after conversion of the Class B lots to Class A lots hereunder, additional land containing lots is annexed to the existing property pursuant to Article II above, thus making the Declarant the owner, by virtue of the newly created lots and of other lots owned by Declarant, of a sufficient number of Class B Lots to cast a majority of votes (it being hereby stipulated that the conversion and reconversion shall occur automatically as often as the foregoing facts shall occur); or (2) On December 31, 1997, whichever event shall first occur.

When the Class B lots cease to exist and are converted to Class A lots, Declarant shall have the same voting rights as other owners of Class A lots.

ARTICLE IV

SIGN AND LANDSCAPE EASEMENTS

The Association, its successors and assigns, shall have a "Sign Easement" and a "Landscape Easement" over those portions of the lots containing "Sign Easements" and "Landscape Easements" as defined in Article I hereof. The Sign Easement and Landscape Easement shall be for the purpose of installation and maintenance of subdivision entrance signs, lighting and irrigation systems, fences, and landscaping located within the Sign Easement area and Landscape Easement area. No fences, structures, driveways, plantings, swings or any other objects, temporary or permanent, shall be permitted in such areas other than those initially installed by Declarant without the Association's prior written approval. Association shall at all times have the right of access for its employees, agents and subcontractors over the Sign Easement and Landscape Easement for the purpose of installing, maintaining, repairing and replacing the

subdivision entrance signs, lighting and irrigation systems and fences and for the purpose of landscaping, planting, mowing and maintaining the area within the Sign Easement and Landscape Easement.

ARTICLE V

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot in Use 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 and (2) special assessments for capital improvements; such assessments to be established and collected as hereinafter provided. Any such assessment or charge, together with interest, costs and reasonable attorney fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney fees, shall also be the personal or corporate obligation of the person(s), firm(s), or corporation(s) owning such property at the time when the assessment fell due, but such personal obligation shall not be imposed upon such Owners' successors in title unless expressly assumed by them. Although unpaid assessment charges are not the personal obligation upon such Owner's successors in title unless expressly assumed by the successors in title, the unpaid assessment charges continue to be a lien upon the property against which the assessment has been made.

Section 2. Purposes of Assessments. The assessments levied by the Association shall be used exclusively to promote the health, safety and welfare of the residents of the Properties, the enforcement of these Covenants and the rules of the Association, and in particular for the improvement, and maintenance of the Properties and providing the services and facilities devoted to this purpose and related to the use and enjoyment of any Landscape and Sign Easements, and any other areas maintained by the Association, including but not limited to, the cost of repair, replacement and additions thereto, the cost of labor, equipment, materials, management and supervision thereof, the payment of taxes assessed, the procurement and maintenance of insurance in accordance with the By-Laws, the employment of attorneys to represent the Association when necessary, and such other needs as may arise.

Without limiting the generality of the above-described purposes, the assessments levied by the Association may be used for the acquisition, construction, improvement (including landscaping and planting) and maintenance of the following common facilities

located or to be located in the Landscape and Sign Easement areas including property located in medians including the subdivision entrance signs, lighting and irrigation systems, walls, fences and landscaping.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first lot to an Owner, the maximum annual assessment shall not be in excess of \$120.00 per Class A Lot and \$40.00 per Class B Lot, except as otherwise provided herein.

(a) From and after January 1 of the year immediately following the conveyance of the first lot to an Owner, the maximum annual assessment may be increased by the Board of Directors effective January 1 of each year, without a vote of the membership, but subject to the limitation that the percentage of any such increase shall not exceed the following without a vote of the membership: (1) 5% of the maximum assessment for the previous year or (2) if the increase in the CPI index is greater than 5% for the preceding year, the percentage increase shall be the increase in the CPI Index.

(b) From and after January 1 of the year immediately following the conveyance of the first lot to an Owner, the maximum annual assessment may be increased without limitation if such increase is approved by no less than two-thirds (2/3) of the votes apurtenant to each class of lots (Class A and Class B), cast in person or by proxy, at a meeting duly called for this purpose.

(c) Any annual assessment established by the Board of Directors shall continue thereafter from year to year as the annual assessment until changed by said Board.

Section 4. Special Assessments for Capitol Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, special assessment(s) for the purpose of defraying, in whole or in part, the cost of any construction, repair, replacement of and additions or improvements to capital improvement(s) upon any Sign Easement Areas.

Section 5. Assessment Rate. Except for the difference between assessments for Class A and Class B Lots, both annual and special assessments must be fixed at a uniform rate for all lots and shall be collected on an annual basis.

Section 6. Notice of Quorum for any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the 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 (60%) percent of all the votes apurtenant to each Class A lot and Class B lot shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the

same notice or requirement, and if the same is called for a date not later than sixty (60) days after the date of the first meeting, the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting.

Section 7. Date of Commencement of Annual Assessments: Due Date: Certification of Payment. The annual assessment provided for herein shall commence as to all recorded lots on January 1, 1993 and for new lots created after January 1, 1993, on the first day of the month following the recording of a new map of the Properties. The amount of the assessment shall change when the status of the lot (Class A or Class B) changes. The first annual assessment shall be subject to the limit of the "maximum annual assessment" set forth in Section 3 of this Article and shall be adjusted according to the number of months remaining in the calendar year. At least thirty (30) days before January 1 of each year, the Board of Directors shall fix the amount of the annual assessment against each lot and at least fifteen (15) days before January 1 of each year shall send written notice of each assessment to every Owner subject thereto. The due dates for the payment of annual and special assessments shall be established by the Board of Directors. 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.

Notwithstanding Sections 1 and 7 hereof, the Declarant may, at its election, postpone, in whole or in part, the date on which the assessment shall commence provided that the Declarant maintains the Sign and Landscape Easement Areas for which no assessment is being collected during the period of such postponement.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at a minimum rate of eight (8%) percent per annum or at the rate established by the Board of Directors at the beginning of the fiscal year of the Association, whichever is less. The association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property, and interest, costs and reasonable attorney fees of such action or foreclosure shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by abandonment of his lot.

Section 9. Subordination of the Lien to Mortgages. The liens provided for herein shall be subordinate to the lien of any first mortgage or first deed of trust on a lot. Sale or transfer of any lot shall not affect any assessment lien. However, the sale or transfer of any lot which is subject to any mortgage or deed of trust, pursuant to a foreclosure thereof or any proceeding in lieu of foreclosure thereof, shall extinguish the lien of such

assessments as to the payment thereof which became due prior to such sale or transfer. No such sale or transfer shall relieve such lot from liability for any assessments thereafter becoming due or from the lien thereof, but the liens provided for herein shall continue to be subordinate to the lien of any first mortgage or deed of trust.

Section 10. Exempt Property. All property dedicated to, and accepted by, a local public authority and all properties owned by a charitable or non-profit organization exempt from taxation by the laws of the State of North Carolina shall be exempt from the assessments created herein. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

ARTICLE VI

EASEMENTS

Easements for installation and maintenance of driveway, walkway, parking area, water line, gas line, cable television, telephone, electric power line, sanitary sewer and storm drainage facilities and for other utility installations are reserved as shown on the recorded plat. Further, easements ten feet in width for such purposes are reserved over, under and through and along the rear lot lines of all lots shown on recorded plats, and easements five feet in width for such purposes are reserved over, under and through and along all side lot lines of all lots shown on recorded plats, as well as temporary easements five feet in width along the front lot lines for construction, maintenance and repair purposes. In the event it is determined that other and further easements are required over and lot or lots in locations not shown on the recorded plat and not along rear or side lot lines, such easements may be established by the Declarant, except that if any such easements are reserved or established after the conveyance of a lot or lots to be affected thereby, the written assent of the Owner or Owners of such lot or lots and of the trustees and mortgagees in deeds of trust constituting a lien thereon shall be required. Within any such easements above provided for, no structure, planting or other material shall be placed or permitted to remain which may interfere with the installation, delivery and maintenance of public utilities, or which may obstruct or change the direction of flow of drainage channels in the easements or which may obstruct or retard the flow of water through drainage channels in the easements.

ARTICLE VII

USE RESTRICTIONS

Section 1. Land Use. Except as expressly provided herein for Sign Easement and Landscape Easement Area, no structure shall be erected, altered, placed, or permitted to remain on any residential building plot other than a single-family dwelling, not exceeding two and one-half (2 2/2) stories in height, a private garage for each unit for not more than three cars, and other accessory structures customarily incidental to residential use.

Section 2. Building Lines. No building shall be located nearer to any property line than the building setback lines shown on the Subdivision Plat or the setbacks required by the Mecklenburg County Zoning Ordinances or any other applicable zoning ordinance. Unintentional violations not exceeding 10% of the minimum building line requirements herein set forth shall not be considered a violation of the Section.

Section 3. Subdivision of Lots. No person or entity may subdivide or resubdivide any lot or lots without the prior written consent of the Declarant or its successors and assigns hereunder.

Section 4. Size of Structure. No residential structure shall be erected or placed having a heated floor area of less than 1000 square feet.

Section 5. Temporary Structures. No structure of a temporary nature shall be erected or allowed to remain on any lot unless and until permission for the same has been granted by the architectural control committee.

Section 6. Nuisances. No noxious or offensive trade or activity shall be carried on upon any lot nor shall any activity be carried on which may be or become an annoyance or nuisance to the neighborhood.

Section 7. Temporary Residence. No trailer tent, shack, garage, barn, outbuilding or other structure of a temporary character erected on the Property shall be at any time used as a residence temporarily or permanently.

Section 8. Satellite Dish Antennas. No satellite dish antenna shall be erected, installed or used except in accordance with the architectural control provisions of Article IX hereof.

Section 9. Harmony of Structures. No structure shall be constructed or moved onto any lot unless it shall conform to and be in harmony with existing structures in the tract.

Section 10. Easements. A perpetual easement is reserved over the rear 10 feet of each lot for utility installment and maintenance

and a perpetual easement is reserved over the side 5 feet and rear 10 feet of each Lot for public storm drainage.

Section 11. Signs. No sign of any kind shall be displayed to the public view on any Lot except one sign of not more than thirty-six by forty-eight inches (35" x 48") advertising the property for sale or rent, with the exception of signs advertising homes under construction or to be built by builders constructing single-family houses in the subdivision.

Section 12. Animals. No animals, livestock or poultry of any kind shall be raised, bred, or kept on any Lot except that dogs, cats or other household pets may be kept, provided that they are not kept, bred or maintained for any commercial purpose.

Section 13. Trash Disposal. No Lot shall be used or maintained as a dumping ground for rubbish, trash, garbage or waste and the same shall not be kept except in sanitary containers. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

Section 14. Fences. No fences shall be erected on any Lot closer to any street line than the most restrictive building setback lines either as shown on the Subdivision Plat or under applicable zoning, nor shall any fence be erected except in accordance with the architectural control provisions of Article IX hereof.

Section 15. Vehicles. No tractor-trailer type vehicle will be permitted to be parked within the Property. Travel trailers and RV type equipment will be permitted, if parked within driveways and maintained in good working order and appearance at all times.

Section 16. Sight Line Limitations. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between 2 and 6 feet above the roadways shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection of the street lines, or in the case of a rounded property corner, from the intersection of the street property line extended. The same sight-line limitations shall apply on any Lot within 20 feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintain at sufficient height to prevent obstruction of such sight lines. This provision shall not apply to the subdivision entrance improvements constructed by Declarant on Lot 1 in Block 1 and Lot 1 in Block 2 at the intersection of Longmont Drive and Landen Ford Drive.

Section 17. Property Along Landen Ford Road. Lots abutting Landen Ford Road are also subject to the Declaration of Restrictions for Property Along Landen Ford Road recorded in Book 6128 at Page

899 in the Mecklenburg Public Registry which requires the maintenance of a twenty-foot strip along Landen Ford Road and prohibits objects or improvements of any kind within said strip.

ARTICLE VIII

INDEMNIFICATION OF OFFICERS AND DIRECTORS

The Association shall indemnify any and all persons who may serve or whom have served at any time as directors or officers of the Association against any and all expenses, including amounts paid upon judgments, counsel fees and amounts paid in settlement (before or after suit is commenced), actually and necessarily incurred by such persons in connection with the defense or settlement of any claim, action, suit or proceeding in which they, or any of them, are made parties, or a party, which may be asserted against them or any of them, by reason of being or having been directors or officers or a director or an officer of the Association, except in relation to matters as to which any such director or officer or former director or officer or person shall be adjudged in any action, suit, or proceeding guilty of willful and intentional negligence or misconduct in the performance of his or her duties to the Association. Provided, however, that in the event of a settlement, the indemnification herein shall apply only when the Board of Directors approves such settlement and reimbursement as being in the best interest of the Association.

The provisions hereof shall be in addition to and not exclusive of any and all other rights to which any director or officer may otherwise be entitled under any law, By-law, agreement, vote of Association Members or otherwise. In the event of death of any officer or director, the provisions hereof shall extend to such person's legal heirs, representatives, successors and assigns. The foregoing rights shall be available whether or not such person or persons were in fact directors or officers at the time of incurring or becoming subject to such expenses, and whether or not the proceeding, claim, suit or action is based on matters which antedate the adoption of this By-Law.

ARTICLE IX

DESIGN AND CONSTRUCTION RESTRICTIONS

Section 1. Plan Approval. Except for construction of houses by a builder approved by Declarant pursuant to Section 2 hereof, no building, fence, wall, or other structure shall be commenced or

maintained upon the Property, nor shall any exterior addition to or change of alteration therein be made, including the erection of antennas, aerials, awnings, and the placement: of reflective or other material in any windows, until the plans and specifications showing the color, nature, kind, shape, heights, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography, such review to be made by an architectural control committee composed of three (3) or more representatives appointed by Declarant. In the event said committee fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required, and this Article will be deemed to have been fully complied with. The architectural control committee shall have the right to charge a reasonable fee for receiving such application in an amount not to exceed for receiving such application in an amount not to exceed \$25.00. The architectural control committee shall not approve any improvements, alterations, decoration or modifications which would, in its sole judgment, jeopardize or impair the soundness, safety or appearance of any lot. Refusal or approval of plans, including purely aesthetic considerations, which is the sole and uncontrolled discretion of the architectural control committee shall be deemed sufficient. However, the architectural control committee's exercise of its authority shall in no way interfere with the development of the Property by the Declarant in accordance with its general plan of development and builders approved by Declarant pursuant to Section 2 hereof shall be exempt from the architectural control committee plan approval.

Section 2. Approval of Builder. Prior to performing any work on the Property, each builder must be approved by the architectural control committee as to financial stability, building experience and ability to build structures of the class and type of those which are to be built on the Property. No person, firm or entity shall be approved as a builder unless its primary business activity is the development of detached, single family housing. No Owner will be permitted to act as his own builder or contractor for any exterior improvements unless such Owner meets the qualifications for approval by the architectural control committee as hereinabove set forth.

Section 3. Completion of Improvements. The exterior of all houses and other structures and lot work and landscaping must be completed within one (1) year after the construction of same shall have commenced, as evidenced by the date of issuance of the building permit, except where completion is impossible or would result in great hardship to the Owner or builder due to strikes, fires, national emergency or natural calamities.

Section 4. Enforcement. In the event any Owner violates the terms of this Article IX, the architectural control committee or its duly appointed agent shall, thirty (30) days after written notice to the Owner to cure such defect, including removal of any structure built in violation hereof, all at the cost and expense of Owner. This right of the architectural control committee may have for a breach or a violation of the terms of this Declaration shall not be deemed a trespass by Declarant, the committee or its agent.

ARTICLE X

GENERAL PROVISIONS

Section 1. Enforcement. The Association, 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 wise affect any other provisions which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run and bind the land, for a term of twenty-five (25) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years unless terminated or altered by a vote of seventy-five (75%) percent of a vote of the Owners after the expiration of said twenty-five (25) year period. This Declaration may be amended during the first twenty-five year period by an instrument signed by the Owners of not less than eighty (80%) percent of the lots, and thereafter by an instrument signed by the Owners of not less than seventy-five (75%) percent of the lots. Any amendment must be properly recorded. For the purpose of this section, additions to existing property as provided in Article II, Section 2 hereof shall not constitute an "amendment".

Section 4. FHA/VA Approval. In the event the Declarant has arranged for and provided purchasers of lots with FHA insured mortgage loans, then as long as any Class B lot exists, as provided in Article III hereof, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: annexation of additional properties, other than as provided in Article II, Section 2 hereof, and amendment of this Declaration of Covenants, Conditions and Restrictions.

IN WITNESS WHEREOF, Declarant has caused this instrument to be
executed this ____ day of _____, 1992.
SOUTHPOINT PARTNERS, INC.

ATTEST:

By: _____

Secretary

President

STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

This ____ day of _____, 1992, personally came before
me, _____, who being by me duly sworn, says that he
is _____ President of SOUTHPOINT PARTNERS, INC. and that the seal
affixed to the foregoing instrument in writing is the corporate seal
of said corporation; that said writing was signed and sealed by him
on behalf of said corporation by its authority duly given. And the
said _____ acknowledged the said writing to be
the act and deed of said corporation.

WITNESS my hand and notarial seal, this the ____ day
of _____, 1992.

Notary Public

My commission expires:

My Commission Expires March 9, 1997

(NOTARIAL SEAL)

SOUTHPOINT AT LANDEN PHASE II
(ALSO KNOWN AS POLOVIEW)
CONSENT OF MORTGAGE

American Commercial Savings & Loan, Inc., being the Beneficiary under that certain Deed of Trust dated February 10, 1992, from Declarant to Russell W. Pope, Trustee, conveying the property described in said Deed of Trust, recorded on February 10, 1992 in Book 762 at Page 442 in the Mecklenburg Public Registry, does hereby consent to the recordation of this Declaration of Covenants, Conditions and Restrictions and the imposing of the provisions hereof on said real property described in the maps recorded in Map Book 25 at Page 58, as amended by map recorded in Map Book 25 at Page 105 in the Mecklenburg Public Registry, and said Beneficiary does hereby consent and agree that from and after this date, the provisions of this Declaration, including all exhibits hereto, shall be superior to the lien of said deed of Trust on said real property. - me-execution of this Consent of Mortgagee by the Beneficiary shall not be deemed or construed to have the effect of creating between said Beneficiary and Declarant the relationship of partnership or of joint venture, nor shall said consent be deemed to impose upon said Beneficiary any of the liabilities, duties or obligations of the Declarant under the foregoing Declaration. Said Beneficiary executes this Consent of Mortgagee solely for the purposes set forth herein. The said Trustee also joins in and executes this consent as Trustee of said Deed of Trust for the said purposes hereinabove set forth.

IN WITNESS WHEREOF, the undersigned have caused this Consent to be duly executed and sealed as of the _____ day of _____, 1992.

TRUSTEE:

Russell W. Pope (SEAL)

BENEFICIARY:

AMERICAN COMMERCIAL SAVINGS & LOAN, INC.

By: _____
President

ATTEST:

Secretary

EXHIBIT A

Lying and being located in Providence Township, Mecklenburg County, North Carolina, and being more particularly described as follows:

BEGINNING at a new iron pin located in the centerline of a 68-foot Duke Power Company easement, said new iron put also marking the southeasterly corner of that certain 22.62 acre parcel of land conveyed by the Grantor to the Grantee by deed dated August 16, 1988, recorded in Book 5833 at page 944 in the Mecklenburg County Public Registry, said new iron pin also being located in the westerly margin of the 100-foot right-of-way of Landen Ford Drive; thence from said Beginning Point so established with the westerly margin of the right-of-way of Landen Ford Drive, three (3) calls and distances as follows: (1) S. 32-37-46 W. 251.45 feet to a new iron pin; (2) in a southerly direction with the arc of a circular curve to be left having a radius of 3,133.37 feet, an arc distance of 708.32 feet (having a chord bearing and distance of S. 26-09-14 W. 706.81 feet) to a new iron pin and (3) S. 19-40-40 W. 404.77 feet to a new iron pin; thence 1. 65-34-42 W. 911.44 feet to a new iron pin; thence N. 25-45-28 E. 560.00 feet to a new iron pin; thence N. 01-37-08 E. 400.00 feet to a new iron pin; thence N. 15-59-07 W. 280.97 feet to an existing iron pin located in the centerline of a 68-foot wide Duke Power Company easement; thence with the centerline of said Duke Power Company easement, two (2) calls and distances as follows: (1) S. 72-29-21 E. 22.96 feet to a point and (2) S. 75-29-22 E. 440.00 feet to a new iron pin, said new iron pin marking the southwesterly corner of the aforesaid 22.62 acre parcel conveyed by the aforesaid deed; thence continuing with the centerline of the 68-foot wide Duke Power Company easement and with the southerly property line of the aforesaid 22.62 acre parcel, S. 75-29-22 E. 819.03 feet to the point of Beginning, and containing 26.79 acres (with 0.98 acre lying within the Duke Power Company right-of-way) and being labeled "Phase 2," all as shown on boundary survey entitled, "Tom Short Road Property, Equity Ventures, Inc." by Gaylon L. Kelley, N.C.R.L.S. of Gifford Nielson Associates, Inc., dated April 30, 1988, last revised August 15, 1988, reference to which survey is hereby made.