Prepared by and hold after recording for: Wyrick Robbins Yates & Ponton LLP (ERS) (12342.002) Box 210

NORTH CAROLINA
WAKE COUNTY

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR MERION SUBDIVISION, PHASE ONE, RECORDED IN BOOK OF MAPS 2001, PAGE * , WAKE COUNTY REGISTRY, WHICH INCLUDES LOTS 1 THROUGH 46, INCLUSIVE * 1224 & 1225

THIS DECLARATION, made on the date hereinafter set forth by MERION DEVELOPERS, LLC, a North Carolina limited liability company, hereinafter referred to as the "Declarant;"

WITNESSETH:

THAT WHEREAS, the Declarant is the owner of certain property lying near the Town of Apex, Wake County, North Carolina described as Merion Subdivision, Phase One, as the same is shown on a map recorded in Book of Maps 2001, Page * , Wake County Registry (hereinafter "the Property"); and

WHEREAS, Declarant will convey the Property, subject to certain protective covenants, conditions, restrictions, reservations, liens and charges as hereinafter set forth;

NOW THEREFORE, Declarant hereby declares that all of the Property described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, all of which are for the purpose of enhancing and protecting the value, desirability, and attractiveness of the Property and to preserve insofar as practicable the natural beauty of each Lot and Common Area and Permanent Open Space. These easements, covenants, restrictions, and conditions shall run with the Property and shall be binding on all parties having or acquiring any right, title or interest in the Property or any part thereof, and shall inure to the benefit of each owner thereof, and their heirs, successors and assigns.

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to MERION HOMEOWNERS ASSOCIATION, INC., a North Carolina non-profit corporation, its successors and assigns.

Section 2. "Property" shall mean and refer to that certain real property described above, and such additions thereto as may hereinafter be brought within the jurisdiction of the Association.

This instrument is being re-recorded to correct an obvious minor error, to insert the page number of the recorded map, which was inadvertently omitted, pursuant to NCGS Sec. 47-36.1, as amended
I certify that Wyrick Robbins Yates & Ponton LLP prepared this instrument.

Wyrick Robbins Yates & Ponton LLP
By:
Eric R. Spence, Attorney

REAL-12342-2-219358-02

Section 3. "Common Area" shall mean all real property and improvements, structures, facilities and Amenities (as defined below) located thereon, including but not limited to, private subdivision sign, entrance and landscaping easements located on any Lot (as defined below), any area labeled as Open Space (as defined below), owned by or to be conveyed to the Association or reserved on any recorded map for the benefit of the Association for the common use and enjoyment of members of the Association. Common Area shall also include any water lines that may be located within the Common Area or within any public right-of-way providing water service to any Lot, Open Space, or any Amenities constructed on Open Space.

Section 4. "Lot" shall mean and refer to any plot of land shown upon any recorded map of a portion of the Property excluding areas labeled "Open Space" upon which residential dwellings may be constructed.

Section 5. "Member" shall mean and refer to every person or entity who holds membership in the Association.

Section 6. "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 7. "Declarant" shall mean and refer to MERION DEVELOPERS, LLC, a North Carolina limited liability company and its successors and assigns to whom the rights of Declarant hereinunder are expressly transferred, in whole or in part, and subject to such terms and conditions as the Declarant may impose.

Section 8. "Person" shall mean and refer to any individual, corporation, partnership, limited liability company, association, trustee, or other legal entity.

Section 9. "Building" shall mean and refer to a residential structure, constructed or erected on the Property.

Section 10. "Board of Directors" or "Board" means those persons elected or appointed and acting collectively as the Directors of the Association, unless a contrary intent is evident.

Section 11. "Common Expenses" shall mean and include:

(a) All sums lawfully assessed by the Association against its members;

(b) Expenses of administration, maintenance, repair, or replacement of the Common Areas, including but not limited to:

(1) painting, masonry, carpentry or any other repair or replacement to the entrance way, and/or the subdivision signs located in Common Area or on any "sign easement" reserved on any lot as shown on any recorded maps of Merion subdivision, or

(2) resurfacing, painting, roof repair, replacement of fences, tennis nets or any other maintenance or repair of the Amenities located in Common Area, Open Space and/or Permanent Open Space as shown on any recorded map of Merion subdivision;

(c) Expenses declared to be common expenses by the provisions of this Declaration or the Bylaws;

(d) Expenses agreed by the members to be common expenses of the Association; and

(e) Ad valorem taxes and public assessments levied against the property of the Association.

Section 12. "Amenities" shall mean the facilities constructed, erected or installed on the Common Areas, including but not limited to swimming pools, basketball goals, bikeways, walking trails, picnic areas, playground equipment, tennis courts, clubhouses, and all related structures and facilities.

Section 13. "Declaration" shall mean and refer to this Declaration of Covenants, Conditions and Restrictions, and all subsequent valid amendments thereto.

Section 14. "Architectural Committee" shall mean the three (3) or more representative persons appointed by the Board of the Association to act as such committee.

Section 15. "Open Space and/or Permanent Open Space" shall mean all Common Area dedicated to the common use and enjoyment of the Owners and identified on the map or maps of Merion Subdivision as "Permanent Open Space" or "Open Space" recorded or to be recorded in the office of the Wake County Register of Deeds. Permanent Open Space shall be maintained for forestry, agriculture or active and passive recreational uses. Permanent Open Space shall not include public and private roads within the Property, and shall not include utility lines and utility structures. All Permanent Open Space shall be subject to easements for utilities, including sewer and waterlines, easements for ingress and egress, and easements for any encroachments arising from the original or subsequent improvements to the Property.

ARTICLE II

ANNEXATION OF ADDITIONAL PROPERTIES

Section 1. Annexation by Members. Except as provided in §2 of this Article, annexation of additional Property shall require the assent of two-thirds (2/3) of the Class A membership and two-thirds (2/3) of the Class B membership, if any.

Section 2. Annexation by Declarant. If within five (5) years of the date of incorporation of this Association, the Declarant should develop additional lands and desire to subject such additional lands to this Declaration, then such additional lands may be annexed to said Properties without the assent of the Class A members, provided that such additional lands are contiguous to property which is already subject to this Declaration and contain at least five acres in area.

Section 3. Method of Annexation. Annexation of additional Properties shall be accomplished by recording in the Wake County Registry a Declaration of Annexation, duly executed by the Declarant if the Declarant has the right to annex pursuant to Section 2 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 Properties 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 Wake County if required by its ordinances.

Section 4. Conveyance of Common Area Upon Annexation. Subsequent to recordation of the Declaration of Annexation by the Declarant, the Declarant shall deliver to the Association one or more deeds conveying any Common Area within the lands annexed as such Common Area is developed, as set forth in Article V, Section 3 of the Declaration. If any Common Area contains Open Space it shall be dedicated or reserved for the specific allowable uses and shall be maintained by the Association as defined in Article I, Section 15 above.

ARTICLE III

MEMBERSHIP

Every person or entity who is a record owner of a fee or undivided fee interest in any Lot which is subject to the Declaration, including contract sellers, shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. No Owner shall have more than one membership. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association. Ownership of such Lot shall be the sole qualification for membership. The Board of Directors may make reasonable rules relating to the proof of ownership of a Lot.

ARTICLE IV

VOTING RIGHTS

Section 1. Voting Classes. The Association shall have two classes of voting membership:

Class A. Class A members shall be all those Owners as defined in Article III with the exception of the Declarant. Class A members shall be entitled to one vote for each Lot in which they hold the interest required for membership by Article III. When more than one person holds such interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot and no fractional vote may be cast with respect to any Lot.

Class B. The Class B member shall be the Declarant. The Class B member shall be entitled to three (3) votes for each Lot in which it holds the interest required for membership by Article III, provided that the Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs first:

(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 subparagraph (b) below, such additional lands are annexed to the Properties 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 II, Section 2 above, or

(b) on December 31, 2010.

Section 2. Suspension of Voting Rights. The right of any Member to vote may be suspended by the Board of Directors for just cause pursuant to its rules and regulations.

ARTICLE V

PROPERTY RIGHTS

Section 1. Members' Easements of Enjoyment. Every member shall have a right and easement of enjoyment in and to the Common Area, Open Space and Permanent Open Space and such easement shall be appurtenant to and shall pass with the right to every Lot, subject to each of the following provisions:

(a) The right of the Association, in accordance with its Articles and Bylaws, to borrow money for the purpose of improving the Common Area and in aid thereof to mortgage the Common Area, or any portion thereof, provided the rights of such mortgagee in said Properties shall be subordinate to the rights of the Owners hereunder.

(b) The right of the Association to dedicate or transfer all or any part of the Common Area, Open Space and Permanent Open Space for utility, drainage, pedestrian walkway and cablevision easements.

(c) The right of the Association, to formulate, publish and enforce rules and regulations as provided in Article IX.

(d) The right of the Association to permit the use of and to charge reasonable admission and other fees for the use of any recreational facility situated upon the Permanent Open Space.

(e) The right of the Association to suspend the voting rights and right to use the Permanent Open Space facilities by an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days for any infractions of its published rules and regulations,

(f) The right of the Association to dedicate or transfer all or part of the Permanent Open Space to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication or transfer shall be effective unless an instrument signed by at least two thirds (2/3) of the Members, agreeing to such dedication or transfer, has been recorded, and provided the dedication or transfer is in compliance with applicable zoning regulations.

(g) The right of the Association to impose regulations for the use and enjoyment of the Permanent Open Space and improvements thereon, which regulations may further restrict the use of the Permanent Open Space.

(h) Actions contemplated under subparagraph (a), (b), and (c) above shall not be taken until the following two steps are met:

1. Board members entitled to cast three-fourths (3/4) of all the votes of the Board of Directors have voted in person or by proxy for such action at a meeting duly called for said purpose, notice of which was sent to every board member not less than fifteen (15) nor more than thirty (30) days in advance of the meeting.

2. Owners of Lots (or persons to whom the Owner has granted a proxy) owning two-thirds (2/3) of the Lots other than those owned by Declarant have approved the action in writing.

The instrument effecting such dedication, transfer, conveyance or mortgage shall be sufficient if executed by appropriate officers of the Association and contains a recital of the above provisions, and that they have been complied with.

Section 2. Delegation of Use. Any Member may delegate, in accordance with the Bylaws, his right of enjoyment to the Common Area, Open Space or Permanent Open Space to the Members of his family, his tenants, or contract purchasers who reside on the Property and to his guests and invitees.

Section 3. Suspension of Rights of Use. Any Member's right to use and enjoyment of Common Areas may be suspended during any period in which that Member is in default in payment of any annual or special assessment levied by the Board of Directors, as provided in Article III, Section 2 of the Bylaws. Such rights may also be suspended, after notice and hearing, for a period not to exceed 30 days, for violation of any rules and regulations established by the Board of Directors governing the use of the Common Area.

Section 4. Title to the Common Area, Open Space and Permanent Open Space. The Declarant hereby covenants for itself its successors, and assigns, that, prior to the conveyance of

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the first Lot, it will convey fee simple title to the Common Area, Open Space and Permanent Open Space as defined in this Declaration or as shown on the aforementioned map recorded in Book of Maps 2001, Page _*_, Wake County Registry, to the Association, free and clear of all * 1224 encumbrances and liens, except utility and drainage easements and easements to governmental & 1225 authorities. Similarly, the Declarant will convey to the Association Common Areas which are a part of the Property as those portions are annexed in the future until all Common Areas, as shown on plans approved by Wake County, have been conveyed to the Association.

Section 5. Easement of Ingress/Egress to Common Area. Each Owner shall have a right and easement of ingress and egress to provide direct access to the Open Space and Permanent Open Space over, across and through Levering Mill Road (a fifty foot public right-of-way), any other publicly dedicated road which abuts any Open Space and Permanent Open Space, over, across and through a twenty foot (20') access and utility easement centered on the common property line between Lots 16 and 17 as shown on the above referenced recorded map, and any other private access easement appurtenant to Open Space or Permanent Space shown on any record map of the Property which connects Open Space and Permanent Open Space to any publicly dedicated road. The Association is granted a right and easement of ingress and egress for the purposes of maintaining, planting, operating and improving the private sign and landscape easement reserved on any Lot within the Property.

Section 6. Open Space Maintenance. The Association shall be responsible for maintaining the Common Area, Open Space and Permanent Open Space so that it continues to effectively function for its intended use and shall govern all aspects of maintenance of the Permanent Open Space and Common Area, including the power to impose assessments for all fees and costs associated with the maintenance of the Permanent Open Space, including but not limited to, real property taxes, insurance, grass cutting, drainage improvements, construction of improvements, and landscaping.

Section 7. Parking Rights. The Association may regulate the parking of boats, trailers and other such items on the Permanent Open Space. No boats or trailers shall be parked within the right-of-way of any public street in or adjacent to the property described herein.

ARTICLE VI

COVENANT FOR ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Property, hereby covenants, and every other Owner of any Lot by acceptance of a deed therefor, whether or not if shall be so expressed in any such deed or other conveyance, is deemed to covenant and agree to pay to the Association.

(a) Annual assessments or charges which are common expenses; and

(b) Special assessments for capital improvements. Notwithstanding any provision herein to the contrary, the assessment for each Lot owned by Declarant shall be twenty-five percent (25%) of the assessment which is applicable for a Lot titled in a name other than the Declarant, provided, however, that Declarant shall pay the full assessment on any Lot which has been leased by Declarant and on which an occupiable dwelling is located. Furthermore, any provision of this Declaration to the contrary notwithstanding, the Declarant may, at its sole election and discretion, postpone, in whole or in part, the date on which the assessment shall commence as to a Lot or Lots provided the Declarant maintains the Common Areas for which no assessment is being collected during the period of such postponement.

Such assessments shall be fixed, established, and collected from time to time as hereinafter provided.

The annual and special assessments, together with such interest thereon and costs of collection thereof, including reasonable attorney's fees, as hereinafter provided, shall constitute a continuing lien upon the Lot and improvements thereon when filed of record in the Office of the Clerk of Superior Court of Wake County which may be enforced and/or Foreclosed upon pursuant to Chapter 45 of the General Statutes of North Carolina. Each such assessment, together with such interest and costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of the Lot at the time the assessment fell due. The personal obligation of an Owner for delinquent assessments shall not pass to his successors in title unless expressly assumed by them. All assessments shall be shared equally by the Owners of each Lot, except as otherwise provided in this section.

Section 2. Purpose of Assessment. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents of the Property and in particular for the acquisition, improvement and maintenance of the Property, including the maintenance, repair and reconstruction of any erosion control devices situated on the Common Area required by the County of Wake to comply with its erosion and sedimentation control ordinances, the entrance gate and all facilities and structures convenient thereto, entrance and landscaping easements, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Area and the Amenities constructed thereon, including but not limited to, the cost of repairs, replacement (including reserves therefor) and additions, the cost of labor, equipment, materials, management and supervision, the payment of taxes and public assessments assessed against the Common Area, the procurement and maintenance of insurance in accordance with the By-Laws, the employment of attorneys to represent the Association when necessary, the cost of maintenance and repair of all recreational facilities located on the Common Area, and such other needs as may arise.

Section 3. Amount of Annual Assessment.

(a) Initial Assessment. To and including January 1, 2002, the initial annual assessment shall not be in excess of $600 per Lot, the exact amount of which shall be determined from time to time as provided in Subsection (d) of this Section 3.

(b) Increase by Association. From and after January 1, 2002, the annual assessment effective for any year may be increased from and after January 1 of the succeeding year by the Board of Directors, without a vote of the membership, to an amount which may not exceed the original assessment (or revised assessment determined pursuant to Subparagraph (c) below) plus ten (10%) percent of said assessment per year since 2001 or the year the revised assessment was established, whichever is later.

(c) Increase by Members. From and after January 1, 2002, 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, written notice of which, setting forth the purpose of the meeting, shall be sent to all Members not less than fifteen (15) days nor more than thirty (30) days in advance of the meeting. The limitations herein set forth shall not apply to an 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 Assessments. The Association is required to set the annual assessment high enough to enable the Association to establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of improvements to the Common Areas. The fund shall be maintained out of annual assessments for common expenses as provided for in this Article. In establishing the annual assessment for any assessment year, the Board of Directors shall set the annual assessment high enough to cover all current costs and expenses of the Association, and accrued debts, and reserve for future needs.

(e) Decrease of Annual Assessment. The Board of Directors may decrease the annual assessment from time to time if in its opinion such decrease is prudent.

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 costs of construction or reconstruction, unexpected repair, or replacement of a described capital improvement upon the Common Area, including the necessary fixtures and personal property related thereto; 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, written notice of which, setting forth the purpose of the meeting, shall be sent to all Members not less than fifteen (15) days nor more than thirty (30) days in advance of the meeting. The amount of the proposed assessment need not be stated.

Section 5. Uniform Rate of Assessments. The annual assessment and special assessments must be fixed at a uniform rate for all Lots, on a per Lot basis, and may be collected on a semi-annual basis.

Section 6. Quorum for Any Action Authorized Under Sections 3 and 4. At the first meeting called, as provided in Section 3 and 4 of this Article, the presence at the meeting of Members of proxies entitled to cast sixty percent (60%) of all the votes for each class of membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, subsequent meetings may be called, subject to the notice requirement set forth in Sections 3 and 4 and the required quorum at any such subsequent meeting shall be one-half (1/2) of the required quorum at the next preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the next preceding meeting.

Section 7. Date of Commencement of Annual Assessments. Unless postponed by the Declarant, as provided in Section 1 of this Article, the annual assessments provided for herein shall commence as to any Lot on the later of: (1) the first day of the first month following the closing of the sale of the first Lot and (2) the first day of the first month following the subjection of the Lot to this Declaration. The first annual assessment shall be adjusted according to the number of months remaining in the fiscal 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 and appropriate penalties for late payment shall be established by the Board of Directors. The Association shall upon demand at any time furnish a certification in writing signed by an officer of Association setting forth whether the assessments on a specified Lot have been paid. Such certificates shall be conclusive evidence of payment of any assessment therein stated to have been made and shall be binding upon the Association as of the date of its issuance.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessments which are not paid when due shall be delinquent. If the assessments are not paid within thirty (30) days after the due date, assessments shall bear interest from the date of delinquency at the lesser of the highest lawful rate or twelve (12%) percent per annum, and the Association may (1) bring an action at law against the Owner personally obligated to pay the same, and interest, costs and reasonable attorney's fees of any such action shall be added to the amount of such assessment and/or (2) foreclose the lien against the property directly under Chapter 45 of the General Statutes of North Carolina. The Association shall have the authority to appoint any Trustee it deems necessary to accomplish a foreclosure by recording anotice of such appointment in the Wake County Register of Deeds office. Any deficiency from the foreclosure sale shall continue to be a personal obligation of the Owner. No Owner may waive or otherwise escape liability for the assessment provide for herein by non-use of the Common Area or abandonment of his Lot.

Section 9. Subordination of Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien priority of any recorded Deed of Trust encumbering any Lot. A sale or any transfer of any Lot shall not affect the assessment liens; provided; however, that the sale or transfer of any Lot pursuant to foreclosure of a recorded Deed of Trust or any proceeding in lieu of foreclosure thereof shall extinguish the lien of such assessments as to payment which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from the liability for any assessment thereafter becoming due or form the lien thereof.

Section 10. Two Months Assessments to be Collected at Closing. At the closing of each sale of a Lot, a sum shall be collected from the purchaser of such Lot equal to the total assessment for such Lot for the succeeding two months and such sum shall be contributed to the accounts of the Association to insure the Association will have sufficient funds to meet unforeseen expenditures. This contribution shall not be considered an advance against assessments to become due or a refundable deposit.

Section 11. Management of Funds. All funds collected through assessments shall be managed by the Association subject to the provisions of this Declaration. Disbursement of funds collected from Lot Owners shall be directed by the Board of Directors.

ARTICLE VII

MAINTENANCE OF PROPERTIES

Section 1. Maintenance of Common Areas. Maintenance of Common Areas, and all Amenities and structures located therein shall be the responsibility of and supervised by the Association. Funds for such maintenance shall be supplied form the annual assessment.

Section 2. Maintenance of Lots. If in the opinion of the Board, an Owner fails to maintain his property in a neat and orderly condition or otherwise neglects his property and allows unsightly conditions to develop, the Board, after thirty (30) days written notice to the Owner, may, but is not obligated to, take steps to remedy the problem. Such remedy may include, but shall not be limited to; the removal of debris or junked cars, the mowing of grass or cutting of brush and the painting or repair of structures located on the property. The Board may bill such Owner for all expenses incurred in correcting the problem. Every Owner by acceptance of a deed covenants to pay said bill. Upon failure to pay said bill, the Board may file a lien against said property and enforce said lien by action at law as a personal obligation of the Owner or foreclose against the property by procedure described in Article VI, Section 8 listed above, including recovery of costs and reasonable attorney's fees.

ARTICLE VIII

ARCHITECTURAL CONTROL AND INSPECTION

Except for initial improvements by Declarant, no construction, erection, or installation of any improvements, including, but not limited to, residences, outbuildings, fences, walls, screens (whether by plants or structures), decks, swimming pools and any other structures, shall be undertaken upon the Properties unless the site plans, building plans, and specifications therefore, showing the nature, kind, shape, height, materials and location proposed improvements shall have been submitted to the Declarant or its agent and expressly approved in writing. No subsequent alternation or modification of any existing improvements nor construction, erection, or installation of additional improvements may be undertaken on any of the Properties without prior review and express written approval of the Board of Directors of the Association, or by an Architectural Committee composed of three (3) or more representatives appointed by the Board of the Association.

In general, no exterior alterations or additions to buildings or garages shall be considered for approval unless such alterations or additions are in harmony with existing structures, as to location, style, shape, color and size. The architectural plans for such alteration or addition must be drawn and sealed by a registered architect or engineer. However, this section shall not be construed to mean that the Architectural Committee or Board shall have to approve a proposed alteration or addition that meets the above criteria.

In general, the construction of fences, walls and other structures and the planting of screens will not be permitted if in the opinion of the Declarant, Board, or Architectural Committee, as applicable, such construction or planting constitutes an unreasonable obstruction of the view of another Owner.

In the event that the Declarant or the Association, as the case may be, fails to approve or disapprove the site or design or any proposed improvements within sixty (60) days after plans and specifications therefore have been submitted and received, approval will not be required, and the requirements of this Article will be deemed to have been fully met; provided, that the plans and specifications required to be submitted shall not be deemed to have been received by the Declarant or the Association if they contain erroneous data or fail to present adequate information upon which the Declarant or the Association, as the case may be, can arrive at a decision.

The Declarant and/or the Association (as applicable) shall have the right, at its election, but shall not be required, to enter upon any of the Properties 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 materials.

ARTICLE IX

RULES AND REGULATIONS

Section 1. Common Area. The Board of Directors of the Association shall have the power to formulate, amend, publish, and enforce reasonable rules and regulations concerning the use and enjoyment of the Common Area. Such rules and regulations, along with all policy resolutions and policy actions taken by the Board of Directors, shall be recorded in a Book of Resolution which shall be maintained in a place convenient to the Owners and available to them for inspection during normal business hours.

Section 2. Rules and Regulations for Parking of Vehicles. The Board of Directors of the Association shall have the power to formulate, publish, amend and enforce reasonable rules and regulations concerning the parking of any type of vehicle on the Properties, including Common Areas. Said rules may provide, without limitation, the following:

(a) A definition of a "recreational vehicle" and regulations covering the parking of recreational vehicles on private driveways or public streets.

(b) That campers, motorscooters, motorcycles, motorbikes, planes, boats, trailers, trucks and commercial vehicles of any kind that the Board designates cannot be parked on a private street, in any Common Area or on any Lot, except in areas as described in subsection (c), below.

(c) No motorcycles, supplies, tractors, boats, trucks (other than pick-up trucks rated one-half ton or less or sport-utility vehicles,) trailers, vans (except one non-commercial van owned and operated on a regular daily basis by the Owner-occupants of the Lot and dwelling in question), campers or other equipment or vehicles, except for operative automobiles, shall be regularly parked or stored in any area on a Lot except inside an enclosed building, behind screening approved by the Architectural Committee, or as consented to in writing by the Architectural Committee. Non-operative vehicles must be stored in a completely enclosed building or removed from the premises within sixty (60) days after becoming non-operative, unless specifically approved by the Architectural Committee.

(d) Limitations on the period of time and extent to which a motor vehicle may be repaired on the premises, and that all motor vehicles parked on private streets or in Common Area are to have currently valid license plates issued by a state in the United States and insurance coverage which satisfies North Carolina Department of Transportation requirements for insurance coverage of motor vehicles licensed in the State of North Carolina.

(e) GARAGES AND PARKING: Each Building shall have one enclosed garage with adequate space for at least two, but not more than three, full-size automobiles.

ARTICLE X

RESTRICTIVE COVENANTS

Section 1. Lot Size. A Lot shall have a width at the minimum building set back line and an area that meets the minimum requirements of the Wake County Code. Adjustments may be made in the line between two Lots so long as the area of any Lot is not reduced by more than ten percent (10%), the adjustments do not violate the Wake County Code, and other restrictions herein set forth are observed. Upon any recombination of lots, the setbacks and side line clearances from new Lot lines shall be applicable and setbacks from former Lot lines shall no longer be required. No combination of Lots shall increase the number of Lots above the number existing before recombination, except as hereinafter set forth.

Section 2. Land Use. No Lot shall be used except for residential purposes; provided, however, that nothing herein shall prevent the conversion of portions of Lots to public or private streets, or preclude the use of a Lot as a well site for a community water system. No building shall be erected, altered, placed or permitted to remain on any Lot other than one detached single-family dwelling not to exceed three stories (above ground) in height, not more than two private enclosed garages (one being attached and an integral part of the Building), a basement (finished or unfinished) and outbuildings incidental thereto. Declarant reserves the right to use any Building located on a Lot as an office and/or model which may be shown to prospective purchasers of units.

Section 3. Building Size. No Building shall be permitted on any Lot unless the Building has, exclusive of decks, porches, breezeways, steps, basements, unheated attics and garages, at least 2,250 square feet of heated living area for a one-story Building, 2,400 square feet of heated living area for a Building having other than one story. The Declarant or the

Architectural Committee may make reasonable exceptions to the minimum square footage required herein, provided that the Building contains at least 90% of the minimum square footage, and if such exception is made, the Secretary of the Association shall record such exception in the Association's minute book.

Section 4. Building Location. No Building shall be located nearer to any front Lot line than thirty-five (35) feet; nearer to any rear Lot line than 30 feet; or nearer to any side Lot line than fifteen (15) feet. Buildings located on corner Lots shall be a minimum of 20 feet from one street and 15 feet the other street. For the purposes of this covenant, roof overhangs, eaves, stoops, bay windows, steps, decks and open porches shall not be considered a part of a Building provided, however, that this shall not be construed to permit any appurtenant portion of a Building on a Lot to encroach upon another Lot.

Declarant or the Architectural Committee shall have the right to waive a minor violation of, the Building setbacks contained in this Section, where the violation resulted from unintentional or negligent acts on the part of any Owner (including, without limitation, Declarant) and/or is not materially harmful to the Properties. For the purpose of this Section, a minor violation shall be deemed to be any violation of twenty percent (20%) or less of the required setbacks. Such waiver shall be granted in writing, and thereafter such so waived shall no longer be deemed a violation of these covenants. Any waiver shall run with the land and inure to the benefit of any future Owner of the property.

Section 5. Easements. Easements for installation and maintenance of utilities and drainage facilities are reserved along the rear line fifteen (15) feet and ten (10) feet along the front line and both side lines of each Lot. Within said easements so reserved, no structure, planting or other materials shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities or the flow of water within the easement areas. The Owner of each Lot lying within the easement areas as defined herein shall maintain such improvements as may be located thereon except those improvements installed and maintained by public authority or utility company. In the event that the Owner of any Lot shall acquire land adjacent to or in the rear of such Lot, such Lot Owner may relocate the easement herein established over the side or rear lines to conform to the increase in the size of his Lot, provided that alteration in drainage does not thereby adversely affect the drainage of any other Lot or interfere with the rights of the Owners of other property within this subdivision to service rendered by the easement herein created. Such relocated easement shall be the same width as the original easement. A map of such relocated easement shall be recorded at the Wake County Register of Deeds Office.

Section 6. Temporary Structure. No structure of a temporary character, trailer, tent, shack, garage, barn or other outBuilding shall be used on any Lot at any time as a residence, either temporarily or permanently.

Section 7. 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 8. Outdoor Structures and Screening. Garbage and refuse containers, utility meters, dumpsters, transformers, air conditioning and other mechanical equipment, including solar and other alternative energy devices approved by the Architectural Committee, shall be either concealed within a screen or integrated with the Building design so as to be inconspicuous. All outdoor equipment and accessories on a Lot, such as play structures, benches, planters, sculpture, etc. shall be concealed by approved screening or approved in writing as compatible and harmonious with the surroundings by the Architectural Committee.

Section 9. Mail Box Posts. All mail box support posts shall be of material and design as initially approved by Declarant or by an Architectural Committee.

Section 10. Signs. No sign of any kind, except an Owner and street number identification, shall be displayed to the public's view on any Lot except one professional sign of not more than five (5) square feet advertising the property for sale or rent, or signs used by a builder to advertise the property during the construction and sale period, unless prior approval of the Declarant or Architectural committee has been obtained.

Section 11. Driveways. All driveways shall be concrete unless a different material has been approved by the Declarant or the Architectural Committee.

Section 12. Parking Regulations. The Association may regulate the parking of boats, trailers and other such items on the Common Area. No boats or trailers of Owners, Members or their guests shall be parked within the right of way of any public street as shown on the recorded maps of MERION subdivision.

Section 13. Prohibition of Television Antennae, Satellite Discs and Clotheslines. Television antennae, satellite discs or dishes greater than 24 inches in diameter, and outdoor clotheslines are prohibited on the Properties unless approved in writing by the Architectural Committee of the Association.

Section 14. Exterior Maintenance. The Association shall have no obligation or responsibility for any maintenance of Lots, or any Buildings located thereon, such being the obligation and responsibility of the Owner. In cases where maintenance or repair is required in this Declaration to be done or made by an Owner, and such maintenance or repair has not commenced within sixty (60) days, or is commenced, is not completed within a reasonable time thereafter, the Association may, upon thirty (30) days written notice to such Owner, make or complete such maintenance or repairs, and the cost thereof shall be an additional assessment applicable only to such Lot and Owner, and shall be payable as determined by the Board of Directors.

Section 15. Appearance. Each owner shall keep his Lot free of tall grass, undergrowth, dead trees, trash and rubbish and properly maintained so as to present a pleasing appearance. In the event an Owner does not properly maintain his Lot as above provided, in the opinion and sole discretion of the Architectural Committee, then Architectural Committee may have the required work done and the costs thus incurred shall be paid by the Owner as an additional assessment against the Lot and Owner.

Section 16. Sewage Removal. All Lots shall control sewage by individual septic tank system and lines serving each Building. Each private septic system must meet the requirements of the applicable municipal and state health and zoning regulations. Each Owner shall be responsible for obtaining any necessary permits for the septic system from the applicable municipality, and shall maintain and operate the septic system in compliance with all local and state zoning and health regulations, and in such a manner so as not to create any nuisance or offensive conditions. The above mentioned condition only applies to Lots not serviced by a community or public sewer system.

Section 17. Utilities. All water, sewer, gas, electric, telephone, television and other utility lines and connections between the main utility lines and Building and other structures located on each Lot shall be located underground and concealed so as not to be visible.

Section 18. Quiet Enjoyment. No obnoxious or offensive activity shall be carried on upon the Properties, nor shall anything be done which may be or may become a nuisance or annoyance to the neighborhood.

Section 19. Exempt Property. All Properties dedicated to, and accepted by, a local public authority, all Properties owned by a charitable or nonprofit organization exempt from taxation by the laws of the State of North Carolina, and property conveyed to a private utility provider such as a "well lot" as shown on the recorded maps shall be exempt from the assessments created herein. However, no land or improvements devoted to Building use shall be exempt from said assessments.

ARTICLE XI

RIGHTS OF FIRST MORTGAGEES AND INSURERS OF FIRST MORTGAGES

Any institutional holder of any mortgage on a Lot will, upon request in writing to the Association, be entitled to (a) inspect the books and records of the Association during normal business hours, (b) receive written notice of all meetings of the Association and the right to designate a representative to attend all such meetings, (c) receive written notice of any condemnation or casualty loss that affects either a material portion of the project or the Lot securing its mortgage, (d) receive written notice of any sixty (60) day delinquency in the payment of assessments or charges owed by the Owner of any Lot on which it holds the mortgage, (e) receive written notice of a lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association, (f) receive written notice of any proposed action that requires the consent of a specified percentage of mortgage holders, (g) be furnished with a copy of any insurance policy owned by the Association, and (h) to be furnished with at least one copy of the Annual Financial Statement and Report of the Association, prepared by a Certified Public Accountant designated by 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. The Association may require the payment of expenses incurred in preparing copies and mailing of documents furnished to mortgage holders pursuant to this Article.

ARTICLE XII

GENERAL PROVISIONS

Section 1. Enforcement. The Declarant, the Association, or any Owner, shall have the right to enforce, by and proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charters now or hereafter imposed by the provisions of this Declaration. Failure by the Declarant, the Association, and/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. Insurance. In the event the Association becomes the Owner of any Buildings, or other improvements, or personal property, located within the Common Area, the Board of Directors shall obtain hazard insurance (if available) in an amount equal to the maximum insurable replacement value as determined annually by the Board of Directors with the assistance of the insurance company providing such coverage. Such coverage shall provide protection against loss or damage by fire and other hazards covered by a standard extended coverage endorsement, and such other risks as from time to time shall be customarily covered with respect to Buildings and properties similar in construction, location and use.

The Board of Directors shall also procure and maintain public liability and property damage insurance, insuring: each member of the Board of Directors; the manager, if any; and the Association against any liability to the public or to Owners (and their invitees, agents, and employees) arising out of or incident to the ownership and/or use of the Common Area and facilities, or such other areas for which the Association is responsible. The insurance shall be issued on a comprehensive liability basis and shall contain a cross liability endorsement under which the rights of each named insured under the policy shall not be prejudice with respect to his action against another named insured. The amount of such public liability insurance shall be determined by the Board of Directors, but in no event shall it be less than $1 million per occurrence with regard to the Association and each individual Director.

There shall also be obtained such other insurance coverage as the Board of Directors shall determine from time to time to be desirable and necessary. Premiums upon insurance policies purchased by the Board of Directors shall be paid by the Board of Directors as a common expense of the Association.

Section 3. Severability. Invalidation of any one of the 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 4. FHA/VA Approval. Notwithstanding any provisions in this instrument to the contrary, as long as there is a Class B membership, and if Declarant desires to qualify sections of MERION for Federal Housing Administration or Veterans Administration approval (but not otherwise), the following actions will require the prior approval of Federal Housing Administration or the Veterans Administration: Annexation of additional properties, amendment of the Declaration of Covenants, Conditions and Restrictions, merger and consolidations, dissolution and exchange of Common Areas.

Section 5. Amendment. The covenants, conditions and restrictions of this Declaration shall run with and bind the land for a term of thirty (30) years from the date this Declaration is recorded, after which time they shall be automatically extended for an unlimited number of successive periods of ten (10) years each. This Declaration may be amended by an instrument signed by the Owners of not less than sixty-six and two-thirds (66 2/3) of the Lots that have been made subject to this Declaration.

Furthermore, the Declarant, for so long as it controls the Board, and thereafter, the Board of Directors, may amend this Declaration without the consent of the Owners and hereby reserves the right to act on behalf of the Owners to conform this Declaration to the requirements of any law or governmental agency having legal jurisdiction over the Property or to qualify the Property or any units therein for mortgage or improvement loans made, guaranteed or insured by a governmental agency, including, without limitation, Veterans Administration, Federal Housing Administration, Federal National Mortgage Association, Housing and Urban Development and Federal Home Loan Mortgage Corporation, or to comply with the requirements of law or regulations of any governmental corporation or agency regarding purchase of mortgage interests in units by such agency. A letter from any such agency stating that a change is desired or necessary in order to qualify the Property or any units for loans eligible to be guaranteed by, insured by or purchased by such agency, shall be sufficient authority for the amendment of this Declaration.

Section 6. Certification of Amendment. If any amendment to these covenants, conditions and restrictions is executed, each such amendment shall be delivered to the Board of Directors of the Association. Thereupon, the Board of Directors, shall, within thirty (30) days do the following:

(a) Reasonably assure itself that the amendment has been executed by the Owners of the required number of Lots. (For this purpose, the Board may rely on its roster of members and shall not be required to cause any title to any Lot to be examined):

(b) Attach to the amendment a certification as to its validity, which certification shall be executed by the Association in the same manner that deeds are executed. The following form of certification is suggested:

CERTIFICATION OF VALIDITY OF AMENDMENT TO COVENANTS, CONDITIONS AND RESTRICTIONS OF MERION

By authority of its Board of Directors, Merion Homeowners Association, Inc. hereby certifies that the foregoing instrument has been duly executed by the Owners of _____ percent of the Lots of MERION and is, therefore, a valid amendment to the existing covenants, conditions and restrictions of MERION.

MERION HOMEOWNERS
ASSOCIATION, INC.

____
__________ President

(c) Immediately, and within the thirty (30) day period aforesaid, cause the amendment to be recorded in Wake County Registry.

All amendments shall be effective from the date of recordation in the Wake County Registry, provided, however, that no such amendment shall be valid until it has been indexed in the name of the Merion Homeowner's Association, Inc. When any instrument purporting to amend the covenants, conditions and restrictions has been certified by the Board of Directors, recorded and indexed as provided by this Section, it shall be conclusively presumed that such instrument constitutes a valid amendment as to all persons thereafter purchasing any Lots in MERION.

Notwithstanding the foregoing, an amendment which requires the approval of the Wake County Attorney shall not be effective until approved by said attorney.

Section 7. Prohibition Against Association Entering Into Long Term Contract While Declarant in Control of the Board of Directors. Until such time as the total votes outstanding in Class A membership equal the total votes outstanding in Class B membership, or December 31, 2010 whichever occurs first, the Association is not bound either directly or indirectly to contracts or leases (including a management contract) unless there is a right of termination of any such contract or lease, without cause, which is exercisable without penalty at any time after the occurrence of one of the above events, upon not more than 90 days notice to the other party.

Section 8. Limitation of County Responsibility. Wake County or any private provider of public services shall not be responsible for failing to provide any emergency or regular fire, police or other public service to the Properties when such failure is due to lack of access to the Properties due to inadequate design or construction, blocking of access routes, or any other factor within the control of Declarant, Association or members.

ARTICLE XIII

EASEMENTS

Section 1. Walks, Drives, Parking Areas and Utilities. All of the Property, including Lots and Common Area, shall be subject to such easements for driveways, walkways, parking area, water lines, irrigation systems, sanitary sewers, storm drainage facilities, gas lines, telephone and electric power lines, television antenna lines, cable television and other public utilities as shall be established prior to subjecting the Property to this Declaration by the Declarant, and the Association shall have the power and authority to grant and to establish in, over, upon and across the Common Area conveyed to it such further easements as are requisite for the convenient use and enjoyment of the Property.

The Declarant reserves the right to subject the real property covered by this Declaration to a contract with a power and light company for the installation of underground electric cables and/or the installation of street lighting, either or both or which may require an initial payment and/or a continuing monthly payment to the power and light company by the Owner of each Lot upon which service has been installed.

Section 2. Easements Appurtenant to Lots. All Common Area, shall be subject to an easement in favor of every Lot to which they are adjacent or which they are designated to serve and shall be deemed appurtenant to each such Lot, whereby the Owner of each such Lot shall be entitled to use them as a means of ingress, egress and regress and such other uses shall have been designated. Such easement shall be superior to the lien of every mortgage or deed of trust.

Section 3. Emergencies. Every Lot shall be subject to an easement for entry by the Association for the purpose of correcting, repairing, or alleviating any emergency condition which arises upon any Lot and that endangers any Building or portion of the Common Area.

Section 4. Easement for Governmental Agencies. An easement is hereby established over the Common Area and all Lots for the benefit of applicable governmental agencies, public utility companies and public service agencies, public utility companies and public service agencies as necessary for setting, removing and reading of meters, replacing and maintaining water, sewer and drainage facilities, electrical, telephone, gas and cable antenna liens, fire fighting, garbage collection, postal delivery, emergency and rescue activities and law enforcement activities.

Section 5. Emergency Vehicle Access. An easement for emergency vehicle access shall exist over all private streets as shown on the record map. Neither the Association nor Members shall restrict emergency vehicle access over these private streets. The Association and its Members shall hold the County and other emergency vehicle operators harmless for any liability which might result from their use of the private streets.

Section 6. Easements Reserved on Record Plat. All drainage and utility easements reserved as shown on the recorded plat for Merion Subdivision shall be for the benefit of the general public and/or all Owners of lots within the subdivision, unless such easements are clearly labeled "private" on the recorded map. If such easements as reserved on the recorded map are labeled "private" each lot Owner upon which the easement is located shall be responsible for maintenance of said easement for the purposes reserved. If such easements are not labeled private on the recorded map, the maintenance of any such easements shall be common expenses of the Association and the maintenance of such easements shall be an obligation of the Association.

Section 7. Declarant's Rights. Declarant hereby reserves the following rights and easements for the benefit of the Declarant including, without limitation, any right: (i) to complete improvements indicated on plats and plans recorded; (ii) to exercise any development right; (iii) to maintain sales offices, management offices, signs advertising Merion models; (iv) to use easements through the Common Area and/or Permanent Open Space for the purpose of making improvements within Merion or within real estate that may be added to the Property.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has caused this instrument to be executed by its Managers by authority duly given by Declarant, this the 5th day of July, 2001.

(Next page is signature page)

MERION DEVELOPERS, LLC, a North Carolina limited liability company

By: Charles R. Manning III

Charles R. Manning, III, Manager

Paul H. Downs

Paul H. Downs, Manager

NORTH CAROLINA

WAKE COUNTY

I, Jennifer Metz, a Notary Public, do hereby certify that CHARLES R. MANNING, III and PAUL H. DOWNS personally appeared before me this day and acknowledged that they are Managers of MERION DEVELOPERS, LLC, a North Carolina limited liability company and further acknowledged the due execution of this Declaration on behalf of the limited liability company.

WITNESS my hand and official seal, this the 5th day of July, 2001.

JENNIFER METZ NOTARY *** PUBLIC WAKE COUNTY, N.C.

Jennifer Metz

Notary Public

My Commission Expires:

5-25-03

BK009030PG02336

Laura M Riddick
Register of Deeds
Wake County, NC

Book : 008990 Page : 01093 - 01116

Yellow probate sheet is a vital part of your recorded document.
Please retain with original document and submit for rerecording.

WAKE COUNTY NORTH CAROLINA

Wake County Register of Deeds
Laura M. Riddick
Register of Deeds

North Carolina - Wake County

The foregoing certificate___ of ____________________

Jennifer Metz

________ Notary(ies) Public is (are) certified to be correct. This instrument and this certificate are duly registered at the date and time and in the book and page shown on the first page hereof.

Laura M. Riddick, Register of Deeds
By: Frederick C. Baynon
Assistant/Deputy Register of Deeds

This Customer Group
1 # of Time Stamps Needed

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New Time Stamp
24 # of Pages

Laura M Riddick
Register of Deeds
Wake County, NC

Book : 009030 Page : 02313 - 02337

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Please retain with original document and submit for rerecording.

WAKE COUNTY NORTH CAROLINA

Wake County Register of Deeds
Laura M. Riddick
Register of Deeds

North Carolina - Wake County

The foregoing certificate___ of ______________________________

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________ Notary(ies) Public is (are) certified to be correct. This instrument and this certificate are duly registered at the date and time and in the book and page shown on the first page hereof.

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By: ______________________
Assistant/Deputy Register of Deeds

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