

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
OF
SPENCER'S GATE SUBDIVISION**

THIS DECLARATION, made on the date hereinafter set forth by Aegean Land Company, Inc. a North Carolina corporation with its principal office located at Wake Forest, Wake County, North Carolina, hereinafter referred to as "Declarant";

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in or near the County of Franklin, State of North Carolina, which is more particularly described on Exhibit "A" attached hereto and shall be known as Spencer's Gate Subdivision;

NOW THEREFORE, Declarant hereby declares that all of the property described above together with such additions as may hereafter be made thereto shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

**ARTICLE I
DEFINITIONS**

Section 1. "Association" shall mean and refer to Spencer's Gate Homeowners Association, Inc., a North Carolina corporation, its successors and assigns.

Section 2. "Board" or "Board of Directors" shall mean those persons elected or appointed and acting collectively as the Board of Directors of the Association.

Section 3. "Building" shall mean and refer to a residential structure, constructed or erected on the property.

Section 4. "Common Elements" shall mean all real property owned by the Association for the common use and enjoyment of the Owners or members or designated classes of members of the Association, including Limited Common Elements as may be designated on any subdivision map of the Property or by the Association. The Common Elements to be owned by the Association at the time of the conveyance of the first lot is all of that property (other than the lots), including private streets, pool, tennis courts, tot lots and other land within the boundaries of Spencer's Gate Subdivision and not located on a lot.

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

- (a) All sums lawfully assessed by the Association against its members;
- (b) Payments or obligations to reserve accounts established maintained pursuant to this Declaration.

- (c) Expenses of administration, maintenance, repair, or replacement of the Common Elements and Limited Common Elements, as well as access easements to real property owned by the Association.
- (d) Expenses declared to be common expenses by the provisions of this Declaration or the By-Laws;
- (e) Hazard, liability, or such other insurance premiums as the Declaration or the Bylaws may require the Association to purchase; or as the Association may deem appropriate to purchase;
- (f) Add valorem taxes and public assessment charges lawfully levied against Common Elements;
- (g) The expense of the maintenance of private drainage and utility easements and facilities and storm drainage devices located therein which are within the boundaries of the Property, cross Common Elements of the Property and serve both the Property and lands adjacent thereto; and,
- (h) The expense of the maintenance of landscape island(s) located within the right(s)-of-way of public street(s).
- (i) Expenses agreed by the members to be common expenses of the Association.

Section 6. "Declarant" shall mean and refer to Aegean Land Company, Inc., its successors and assigns, to whom the rights of Declarant hereunder are expressly transferred, in whole or in part, and subject to such terms and conditions as Declarant may impose.

Section 7. "Limited Common Element" shall mean those portions of the Common Elements that serve only a single lot or a limited number of lots, and which may include, but specifically is not limited to, driveways, walkways, parking areas or areas serving only specified lots, and such other similar areas as may be designated by a subdivision map of the property or the Association.

Section 8. "Living Unit" shall mean and refer to any lot on which a dwelling unit has been fully constructed and made ready for occupancy as a residence, including without limitation, completion of the final floor covering, interior paint and wallpaper and all appliances and for which a Certificate of Occupancy has been issued.

Section 9. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the property with the exception of the common Elements.

Section 10. "Member" shall mean and refer to every person or entity who holds membership in the Association.

Section 11. "Owner" or "Lot 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 property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 12. "Person" shall mean and refer to any individual, corporation, partnership, association, trustee or other legal entity.

Section 13. "Property" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

ARTICLE II PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the Common Elements together with and including the right of access, ingress and egress, both pedestrian and vehicular, on and over the drives, walkways and parking areas of the Common Elements, all of which shall be appurtenant to and shall pass with the title to every lot, subject to the following provisions:

- (a) The right of the Association to charge reasonable admission and other fees for the use of any recreational or other similar facility situated upon the Common Elements;
- (b) The right of the Association to suspend the voting rights and the right to use the recreational or other Common Element facilities, if any, by an owner for any period during which any assessment against his lot remains unpaid; and for a period not to exceed 60 days for any infraction of its published rules and regulations; it being understood that any suspension for either non-payment of any Assessment or a Breach of the rules and regulations of the Association shall not constitute a waiver or discharge of the Members obligation to pay the Assessment;
- (c) The right of the Association to dedicate, sell, lease or transfer all or any part of the Common Elements, or any interest therein, to any public agency, authority, or utility, or to any other person for such purposes and subject to the provisions of the Franklin County Code and to such conditions as may be agreed upon by the members. No such dedication, sale or transfer shall be effective unless it has been approved by two-thirds (2/3) of each class of members and an instrument of dedication, sale, lease, or transfer properly executed by the Association has been recorded. On such instrument the Secretary of the Association shall certify that two-thirds (2/3) of each class of members have approved the dedication, sale, lease or transfer and that certificate may be relied upon by any third party without inquiry and shall be conclusive as to any grantee, its successors or assigns; provided, however, conveyances for general utility purposes as specified herein may be made by the Association without consent of the members;
- (d) The right of the Association to limit the number of guest of members;
- (e) The right of the Association, in accordance with its Articles and Bylaws, to borrow money for the purpose of improving the Common Elements and facilities and in aid thereof to mortgage the Common Elements, and the rights of such mortgage in the Common Elements shall be subordinate to the rights of the homeowners hereunder;
- (f) The right of the Association in accordance with its Articles of Incorporation or Bylaws to impose rules and regulations for the use and enjoyment of the common Elements and improvements thereon, which rules and regulations may further restrict the use of the Common Elements and to create Limited Common Elements, the creation of which must be approved by Franklin County.
- (g) The right of owners of lots on additional lands annexed to the property initially, or subsequently, to the easements of enjoyment and rights of ingress, egress and access, as specified above, to the initial property and all lands included in subsequent phases.
- (h) The right of owners, members of his family, his tenants, his guests or his contract purchasers who reside on the property the right of access, ingress and use, both pedestrian and vehicular, on and over the drives, walkways of any private street located within the property for the purpose of enjoying and using the Common Elements.

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Section 2. Delegation of Use. Any owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Elements and facilities to the members of his family, his tenants, guests, or contract purchasers who reside on the property.

Section 3. Title to the Common Element. The Declarant hereby covenants for itself, its successors and assigns, that it will convey fee simple title to the Common Elements located within the property as shown on each map of the properties recorded in the Franklin County Registry to the Association, free and clear of all encumbrances and liens, prior to the conveyance of any lot shown on said map, except encumbrances of utility, service, access, storm drainage, and other similar service or utility easements. Similarly, the Declarant will convey to the Association Common Elements which are a portion of any additional property as the same is annexed in the future at the time of conveyance of the first lot located on that additional property. If such conveyance is made, this additional property will become Common Elements belonging to the Association.

Section 4. Books and Records. The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any member or his designated agent. The Declaration, the Articles of Incorporation and the By-Laws of the Association shall be available for inspection by any member at the principal office of the Association, where copies may be purchased at a reasonable cost.

Section 5. TV Antennas, Cablevision. The Association may regulate or prohibit the erection of television, satellite dishes, radio or other antennas on individual lots.

ARTICLE III MEMBERSHIP AND VOTING RIGHTS

Section 1. Every record 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 Association shall have two classes of voting membership:

Class A. Class A members shall be all owners with the exception of the Declarant, and shall be entitled to one vote for each lot owned. When more than one person holds an interest in any lot, all such persons shall be members; however, the vote for such lot shall be exercised as they among themselves determine, or as set forth in the By-Laws, but in no event shall more than one vote be cast with respect to any lot. Fractional voting is prohibited.

Class B. The Class B member shall be the Declarant and shall be entitled to three (3) votes for each lot owned. The Class B membership shall cease and be converted to Class A membership with one vote for each lot owned on the happening of either of the following events, whichever occurs earlier:

- (a) When the total votes outstanding in Class A membership equal the total votes outstanding in Class B membership; but provided, that the Class B membership shall be reinstated if thereafter, and before the time stated in sub-paragraph (b) below, such additional

lands are annexed to the property without the assent of class A members on account of the development of such additional lands by the Declarant, all as provided for in article VI below, or

(b) Ten (10) years from the date of conveyance of the first lot by Declarant.

Section 3. The right of any member to vote may be suspended by the Board of Directors for just cause pursuant to its rules and regulations and the Articles and By-Laws of the Association and according to the provisions of Article II, Section 1(b) herein.

ARTICLE IV COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each lot owned within the property, hereby covenants, and each owner of any lot by acceptance of a deed therefor, 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 which are Common Expenses, and (2) special Assessments or charges for the purposes set forth in this Article, such Assessments to be fixed, established and collected as herein provided. The annual and special Assessments, together with such interest thereon and costs of collection thereof including reasonable attorney's fee shall be a charge and continuing lien on the real property and improvements there on against which each such Assessment is made from time of filing such lien in the Clerk of Superior Court of Franklin County. Each such Assessment plus interest and cost including reasonable attorney fees shall also be the personal obligation of the person who was the owner of such real property at the time when the Assessment became due.

Notwithstanding any provision herein to the contrary, the assessment for each lot which is not a Living Unit shall be twenty-five (25%) percent of the assessment of a Living Unit.

The Association shall also have the authority, through the Board of Directors to establish, fix and levy a special assessment on any lot or Living Unit to secure the liability of the owner thereof to the Association arising from breach by such owner of any of the provisions of this Declaration which breach shall require the expenditure of time and money or both, by the Association for repair or remedy.

Each owner covenants for himself, his heirs, successors and assigns, to pay each assessment levied by the Association on the lot described in such conveyance to him within ten (10) days of the due date as established by the Board, and further covenants that if said assessment shall not be paid within thirty (30) days of the due date, the amount of such assessment shall be in default and become a lien upon said owner's lot as provided herein and shall continue to be such lien until fully paid.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the paying of common expenses to promote the recreation, health, safety, and welfare of the residents of the property and in particular, but not limited to, for the acquisition, improvement, enhancement, enlargement, operation, and maintenance of property, and for the use and enjoyment of the Common Elements, including but not limited to, the cost of repairs, replacements and additions, the cost of labor, equipment, materials, management and supervision, the payment of taxes and public assessments assessed against the Common Elements, the procurement and maintenance of insurance in accordance with the By-

Laws or as deemed appropriate by the Board, the employment of counsel, accountants and other professionals for the Association when necessary, and such other needs as may arise.

Section 3. Amount of Assessment.

- (a) Initial Maximum Assessment. To and including December 1999, the maximum annual assessment shall be \$240.00 per Living Unit.
- (b) Increase by Association. From and after December 1999, the annual assessment effective for any subsequent year may be increased the succeeding year by the Board of Directors, without a vote of the membership, by a percentage which may not exceed ten (10%) percent above the maximum assessment for the previous year.
- (c) Increase by Members. From and after December 1999, the annual assessment may be increased by a percentage greater than permitted by this Article by an affirmative vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for such purpose. The limitations herein set forth shall not apply to any increase in assessments undertaken as an incident to a merger or consolidation in which the Association is authorized to participate under its Articles of Incorporation
- (d) Criteria for Establishing Annual Assessment. In establishing the annual assessment for any assessment year, the Board of Directors shall consider all current costs and expenses of the Association, any accrued debts, and reserves for future needs, but it may not fix the annual assessment in an amount in excess of that permitted in Subsection (b) of this Section 3 above without the consent of members required by Subsection (c) of this Section 3.
- (e) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.
- (f) Assessments shall be billed annually, quarterly, monthly, or on such other basis as may be determined by the Board of Directors. The Board of Directors may authorize a Billing Agent to collect the Assessments provided for herein.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, restoration, repair or replacement of a capital improvement upon the Common Elements or any extraordinary maintenance, including fixtures and personal property related thereto and any property for which the Association is responsible, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for Any Action Authorized Under Section 3 (c) and 4. Written notice of any meeting called for the purpose of taking any action authorized under this Article shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to case sixty (60%) percent of all the votes of

each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all lots and Living Units and may, at the discretion of the Board of Directors, be collected as set out in Article IV, Section 3 (f). Provided, however, that the assessment for lots which are not Living Units and have never been occupied as a residence shall be twenty-five (25%) percent of the regular assessments for Living Units.

Section 7. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all lots on the first day of the month following the conveyance of the Common Elements to the Association and as to all Living Units, as Living Units, on the first month following the date a lot became a Living Unit. All lots in subsequently annexed properties, similarly, shall be subject to assessment commencing on the first day of the of the first month following conveyance of the Common Elements therein to the Association. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. At such time as the assessment includes maintenance of amenities set out in Article IV, Section 3(a) above, the Board of Directors may provide that such payment may be made monthly. The Association shall, upon demand, and for a reasonable charge if it deems appropriate, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified lot have been paid. A properly executed certificate of the Association as to the status of assessments on a lot is binding upon the Association as of the date of issuance.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall be delinquent, in default and shall bear interest from the due date at the highest rate then permitted by North Carolina law not to exceed twelve (12%) percent per annum. The Association may bring an action at law against the owner, his heirs, devisees, personal representatives and assigns obligated to pay the same plus interest, costs, late payment charges and reasonable attorneys' fees, or foreclose the lien against the lot. No owner may waive or otherwise escape liability for the assessment provided for herein by non-use of the Common Elements or abandonment of his lot. If the Assessment is not paid within thirty (30) days after the past due date, the Association may bring in action at law against the owner personally and there shall be added to the amount of such Assessment, the cost of preparing the filing of the Complaint and such action and a reasonable attorney's fee, and in the event a judgment is obtained, such judgment shall include interest on the Assessment as above provided and a reasonable attorney's fee together with the costs of the action. The lien of the Assessment shall be as of the date of the Assessment.

Section 9. Subordination of the Lien to Mortgages and Ad Valorem Taxes. The lien of the assessments provided for herein shall be subordinate to the lien of any institutional first mortgage and ad valorem taxes on said lot. Sale or transfer of any lot shall not affect the assessment lien. However, the sale or transfer of any lot pursuant to such mortgage or tax foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No

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sale or transfer shall relieve such lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 10. Exempt Property. Any portion of the property dedicated to, and accepted by a local public authority and any portion of the property 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. Also exempt is property which is used for the maintenance, operation, and service of utilities within the Property.

Section 11. Payment of Common Expenses. All owners shall be obligated to pay the Common Expenses assessed by the Association.

No lot owner shall be liable for the payment of any part of the Common Expenses assessed against his lot subsequent to the consummated sale, transfer or other conveyance by him (made in accordance with the provisions of the Declaration and applicable restrictions of record) of such lot. The personal obligation for any delinquent assessments shall not pass to successors in title unless expressly assumed by them and a first-lien mortgagee or other purchase of a lot at a foreclosure sale of such lot shall not be liable for, and such lot shall not be subject to, a lien for the payment of Common Expenses assessed prior to such foreclosure sale, and such unpaid Common Expenses shall be deemed to be Common Expenses collectible from all of the lot owners, including such purchaser, his successors and assigns.

Section 12. Foreclosure of Liens for Unpaid Common Expenses. In any action brought by the Board to foreclose a lot because of unpaid Common Expenses, the lot owner shall be required to pay a reasonable rental for the use of his lot and the plaintiff in such foreclosure action shall be entitled to the appointment of a receiver to collect the same. The Board, acting on behalf of all lot owners, or on behalf of any one or more individual lot owners, if so instructed, shall have the power to purchase such lot at a foreclosure sale to acquire, hold, lease, mortgage, convey, or otherwise deal with the same; subject, however, to applicable restrictions of record. A suit to recover money judgment for unpaid Common Expenses may be maintainable without foreclosing or waiving the lien securing the same.

Section 13. Annual Budget. The Board of Directors shall prepare and make available to all members, at least (60) days prior to the first day of the following fiscal year, a budget outlining anticipated receipts and expenses for the following year. The financial books of the Association shall be available for inspection by all Members at all reasonable times.

ARTICLES V FUNCTIONS AND SERVICES OF THE ASSOCIATION

Section 1. Minimum List of Functions and Services. The Minimum List of Functions and Services shall establish and define the minimum level of functions and services which the Association must furnish to its Members. The Minimum List of Functions and Services is as follows:

(a) The Association shall provide or procure the Administrative services necessary to carry out the Association's obligations and business under the terms of this Declaration, the Articles of Incorporation of the Association, and the Bylaws of the Association, including, but not limited to, legal, accounting, financial and communication services.

(b) The Association shall administer and enforce the covenants and restrictions established in this Declaration, including, but not limited to, the following:

- 1) The Association shall set Assessments, levy cash Assessments, notify the Members of such Assessments and collect such Assessments;
- 2) The Association shall prepare accurate indexes of Members, Votes, Assessments, and the Maximum Regular Annual Assessment;
- 3) The Association shall operate an Architectural Committee if turned over to it by Declarant;
- 4) The Association shall maintain and operate all Common Properties;
- 5) The Association shall hold Annual Meetings, Special Meetings and Referendums as required, hold elections for the Board of Directors as required and give Members "proper notice" as required;
- 6) The Association shall prepare Annual Statements and Annual Budgets and shall make the financial books of the Association available for inspection by the Members at all reasonable times.

(c) Should the Declarant appoint the Association its agent for the administration or enforcement of any of the provisions of the general property covenants or any other covenants and restrictions of record, the Association shall assume such responsibility and any obligations which are incident thereto.

(d) Should the Declarant assign to the Association any of the rights reserved unto it in the general property covenants or any other covenants and restrictions of record, the Association shall assume the responsibility of administering and enforcing said rights and shall assume any obligations which are incident thereto.

(e) The Association shall keep a complete record of all its acts and corporate affairs.

(f) The Association shall provide regular and thorough maintenance and clean-up of all Common Properties, including, but not limited to, mowing of grass, fertilization as needed, landscape maintenance as needed, pickup and disposal of trash, washing down of picnic tables and benches as needed, painting, repairs to and replacement of all improvements as needed.

(g) The Association shall provide appropriate liability and hazard insurance coverage as provided herein for improvements and activities on all Common Properties.

(h) The Association shall provide appropriate Directors and Officers Legal Liability Insurance and indemnify persons pursuant to the provisions of the Articles of Incorporation of the Association.

(i) Insurance coverage on the Property shall be governed by the following provisions:

- 1) Ownership of Policies. All insurance upon the Common Property shall be purchased by the Association for the benefit of all the Association and the Owners, as their security interests may appear and provisions shall be made for the issuance of certificates of mortgage endorsements to the mortgagees of Owners.
- 2) Coverage. All buildings and improvements upon the land and all personal property included in the Common Areas and facilities shall be insured in an amount equal to one hundred percent (100%) insurable replacement value as determined by the Association with the assistance of the insurance company providing coverage. Such coverage shall provide protection against: (i) Loss or damage by fire or other hazards

covered by standard extended coverage endorsement, and (ii) such other risks as from time to time shall be customarily covered with respect to buildings on the land. (iii) Such policies shall contain clauses providing for waiver of subrogation.

3) **Liability.** Public liability insurance shall be secured by the Association with the limits of liability of no less than one million dollars (\$1,000,000.00) per occurrence and shall include an endorsement to cover liability of the Owners as a group to a single Owner. There shall also be obtained such other insurance coverage, as the Association shall determine from time to time to be desirable and necessary.

4) **Premiums.** Premiums for insurance policies purchased by the Association shall be paid by the Association and charged to the Owners as an Assessment according to the provisions above.

5) **Proceeds.** All insurance policies purchased by the Association shall be for the benefit of the Association and the owners and their mortgagees as their interest may appear, and shall provide that all proceeds thereof shall be payable to the Association as insurance trustees under this Declaration. The sole duty of the Association as insurance trustee shall be to receive such proceeds as are paid and to hold the same in trust for the purposes stated herein or stated in the By-Laws and for the benefit of the Owners and their mortgagees and the following shares: (i) Proceeds on account of damage to Common Areas and facilities held for the Association.

6) Proceeds of all insurance policies received by the Association, as insurance trustee shall be placed in the Association's treasury for the following: (i) Expense of the Trust. All expenses of the insurance trustees shall be first paid or provisions made therefore. (ii) Reconstruction or Repair. The remaining proceeds shall be paid to defray the cost of repairs. The Association shall retain any proceeds remaining after defraying such costs.

7) All persons responsible for or authorized to expend funds or otherwise deal in the assets of the Association or those held in trust, shall first be bonded by a fidelity insurer to indemnify the Association for any losses or default in the performance of their duties in an amount equal to six (6) months assessments plus reserves accumulated.

(i) To pay any and all taxes or public assessment on the Common Properties.

Section 2. Obligation of the Association. The functions and services to be carried out or offered by the Association at any particular time shall be determined by the Board of Directors of the Association taking into consideration the funds available to the Association and the needs of the members of the Association. The functions and services which the Association is authorized to carry out or provide may be added or reduced at any time upon the affirmative vote of fifty-one percent (51%) of the votes cast by the Members at a duly called meeting of the Association.

Section 3. Mortgage and Pledge. The Board of Directors of the Association shall have the power and authority to mortgage the property of the Association and to pledge the revenues of the Association as security for loans made to the Association which loan shall be used by the Association in performing its authorized functions and services; provided that any such mortgage is with the prior consent of two thirds (2/3) of the Members of the Association, which consent may be evidenced by petition or by an affirmative vote of two thirds (2/3) of the Association. The Declarant may, but shall not be required, to make loans to the Association, subject to approval by the Declarant of the use to which such loan proceeds will be put and the terms pursuant to which such loans will be repaid. Notwithstanding anything in this Declaration to the contrary, the Association shall not be allowed to reduce the level of the Annual Assessment below the limit of the Maximum Regular Annual Assessment at any time there are outstanding amounts due the Declarant as repayment of any loans made by the Declarant to the Association without the express written consent of the Declarant.

Section 4. Maintenance of Property Not Owned by the Association. The Association shall be authorized to render services of a governmental nature not furnished by the local government in the case of maintenance of property not owned by it.

ARTICLE VI ANNEXATION OF ADDITIONAL PROPERTIES

Section 1. Annexation by Members. Annexation of additional property, provided the additional land contains at least five (5) acres, is not in conflict with any of the legal documents of Spencer's Gate and received approval from Franklin County as to the number of lots to be developed, except as provided in Section 2 and Section 3 of this Article VI, shall require the assent of two-thirds (2/3) of the Class A membership, if any, present in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting setting forth the purposes of the meeting. The presence of members or of proxies entitled to cast sixty (60%) percent of the votes of each class of membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called subject to the notice requirement set forth above and the required quorum shall be one-half (1/2) of the required quorum of the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting. In the event that two-thirds (2/3) of the Class A membership are not present in person or by proxy, members not present may give their written assent to the action taken thereat.

Section 2. Annexation by Declarant. If within ten (10) years of the date of conveyance by Declarant of the first lot, the Declarant should develop additional land within the boundaries of that property described on Exhibit "B" attached hereto, such land may be annexed by the Declarant without the consent of members; and, in doing so, Declarant may file and record such amendments to this Declaration as are necessary without the consent of the members in order to subject such additional lands to the terms of this Declaration and the jurisdiction of the Association provided the additional land contains at least five (5) acres, is not in conflict with any of the legal documents of Spencer's Gate or Franklin County.

Section 3. Additional Annexation by Declarant. If within ten (10) years of the date of conveyance by Declarant of the first lot, the Declarant should develop additional land outside the boundaries of that property described on Exhibit "B" attached hereto, such land may be annexed by the Declarant without the consent of members provided (1) such additional lands are contiguous to the property described in Exhibit "B" attached hereto, (b) such annexation of additional land shall contain at least five (5) acres, (c) such annexation is not in conflict with any of the legal documents of Spencer's Gate and (d) the annexation has been approved by Franklin County as to the number of lots to be developed.

Section 4. Recording of Annexation. Annexation of additional lands shall be accomplished by recording in the Office of the Register of Deeds in the county in which the property is located, a Declaration of Annexation, duly executed by the Declarant if the Declarant has the right to annex pursuant to Section 2 and/or Section 3 above (and by the Association if pursuant to Section 1 above), describing the lands annexed and incorporating the provisions of this Declaration, either by reference or by fully setting out said provisions of this Declaration. The additional lands shall be deemed annexed to the property on the date of recordation of the Declaration of Annexation, and in the case of an annexation by the Declarant, no action or consent on the part of the Association or any other person or entity shall be necessary to accomplish the annexation except any local governmental authority if required by its ordinances.

Section 5. Conveyance of Common Elements. Subsequent to recordation of the Declaration of Annexation, and prior to the conveyance of the first lot therein, there shall be delivered to the Association one or more deeds conveying any Common Elements within the lands annexed as such Common Elements is developed. Such Common elements shall be conveyed to the Association in the same manner as set forth in Article II, Section 3 of this Declaration.

ARTICLE VII ARCHITECTURAL CONTROL

No site preparation or initial construction, erection or installation of any improvements, including but not limited to, buildings, fences, signs, walls, screens, plantings, and swimming pools or other structure shall be commenced, erected or maintained upon the property, nor shall any landscaping be done, nor shall any exterior addition to, or change, or alteration therein be made by any owner other than Declarant until the plans and specifications showing the structure, kind, shape, height, materials, colors, and location of the proposed improvements shall have been submitted to, approved in writing by, as to harmony and compatibility of its external design and location in relation to surrounding structures and topography by the Declarant of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Declarant. Refusal or approval of plans, location, exterior color or finish or specification may be based by the Declarant upon any ground including purely aesthetic considerations, which in the sole and uncontrolled discretion of the Declarant shall seem sufficient. No alteration in the exterior appearance of any building or structure including exterior color or finish shall be made without prior written approval by the Declarant. In the event said Declarant or its designated 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; provided that plans and specifications that contain inaccurate or missing data or information when submitted shall not be deemed to be approved notwithstanding the foregoing.

The Declarant shall have the right, at its election, but shall not be required, to enter upon any of the property during site preparation or construction, erection, or installation of improvements to inspect the work being undertaken and to determine that such work is being performed in conformity with the approved plans and specifications and in a good and workmanlike manner, utilizing approved methods and good quality and good quality materials.

At such time as the Declarant owns no more lots in the subdivision, Architectural Control as provided for in these Covenants shall pass to the Association. At that point in time, it will be the responsibility of the Association to appoint an Architectural Control Committee to enforce these Covenants.

ARTICLE VIII BUILDING RESTRICTIONS

Section 1. Square Footage. Any dwelling erected on a lot shall contain a minimum enclosed dwelling area of 1,000 square feet for a single-family dwelling. The term "enclosed dwelling area" as used herein shall mean the total enclosed area within a dwelling subject to heating and cooling; provided the term specifically does not include garages, terraces, open porches, decks, stoops and like areas regardless of heating or cooling. The Declarant or the Board of Directors may approve, in writing, a variance not in excess of ten (10%) per cent from the requirements set out in this Section1.

Section 2. Setback Lines. No dwelling erected on a lot shall be constructed nearer than:

- (a) Thirty (30) feet from the front lot line.
- (b) Twenty-Five (25) feet from the rear lot line.
- (c) Ten (10) feet from the side lot line.

The aggregate setbacks of front and rear yards shall not be less than Fifty-five (55) feet. The Declarant or the Board of Directors shall be empowered to grant, in writing, variances which are not inconsistent with the zoning requirements imposed by Franklin County existing at that time.

Section 3. Height and Accessory Building. No structure, except as hereinafter provided, shall be erected, altered, placed or permitted to remain on any detached single-family residential lot other than a detached single family dwelling not to exceed two (2) stories in height, unless the Declarant or the Board of Directors approves in writing a variance permitting a structure of more than two stories and a garage and small accessory building; provided, the use of such garage or accessory building does not in the opinion of the Declarant or the Board of Directors overcrowd the site. Such accessory building may not be constructed prior to the construction of the primary dwelling. All garages must be attached to the main dwelling unless the Declarant or the Board of Directors approves in writing a variance permitting a detached garage. Garages or accessory buildings may not exceed the height of the single-family dwelling located on that lot. Garages may not exceed three (3) cars. Accessory buildings may not exceed 250 square feet. No metal accessory buildings allowed and buildings must conform to dwelling in materials and color. All accessory buildings must be completed within sixty (60) days of construction beginning.

Section 4. Multi-Family Use Prohibited. No multiplex residence or apartment house shall be erected or placed on any detached single-family residential lot, and no dwelling once approved and constructed shall be altered or converted into a multiplex residence or apartment house.

Section 5. "Driveways". All driveways must be paved (concrete) at least fifty (50) feet from the paved public road.

Section 6. "Fences". No fences are allowed closer to the street than the rear corners of the dwelling. All fences must be submitted to and approved by the Architectural Committee prior to construction. All fences must be completely installed within sixty (60) days of initial start of installation.

Section 7. "Mailboxes and Newspaper Holders". Each building lot shall be allowed one combination mailbox/newspaper box installation. This unit must be approved before installation by Declarant or the Architectural Committee as to design and location in the Subdivision. Mailboxes will be uniform in construction, color, and materials.

Section 8. "Pools". No aboveground pools are allowed. All pools must be approved in advance of construction by the Architectural Committee.

Section 9. Remedies. If the finished dwelling, garage, accessory building or other structure does not comply with the submitted and approved plans and specifications, the Board retains the right to make the necessary changes at owner's expense to comply with the approved plans and specifications, the right to treat such charge or cost as an assessment, the right to file under the North Carolina lien laws a notice of liens for

any costs incurred, and the further right to resort to all remedies provided under the laws of North Carolina for the recovery of such costs and the expenses of collection, including without limitation, reasonable attorneys' fees. Any changes in plans or specifications must first be reapproved by the Declarant or the Board of Directors in accordance with the procedure herein specified for architectural control.

ARTICLE IX USE RESTRICTIONS

Section 1. Rules and Regulations. The Board of Directors of the Association shall have the power to formulate, publish and enforce reasonable rules and regulations concerning the use and enjoyment of the yard space of each lot and the Common Elements. Such rules and regulations may provide for imposition of fines or penalties for the violation thereof, or for the violation of any of the covenants and conditions contained in this Declaration.

Section 2. Use of Property. No portion of the property (except for model home/temporary office of Declarant or purchaser from Declarant) shall be used except for single-family residential purposes and for purposes incidental or accessory thereto.

Section 3. Quiet Enjoyment. No obnoxious or offensive activity shall be carried on upon the property, nor shall anything be done which may be, or may become, a nuisance or annoyance to the neighborhood.

Section 4. Animals. No animals, livestock or poultry of any kind shall be kept or maintained on any lot or in any dwelling except that dogs, cats or other household pets may be kept or maintained provided that they are not kept or maintained for commercial purposes and are controlled in accordance with applicable governmental ordinances and are not a nuisance to other owners.

Section 5. Offensive Behavior. No immoral, improper, offensive, or unlawful use shall be made of the property or any part thereof, and all valid laws, ordinances, and regulations of all governmental agencies having jurisdiction thereof shall be observed. All laws, order, rules, regulations, or requirements of any governmental agency having jurisdiction thereof, relating to any portion of the property, shall be complied with, by and at the sole expense of the owner or the Association, whichever shall have the obligation to maintain or repair such portion of the property.

Section 6. Business. No industry, business, trade, occupation, or professional of any kind, whether commercial or otherwise, shall be conducted, maintained, or permitted on any part of the property, except that the Declarant or its agents may use any unsold lot or Living Unit for sales or display purposes.

Section 7. Signs. No owner shall display, or cause or allow to be displayed, to public view any sign, placard, poster, billboard, or identifying name or number upon any building, or any portion of the Common Elements, except as allowed by the Association pursuant to its By-Laws or regulations or as required by local governmental authority; provided, however, that the Declarant and any mortgagee who may become the owner of any lot, or their respective agents, may place "For Sale" or "For Rent" signs on any unsold or unoccupied lots provided, however, that during the development of the property and the marketing of any lot, the Declarant or purchaser from Declarant may maintain a sales office and may erect and display such signs

as the Declarant or purchaser from Declarant deems appropriate as aids to such development and marketing, provided that such signs do not violate any applicable laws.

Section 8. Alterations. No person shall undertake, cause, or allow any alteration or construction in or upon any portion of the Common Elements except at the direction or with the express written consent of the Association.

Section 9. Parking. No boats, trailers, campers, motorhomes, trucks or tractors shall be parked on the property unless behind the front corner of the dwelling.

Section 10. Temporary or Detached Structures. Without the prior written consent of Declarant or the Architectural Committee, no trailer, tent, shack, barn, or other out building shall be erected or placed on any lot covered by these covenants. Except with the prior consent of the Declarant or the Architectural Committee, no detached garage shall at any time be used for human habitation temporarily or permanently.

Section 11. Appearance. It shall be the responsibility of each Property Owner, tenant, contractor or sub-contractor to prevent the development of any unclean, unsightly, unkempt, unhealthy, or unsafe conditions of buildings or grounds on any Property which will tend to substantially decrease the beauty of Spencer's Gate, the neighborhood as a whole or the specific area. The Declarant and his agent shall have the right to enter upon any property for the purpose of correcting such conditions including, but not limited to, the removal of trash which has collected on a Property, and the cost of such corrective action shall be paid by the Property Owner. Such entry shall not be made until thirty (30) days after the Owner of the Property has been notified in writing of the need to take corrective action within said thirty (30) days. Provided, however, that should such conditions pose a health or safety hazard, such entry shall not be made until the Owner has been notified in writing of the need to take immediate corrective action and unless such Owner fails to perform the corrective action immediately. The provisions of this paragraph shall not create any obligation on the part of the Declarant to take any such corrective action.

Section 12. Streets. No lot or portion thereof shall be dedicated or used for a public street without the written consent of Declarant or their heirs or assigns.

ARTICLE X EASEMENTS

Section 1. Utility Easements. All of the property including lots and Common Elements, shall be subject to such easements for driveways, walkways, parking areas, water lines, storm drainage facilities, gas lines, telephone and electric power line and other public utilities as shall be established by the Declarant or by his predecessors in title, prior to the subjecting of the property to this Declaration; and the Association shall have the power and authority to grant and establish upon, over, under and across the Common Elements conveyed to it, such further easements as are requisite for the convenient use, proper maintenance and enjoyment of the property without approval of the membership as provided in the Articles of Incorporation and this Declaration.

The Declarant reserves the right to subject the real property covered by this Declaration to a contract with Wake Electric Company for the installation of underground electric cables and/or the installation of

street lighting, either or both of which may require an initial payment an/or a continuing monthly payment to Wake Electric Company by the owner of each lot.

Section 2. Priority of Easements. Each of the easements hereinabove referred to shall be deemed to be established upon the recordation of this Declaration and shall henceforth be deemed to be covenants running with the land for the use and benefit of the lots, and the Common Elements, as the case may be, superior to all other encumbrances which may hereafter be applied against or in favor of the property or any portion thereof.

Section 3. Right of Entry in Event of Emergency. Every lot shall be subject to an easement for entry by police officers, fire fighters, ambulance personnel and similar emergency personnel in the performance of their respective duties.

Section 4. Landscaping of Island(s). Landscaping of island(s) within the right(s)-of-way of public street(s) shall be the responsibility of the Association as set out in Article I, Section 5(h). Such area(s) shall remain neat, clean, attractive and safe. Damaged, unsafe or dead plants must be removed by the Association. Neither the County nor the State will be liable for any accidents or damage caused by such encroachment within the right(s)-of-way and the Association shall hold harmless the public and indemnify the County and State from such liability.

ARTICLE XI INSURANCE

Section 1. Insurance to be Maintained by the Association. The following insurance coverage shall be maintained in full force and effect by the Association:

- (a) Public liability and property damage insurance in such amounts and in such forms as shall be required by the Association, but in an amount of at least \$1,000,000.00 for each occurrence for public liability insurance.
- (b) All liability insurance shall contain cross-liability endorsements to cover liability of the owners as a group to an individual owner.
- (c) Such other insurance coverage as it may determine to be desirable and necessary.

Section 2. Premiums. Premiums for insurance policies purchased by the Association shall be paid by the Association and charged ratably to Owners as an assessment according to the applicable provisions of this Declaration.

Section 3. Insurance Beneficiaries. All such insurance policies shall be purchased by the Association for the benefit of the Association and the owners.

ARTICLE XII RIGHTS OF INSTITUTIONAL LENDERS

Section 1. Rights Reserved to Institutional Lenders. "Institutional Lender" or "Institutional Lenders", as the terms are used herein, shall mean and refer to banks, savings and loan associations, savings banks, insurance companies, Veterans Administration, Federal Housing Administration. Federal National

Mortgage Association and other reputable mortgage lenders and insurers of first mortgages. So long as any Institutional Lender or Institutional Lenders shall hold any mortgage upon any lot, or shall be the owner of any lot, such Institutional Lender or Institutional Lenders shall have the following rights:

- A. To be furnished with at least one copy of the Annual Financial Statement and Report of the Association, including a detailed statement of annual carrying charges or income collected and operating expenses, such Financial Statement and Report to be furnished by April 15 of each calendar year.
- B. To be given notice by the Association of the call of any meeting of the membership to be held for the purpose of considering any proposed Amendment to the Declaration, or the Articles of Incorporation and By-Laws of the Association, which notice shall state the nature of the amendment being proposed, and to be given permission to designate a representative to attend all such meetings.
- C. To be given notice of default in the payment of assessments by any owner of a lot encumbered by a mortgage held by the Institutional Lender or Institutional Lenders, such notice to be given in writing and to be sent to the principal office of such Institutional Lender or Institutional Lenders, or to the place which it or they may designate in writing to the Association.
- D. To inspect the books and records of the Association during normal business hours.
- E. To be given notice by the Association of any substantial damage to any part of the Common Elements.
- F. To be given notice by the Association if any portion of the Common Elements is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority.

Whenever any Institutional Lender desires the benefits of the provisions of this section, such Lender shall serve written notice of such fact upon the Association by Registered Mail or Certified Mail addressed to the Association and sent to its address stated herein, or to the address of the property, identifying the lot upon which any such Institutional Lender or Institutional Lenders hold any mortgage or mortgages, or identifying any lot owned by them, or any of them, together with sufficient pertinent facts to identify any mortgage or mortgages which may be held by it or them, and which notice shall designate the place to which notices are to be given by the Association to such Institutional Lender.

ARTICLE XIII 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 way affect any other provisions which shall remain in full force and effect.

Section 3. General Amendments. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the lot owners, and thereafter by an instrument signed by not less than seventy five (75%) percent of the lot owners.

Section 4. Amendments Permitted Without Membership Approval. The following amendments may be effected by the Declarant, or the Board, as the case may be, without consent of the members: (A) Prior to the sale of the first lot, this Declaration may be amended by the Declarant. (B) Declarant may amend this Declaration upon annexation of additional lands as specified in Article VI, Section 2, herein. (C) The Board may amend this Declaration to correct any obvious error or inconsistency in drafting, typing or reproduction. (D) The Declarant, so long as it shall retain control of the Association, shall have the right to amend this Declaration to conform to the requirements of any law or governmental agency having legal jurisdiction over the property or to qualify the property or any lots and improvements thereon for mortgage or improvement loans made, insured or guaranteed by a governmental agency or to comply with the requirements of law or regulations of any corporation or agency belonging to, sponsored by, or under the substantial control of, the United States Government, the State of North Carolina or Franklin County regarding purchase or sale in such lots and improvements, or mortgage interests therein, as well as any other law or regulation relating to the control of property, including, without limitations, ecological controls, construction standards, aesthetics, and matters affecting the public health, safety and general welfare. A letter from an official of any such corporation or agency, including, without limitation the Veterans Administration, U. S. Department of Housing and Urban Development, the Federal Home Loan Mortgage Corporation, Government National Mortgage Corporation, or the Federal National Mortgage Association, requesting or suggesting an amendment necessary to comply with the requirements of such corporation or agency shall be sufficient evidence of the approval of such corporation or agency, provided that the changes made substantially conform to such request or suggestion. (E) The Declarant, for so long as it shall retain control of the Association, and, thereafter, the Board of Directors, may amend this Declaration as shall be necessary, in its opinion, and without the consent of any owner, to qualify the Association or the property, or any portion thereof, for tax-exempt status. (F) As long as Declarant owns any lot, Declarant reserves the right to be given notice of any condemnation or casualty loss that affects a material portion of the properties, any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association or any proposed action that requires the consent of a specified percentage of mortgage holders.

Section 5. Governmental Authority Amendments. No amendment shall become effective until submitted to and approved by those authorities set out in Article XIII, Section 4 above; provided, however, if that authority fails to approve or disapprove such amendment within thirty (30) days after the same has been submitted to it, such approval shall not be required and this covenant shall be deemed to have been fully complied with.

Section 6. Exchange of Common Area. With the assent of two-thirds (2/3) of the votes of the entire Class A membership and two-thirds (2/3) of the entire Class B membership, if any, the Association, acting through its Board, from time to time may exchange with Declarant or any member a portion of the Common Elements for a portion of the real property owned by such member within Spencer's Gate, provided that the real property acquired by the Association in the Exchange; (a) is free and clear of all encumbrances except the Declaration, and easements for drainage, utilities, and sewers; (b) has approximately the same

area and utility as the portion of the Common Elements exchanged and (c) the Common Elements as constituted after the conveyance meets the standards for open space as required by Franklin County. The real property so acquired by the Association shall be a part of the Common Elements, and, without further act of the Association or membership, shall be released from any provisions of the Declaration except those applicable to the Common Elements. The portion of the Common elements so acquired by Declarant or a member, without further act of the Association or membership, shall cease to be Common Elements and shall be subject to those provisions of the Declaration that were applicable to the real property conveyed to the Association by the member.

Section 7. Fidelity Bonds. The Association shall maintain blanket fidelity bonds for all officers, directors, trustees and employees of the Association and for all other persons handling or responsible for funds of or administered by the Association. Where the Association has delegated some or all of the responsibility for the handling of funds to a management agent, fidelity bonds shall be required for such management agent's officers, employees and agents handling or responsible for funds of, or administered on behalf of, the Association.

The total amount of fidelity bond coverage shall not be less than the estimated maximum of funds, including reserve funds in the custody of the Association or the management agent, as the case may be, at any given time during the term of each bond. However, in no event shall the aggregate amount of such fidelity bonds be less than a sum equal to six month's aggregate assessments on all units plus reserve funds.

Fidelity bonds required herein shall:

1. Name the Association as an obligee;
2. Contain waivers by the insurers of the fidelity bonds of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees", or similar terms or expressions; and
3. Provide that they may not be cancelled or substantially modified (including cancellation for non-payment of premium) without at least 10 days prior written notice to the Association, to any such agent as the Association shall designate to negotiate settlement of insurance claims on behalf of the Association, and to any institutional lender servicing on behalf of the Federal National Mortgage Association any loan secured by any unit.

The premiums on all such fidelity bonds for the Association (except for premiums on fidelity bonds maintained by a management agent for its officers, employees and agents) shall be paid by the Association as a common expense.

Section 8. FHA/VA Approval. As long as there is a Class B membership, and if Declarant determines to qualify this property for Federal Housing Administration or Veterans Administration approval the following actions will require the prior written approval of the Federal Housing Administration or the Veterans Administration: Annexation of additional property, dedication of Common Elements, and amendment of this Declaration of Covenants, Conditions and Restrictions.

UNRECORDED

Section 9. Recordation. No amendment shall be effective until recorded in the County in which the property is situate.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 28 day of JANUARY, 1998. ~~1998~~ 1999

AEGEAN LAND COMPANY, INC.
A North Carolina Corporation

By Laurel W. Bay, President



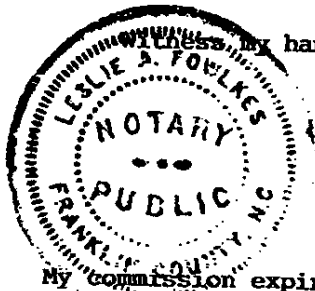
[Signature]
Assistant Secretary

Covenants SG98/3/2/98

NORTH CAROLINA,
WAKE COUNTY.

I, the undersigned Notary Public, hereby certify that Rena Pappas personally came before me this day and acknowledged that she is Secretary of Aegean Land Company, Inc., a corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal and attested by her self as its Secretary.

Witness, by hand and notarial seal this 28th day of January, 1998. ⁹



Leslie A. Fowlkes
Notary Public

My commission expires:

November 23, 2003

STATE OF NORTH CAROLINA, FRANKLIN COUNTY

The foregoing certificate(s) of Leslie A. Fowlkes

is/are certified to be correct.

Notary (y) (ies) Public,

This instrument was presented for registration this day and hour and duly recorded in the office of the Register of Deeds of Franklin County, N.C., in Book 1130, Page(s) 286-306

This 4th day of February, A.D., 19 99, at 10:15 o'clock A M.

KAY S. HUNT, REGISTER OF DEEDS

By: Beth Harrington
Deputy Register of Deeds

BK 1130PG0306

EXHIBIT A

Being Lots 1 through 58, inclusive, of
Spencer's Gate Subdivsiion, Phase I, Maps II and III, as recorded in
Book of Maps 1998 at Pages 398 and 399 of the Franklin County Registry

EXHIBIT B

Property described in Deed Book 1086, Page 556, of the Franklin
County Registry, originally containing 364.262 acres, adjacent
to the property described in Exhibit A above.

BK 1257PG0236,

LINDA H. STONE, REGISTER OF DEEDS
FRANKLIN COUNTY, NC

FILED: FOR REGISTRATION
DATE: <u>March 5, 2002</u>
TIME: <u>9:30 A.M.</u>
BOOK: <u>1257</u>
PAGE: <u>236-238</u>

NORTH CAROLINA,
FRANKLIN COUNTY.

THIS DECLARATION, Made this 28th day of February, 2002, by
AEGEAN LAND COMPANY, Inc., a North Carolina corporation,
hereinafter called "Declarant".

W I T N E S S E T H:

WHEREAS, Declarant, by instrument dated January 28, 1999 and recorded in Book 1130 at Page 286 of the Franklin County Registry, subjected certain lots in Spencer's Gate Subdivision, Phase I, Maps II and III, together with the adjacent 364.262 acres, to the protective covenants therein set forth, the same having been amended by instrument dated December 18, 2000, and recorded in Book 1197, Page 89, Franklin County Registry; and

WHEREAS, Declarant is the owner of the hereinafter described lots in Spencer's Gate Subdivision, Phase Two, Map Four, and desires to subject the same to said protective covenants recorded in Book 1130 at Page 286 as amended in Book 1197, Page 89, both Franklin County Registry, each and all of which shall be for the benefit of such property and for each and every owner thereof, and shall inure to the benefit of and pass and run with said property, and each and every lot or parcel thereof, and shall apply to and bind the successors in interest and any owner thereof. Setbacks shown on the recorded map shall control; EXCEPT THAT the following amendments shall become a part of said covenants:

ARTICLE VII shall be amended by adding a sentence at the end of the last paragraph which shall read as follows:

"After the initial construction of a dwelling on a lot and the occupancy thereof, no clear cutting of individual trees greater than three (3) inches in diameter shall be allowed without the written consent of the Architectural Committee. Furthermore, no activities shall be conducted on any lot which shall amount to a nuisance within the interpretation of the Architectural Control Committee."

ARTICLE VIII, Section 3, shall be amended by adding the following at the end of the paragraph:

"No dog house, grilling equipment or other unsightly structures shall be allowed to remain in the front yard of any lot. Furthermore, there shall be no outdoor burning of garbage on any lot."

NOW, THEREFORE, Declarant hereby declares that the real property described below is and shall be held, transferred, sold and conveyed subject to the protective covenants set forth in said Declaration recorded in Book 1130 at Page 286 as amended in

BN 1257PG0237

Book 1197 at Page 89, Franklin County Registry, TOGETHER WITH the amendments set out above, said protective covenants being incorporated herein by reference:

Being Lots Numbered 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 101, 102, 103, 104, 105, 106, 107, 108 and 109 as the same are shown on a map of Spencer's Gate Subdivision, Phase Two, Map Four, recorded in Map Book 2001 at Page 417 of the Franklin County Registry.

IN WITNESS WHEREOF, Aegean Land Company, Inc. has caused this instrument to be executed as by law provided on the day, month and year first above written.

AEGEAN LAND COMPANY, INC.

By

Sanford W. Bailey
President

NORTH CAROLINA,
WAKE COUNTY.

I, the undersigned Notary Public for the County and State aforesaid, certify that Sanford W. Bailey, President of Aegean Land Company, Inc., personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes expressed therein.

Witness my hand and notarial seal or stamp, this 28th day of February, 2002.



George E. Pittman
Notary Public

My commission expires: 12-5-06

BK 1257PG0238

Prior to the execution and recordation of this instrument, Lot Numbers 8 was conveyed to Maestro Homes, Inc., and said lot owner joins in the execution of this instrument for the purpose of subjecting said lot to the restrictions set forth herein.

* 83,86,87,93,95,97,101,103,108,109

MAESTRO HOMES, INC.

By

President

NORTH CAROLINA,
COUNTY OF WAKE

I, the undersigned Notary Public, hereby certify that John J. Smith personally came before me this day and acknowledged that he is President of Maestro Homes, Inc., a North Carolina corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by himself as its President.

Witness my hand and official seal this 28th day of FEBRUARY, 2002.



George E. Pittman
Notary Public

My commission expires: 12-5-06

North Carolina-Franklin County

The foregoing certificates of George E. Pittman, a Notary Public, are certified to be correct and duly recorded this 5th day of March, 2002.

Linda H. Stone
Linda H. Stone, Register of Deeds

by: Carson Coley, Ont.