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WINDSWEPT SUBDIVISION PHASE III

Morristown, Hamblen County, Tennessee

DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND DESIGN GUIDELINES FOR WINDSWEPT SUBDIVISION PHASE III (SINGLE FAMILY HOMES)

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THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND DESIGN GUIDELINES FOR WINDSWEEP SUBDIVISION PHASE III (SINGLE FAMILY HOMES) (the Declaration) is made as of October 19, 2006 by **LAKE DEVELOPERS II, LLC.**, a Kentucky limited liability company (Developer) .

WHEREAS, Developer owns certain real property in Hamblen County, Tennessee commonly known as Windswept, more particularly described on Exhibit A attached hereto and incorporated herein by reference (the Property , which is to be developed in part as a single family residential subdivision and which is to be marketed as Windswept Subdivision; and,

WHEREAS, Developer desires to subject the Property together, with such additions as may hereafter be made thereto, to the covenants, restrictions, easements, charges and liens as contained in this Declaration, all of which are for the benefit of the Property and each individual owner thereof; and,

WHEREAS, Developer will develop adjoining property as condominiums, cottage homes, townhouses and other single family home phases which will be subject to separate covenants, conditions, restrictions and design guidelines; and

WHEREAS, Developer has incorporated under the laws of the State of Tennessee a non-profit corporation known and identified as Windswept Homeowners Association, for the purpose of maintaining and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created;

NOW, THEREFORE, Developer hereby declares that all of the Property 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 the Property. The easements, restrictions, covenants and conditions shall run with the property and be binding on all parties having any right title or interest in the property, their heirs, successors and assigns and shall inure to the benefit of each owner.

ARTICLE I

DEFINITIONS

Section 1. Association shall mean and refer to the Windswept Homeowners Association, a Tennessee non-profit corporation, its successors and assigns.

Section 2. Board of Directors means the board of directors of Windswept Homeowners Association.

Section 3. By Laws means the by laws of Windswept Homeowners Association, as amended from time to time. All provisions contained in the body of this Declaration dealing with the administration and maintenance of the Property shall be deemed to be part of the By-Laws.

Section 4. Common Area shall mean that portion of the Property (including the improvements thereto) not contained in Lots, shall include road, streets, marinas, recreation areas, green areas, landscape features, irrigation systems and fountains and all other portions of the Property

designated on the Plat as Common Areas. Common Areas shall include the Marina and the Clubhouse.

Section 5. Community Wide Standard shall mean the standard of conduct, maintenance or other activity generally prevailing throughout the Property. Such standard may be more specifically determined and set forth by the Board of Directors or its designee.

Section 6. Developer shall mean and refer to Lake Developers II, LLC, a Kentucky limited liability company.

Section 7. Lake Front Lot shall mean and refer to any numbered parcel of the Property as shown on the plats of Windswept Subdivision which abut the Cherokee Lake.

Section 8. Lot shall mean and refer to any numbered parcel of the Property as shown on the plats of the Windswept Subdivision.

Section 9. Interior Lot shall mean any lot other than a Lake Front Lot.

Section 10. Majority shall mean those votes of the Owners representing more than fifty (50%) percent of the total vote in the Association. Any specific percentage of Lot Owners means that percentage of Lot Owners who in the aggregate are entitled to exercise such specified percentage of the total vote in the Association.

Section 11. Marina shall mean common area lake front property used for the purpose of slips, storage and launching of boats.

Section 12. Member shall mean and refer to every person or entity who holds membership in the Association.

Section 13. 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, but excluding those having such interest merely as security for the performance of an obligation.

Section 14. Person shall mean any individual, corporation, partnership, joint venture, limited liability company, trustee or other legal entity.

Section 15. Plat means the final record plats of survey of the Property of record in the Register Office for Hamblen County, Tennessee, showing the number of each Lot and expressing its area, location and other data necessary for identification as such plat or plats may be amended from time to time.

Section 16. Property shall mean and refer to that certain real property described in Exhibit A attached hereto and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 17. Unit shall mean and refer to any improved residential lot.

ARTICLE II

WINDSWEPT HOMEOWNERS ASSOCIATION

Section 1. Members. Developer and every Owner of a Lot which is subject to an assessment shall be a member of the Association. Such Owner and Member shall abide by the Association By Laws, Charter, rules and regulations and shall pay the assessments provided for in this Declaration when due and shall comply with decisions of the Association Board of Directors. Conveyance of a Lot, except a conveyance to a trustee under a deed of trust or to a mortgagee in a foreclosure, automatically transfers membership in the Association without necessity of further documentation. Membership shall be appurtenant to and may not be separated from any Lot which is subject to assessment. No Owner, whether one or more persons, shall have more than one membership per Lot owned. In the event an Owner of a Lot is more than one person, votes and rights of use and enjoyment shall be as provided herein. The rights and privileges of membership, including the right to vote, may be exercised by a member or the member spouse subject to the provisions of this Declaration and the By Laws. The membership rights of a Lot owned by a corporation or a partnership shall be exercised by the individual authorized in a written instrument provided to the Secretary of the Association subject to the provisions of this Declaration.

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

(a) **Class A.** Class A members shall be all Lot Owners, with the exception of the Developer, and shall be entitled to one (1) vote for each Lot owned. If more than one person holds interest in such Lot, the vote for such Lot shall be exercised as the persons determine among themselves and advise the Secretary of the Association prior to any meeting. In the absence of such advice, the Lot vote shall be suspended if more than one person seeks to exercise such vote.

(b) **Class B.** The Class B member shall be Developer. Developer shall be entitled to one (1) vote for each Lot owned and it shall determine who shall cast the votes. In addition, the Class B member shall be entitled to appoint a majority of the members of the Board of Directors, in accordance with the By-Laws, until 100% of the Lots shown on Exhibit A, as amended from time to time, including additions thereto, have certificates of occupancy issued thereon and have been conveyed to persons other than Developer or builders holding title for the purposes of development and sale. The Class B membership shall cease and be converted to Class A membership of the happening of any of the following events, whichever occurs earlier: (i) when in its discretion Developer so determines or (ii) when Developer right to appoint a majority of the Board terminates as set forth hereinafter.

Section 3. Rights and Obligations of the Windswept Homeowners Association.

(a) The Association shall maintain, operate and keep in good repair, unless such obligations are assumed by any municipal or governmental agency having jurisdiction thereof, the Common Areas, including, without limitation, roads, streets, marinas, recreation areas, sewer system, water systems, open spaces, entrance ways, medians, and landscaping located therein. In addition, the Association shall have the right to construct and maintain ornamental structures,

such as fountains, and landscaping in the areas designated as Common Areas on the Plat together with the right of ingress and egress for the purpose of carrying out that construction and maintenance. The Association shall also maintain the in-ground irrigation and sprinkler system, if any, contained on the Common Areas and shall be responsible for the payment of all water bills resulting from the use of such systems, as well as other utilities, taxes, insurance, and other costs and expenses related to the ownership, operation, and maintenance of the Common Areas.

(b) All rights reserved by the Developer in this Declaration shall automatically pass to the Association when Class B membership ceases pursuant to Article II, Section 2, except that the Developer may assign any and all rights reserved herein to the Developer to said Association at any time prior to the sale by the Developer of 100% of the Lots shown on Exhibit A as specifically provided for in Article II, Section 2(b) hereinabove.

(c) In addition to the powers and duties otherwise set forth in this Declaration, the Association is authorized and directed to make provision for the improvement and maintenance of the Common Areas and to adopt rules and regulations and to take such action as is necessary to accomplish the purpose of this Declaration. The Board of Directors of the Association shall propose rules and regulations for adoption by the members. Written notice of any meeting to consider said rules and regulations or any amendments thereto shall be given in writing at least 30 days in advance and shall set forth the time, place and purpose of the meeting. The presence at the meeting of members in person or by proxy entitled to cast thirty (30%) percent of all the votes shall constitute a quorum for this purpose.

ARTICLE III **PROPERTY RIGHTS**

Section 1. Owners Easement of Enjoyment Exceptions. Every Lot Owner shall have a right and easement of enjoyment including without limitation, except for the restrictions on the usage of the marina as set forth in Article III Section 6 and the usage of the clubhouse as set forth in Article III, Section 7, the right of vehicular and pedestrian ingress and egress in and to the Common Areas which shall be appurtenant to and shall pass with the title of every Lot. This right and easement shall also be granted to the Association and the Owner families, guests, invitees, servants, employees, tenants and contract purchasers. Developer shall have access to any and all Common Areas so long as is necessary for Developer to develop, construct or sell or otherwise dispose of any property subject to this Declaration.

Section 2. Title of Common Areas. The Developer may retain the legal title to the Common Areas (or, as to Common Areas within dedicated right-of-way, the obligation to maintain and regulate) until such time as in the opinion of the Developer the Association is able to maintain and regulate the use of same; provided, however, the Developer hereby covenants that it shall convey legal title to the Common Areas to the Association (or, as to Common Areas within dedicated right-of-way, shall transfer the obligation to maintain and regulate) no later than at such time as Class B membership is converted to Class A membership. Whenever the Developer conveys legal title or transfers the obligation to maintain and regulate all or part of the Common Areas to the Association, the Association shall accept such legal title and shall assume control and responsibility for the Common Areas so conveyed.

Section 3. Extent of Owners Easements. The rights and easements of use and enjoyment hereby created shall be subject to the following:

(a) The right of the Association to take such steps as are reasonably necessary to protect the Common Areas from foreclosure;

(b) The right of the Association to suspend the voting rights of an Owner for any period during with any assessment against his Lot remains unpaid and for a period of time for any infraction of its published rules and regulations; and The right of the Association to dedicate or transfer all or any part of the Common Areas to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by a majority of the Board of Directors provided the Owners easements of ingress and egress and any public utility easements previously established shall not be affected. Developer may declare utility, service or drainage easements upon, through or under the Common Areas at its sole discretion so long as there is in existence the Class B membership in accordance with Article H, Section 2. When Class B membership ceases, this right of Developer shall automatically pass to the Board of Directors of the Association.

Section 4. No Partition. Except as is permitted in this Declaration or amendments thereto, there shall be no physical partition of the Common Areas or any part thereof, nor shall any person acquiring any interest in the Property have the right of judicial partition. This Section does not prohibit the Board of Directors from acquiring and disposing of tangible personal property nor from acquiring title to real property which may or may not be subject to this Declaration.

Section 5. Sale of Common Areas. No Common Areas shall be sold or otherwise disposed of without first offering to dedicate such area to the Morristown City Government. This limitation neither applies to a transfer of the Common Areas to an organization conceived and established to own and maintain the Common Areas as a successor to the Association, nor to the dedication of streets or utility easements as provided in Section 3(c) of this Article. This restriction shall survive any amendment to or cancellation of this Declaration.

Section 6. Marina Usage. Provided the Owner is not in default in the payment. of any Association assessments, each Owner shall have the non-exclusive right to use the public-access boat slips of the Windswept Marina for short-term boat docking. The slips will be allocated on a first come - first serve basis to Owners and other permitted users of the Windswept Marina. Owners shall obey the rules and regulations of the Windswept Marina. Owners of single family lots in other phases, townhouses, condominiums and other properties in other areas of Windswept Subdivision and their guests shall also have the right to use the Windswept Marina.

Section 7. Clubhouse Usage. Provided the Owner is not in default in the payment of any Association assessments, each Owner shall have the non-exclusive right to use the Windswept Clubhouse as follows: (i) overnight guest rooms may be reserved for use by each Owner or his or her guests on a first come - first serve basis up to a total of five room nights per year per Owner; (ii) the common area recreation areas, swimming pool and tennis courts of the Windswept Clubhouse may be used by an Owner and his or her guests accompanied by the Owner; and (iii) the reception areas of the Windswept Clubhouse may be reserved on a first come - first serve basis. Owners shall obey the rules and regulations of the Windswept Clubhouse. Any

children under the age of 18 using the Windswept Clubhouse shall be accompanied by an adult. Owners of single family lots in other phases, townhouses, condominiums and other properties in other areas of Windswept Subdivision and their guests shall also have the right to use the Windswept Clubhouse.

ARTICLE IV **ASSESSMENTS**

Section 1. Assessments, Creation of the Lien and Personal Obligation. Each Owner, except Developer, by acceptance of a deed for the Lot whether or not it shall be so expressed in such deed, covenants and agrees to pay to the Association (i) annual assessments or charges, and (ii) special assessments for capital improvements, such assessments to be established and collected as provided in this Article IV. The annual and special assessments, together with interest, costs and reasonable attorneys fee, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorneys fees, shall also be the personal obligation of the party who was the Owner of such property at the time the assessment fee was due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments.

(a) The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents and, in particular, for the acquisition, improvement and maintenance of the Property, services and facilities devoted to this purpose, or for the use and enjoyment of the Common Areas, including but not limited to, the cost of repairs, replacements and additions, the cost of labor, equipment, materials, management and supervision, payment of taxes assessed against the Common Areas, the procurement and maintenance of insurance in accordance with the By Laws, the cost of providing security for the Property, the employment of attorneys to represent the Association when necessary, and such other needs as may arise; and for the improvement and maintenance of the Common Areas and Lots.

(b) Until Class B membership ceases and is converted to Class A membership pursuant to Article II, Section 2, Developer or its nominee shall administer the assessments and receipts there from which may only be used for purposes generally benefiting the Property, as permitted in this Declaration.

(c) Until such time as Developer conveys the Common Areas to the Association, or transfers the obligation to maintain and regulate the Common Areas to the Association, the Developer shall be obligated for the difference between the amount of assessments levied on all Lots subject to assessment and the amount of actual expenditures required to operate the Association during the calendar year. This obligation may be satisfied in the form of a cash subsidy or by in kind contributions of services or materials, or a combination of these. The Association is specifically authorized to enter into subsidy contracts or contracts for in kind contribution of services or materials or a combination of services and materials with Developer or other entities for the payment of some portion of the common expenses.

Section 3. 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 cost of defraying in whole or in part the cost of any construction; reconstruction or repair or replacement of a capital improvement upon the Common Areas, including fixtures and personal property related thereto. Any such assessment shall require the assent of the members of the Association in accordance with the By Laws.

Section 4. Uniform Rate of Assessment. Both annual and special assessments shall be fixed at a uniform rate for all Lots.

Section 5. Date of Commencement of Annual Assessments; Due Dates. The annual assessment provided for herein shall begin as to any Lot subject to the assessments on the first day of the month next following the date of acquisition of record title to a Unit by the first purchaser from the Developer. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year when title to the Lot is transferred.

Section 6. Effect of Non-Payment of Assessments; Remedies of the Windswept Homeowners Association. Any assessment not paid within fifteen (15) days of the due date shall be subject to a late charge as determined by the Board of Directors. The Association may bring an action at law against the Owner personally obligated to pay the assessment, or foreclose the lien against the Property, and interest, costs and reasonable attorneys fees of such action or foreclosure shall be added to the amount of such assessments. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Areas or abandonment of his Lot.

Section 7. Subordination of the Lien to Mortgages and Deeds of Trust. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage or first deed of trust. Sale or transfer of any Lot shall not affect the assessment lien or liens provided for in the preceding sections. However, the sale or transfer of any Lot pursuant to a first mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such Lot Owner from liability for any assessments thereafter becoming due or relieve such Lot from the lien for any assessments thereafter becoming due.

ARTICLE V **USE RESTRICTIONS**

Section 1. Primary Use Restrictions. No Lot shall be used except for private single family residential purposes. No structure shall be erected, placed or altered or permitted to remain on any Lot except one single family dwelling designed for the occupancy of one family (including any domestic servants living on the premises), not to exceed two and one half stories in height for the sole use of the Owner and occupants of the Unit. Detached buildings including, but not limited to, garages, pool houses, carriage houses, gardening stands, and guesthouses may be submitted for approval.

Section 2. Building Locations. All lots shall have a minimum setback distance from the street right of-way, rear lot line and interior side lot lines as follows:

Street Setback-Buildings	30 feet minimum to the lot line
Street Courtyard	25 feet minimum to the lot line
Street Fences	25 feet minimum to the lot line
Rear Setback-Building	30 feet minimum to the lot line
Rear Courtyard and Fences	50 feet minimum to the lot line
Side yard Setback-Buildings	15 feet minimum to the lot line
Side Courtyard and Fences	20 feet minimum to the lot line

In the event the setback distances are exceeded by the City of Morristown setback requirements, the more stringent shall apply.

Section 3. Subdivision of Lot. No Lot shall be subdivided or its boundary lines changed except with the prior written approval of the Board of Directors. Developer, however, hereby expressly reserves the right to re-plat any Lot or Lots which it owns prior to conveyance by Developer. Any such division, boundary change, or re-platting shall not be in violation of the applicable subdivision and/or zoning regulations.

ARTICLE VI **ARCHITECTURAL REVIEW PROCESS**

Section 1. Procedures. In order to facilitate the design of timeless architecture and visual spirit of the Property, an Architectural Review Process has been established. In addition to these requirements, all property owners are also bound by the design guidelines in the *Windswept Community Design Guidelines* (WCDG, a copy of which is available in the office of the Windswept Architectural Review Committee (the ARC . No structure on a residential lot within the Property shall be erected or altered until the proposed site plan, building plans, construction materials and colors have been approved in writing by the C. The ARC has been established to administer the architectural review for new construction and proposed additions or modifications to existing structures with the Property. The Developer is responsible for establishing and making available to Owners design guidelines, design review procedures, and design review submission requirements. The Developer has provided written authority to the City of Morristown to reject any plans not having the ARC seal of approval.

Section 2. Design Guidelines. No dwelling shall be erected, placed, altered or permitted to remain on any Lot unless it conforms to the WCDG. Dwellings shall be permitted as an exception only as approved by the ARC per the process stated above. Only residences designed in the following Architectural Styles and permitted variations of those styles will be allowed to be built in Windswept.

1. French

2. Plantation
3. Georgian
4. English
5. New England
6. Traditional

Log homes, or structures containing logs will be reviewed on an individual basis. In order to be approved by the ARC, log homes must be of an exceptional design.

All Architectural Styles and permitted variations shall be architecturally accurate and detailed as to form, massing, etc.

Only residences of one, one and one-half, two, and two and one-half story design, with a minimum building and living area of 2,500 square feet on the treet floor will be permitted in the Property. Square feet shall exclude garages, patios, porches and outbuildings. Any guesthouse must have a minimum building and living area of 1,200 square feet.

The Architectural Style and detailing of the home, any outbuilding and hardscaping shall be continued on the entire exterior of the structure and all materials shall be continuous in use. Front or streetyard only architectural interpretations of style will not be allowed.

All homes designed and built in the Property shall be one-of-a-kind and unique to its site. No duplication of any home built in the Property shall be allowed either in plan or exterior, or both. Mirrored duplicates shall not be permitted.

References to building, structure, or home shall include, but not be limited to, any building (including a garage), fence, wall, antenna and microwave and other receivers and transmitters including those currently called satellite dishes, and swimming pools and their enclosures.

Developer contemplates that the residences to be constructed shall be of a traditional architectural character. However, in the sole discretion of the Developer, other types of architectural designs may be approved if desirable, in the sole opinion of the Developer, in order to take advantage of unusual characteristics of a particular Lot brought about by slopes, location of trees or other unique characteristics. The Developer retains the sole right and authority in its discretion to approve or disapprove of the materials utilized in the construction of the improvements (references to improvements in this paragraph are intended to include without limitation the items specified in the preceding paragraph, and if there is any question as to the all inclusive nature of this covenant, the judgment of Developer in its sole discretion shall control).

Section 3. Scope of Review. The ARC reserves the right to review the plans, specifications, materials and samples submitted to them by the Owner, to verify that the proposed structures and/or alterations to existing structures conform to the WCDG, and to approve the aesthetics of the proposed structure and its appropriateness to the surrounding neighborhood and the configuration of each lot. It is understood that the Property is developed on varying topography common in East Tennessee. Such topographic conditions shall be considered by the ARC on a lot by lot basis in reference to the established setbacks and restrictions as set forth in the WCDG.

In reviewing each application and related submissions, the ARC shall be guided by the WCDG; however, the WCDG shall not be the exclusive basis for its decisions. Compliance with the WCDG does not guarantee approval of any application. The ARC may consider any factor it deems relevant, including harmony of external design with surrounding structures and environment and consistency with the visual themes established for the Property. Its decisions may be based purely on aesthetic considerations. Each Owner, by accepting a deed to a Lot acknowledges that determinations as to such matters may be subjective and opinions may vary as to the desirability of attractiveness of particular improvements.

Section 4. Review of Design Submissions. The ARC has established the following procedures for the review of architectural and landscape designs. Owners, builders and architects are encouraged to participate fully and actively in the architectural review process. In addition to the required design review steps, the applicant for design review is encouraged to contact the ARC during the design review process for clarification of the architectural guidelines for the Property or design review comments.

The ARC will review design submissions on a monthly basis in the order they are received and will attempt to respond to them in a timely manner. After the plans have been reviewed, the plans will be returned to the applicant with written comments from the C.

Submissions should be sent to:

Windswept Architectural Review Committee
1510 Highway 25E
Bean Station, Tennessee 37708

Section 5. Use and Approval of Design Professionals. All plans for new structures and additions to existing structures shall be prepared by licensed professionals or otherwise qualified architects, landscape architects, engineers or other qualified designers. It is highly recommended that a team of qualified professionals be used in the preparation of the plans.

Section 6. Design Review Fees. Design review fees are established and set by the C. The ARC reserves the right to change or waive these fees from time to time. A list of fees is available upon request.

Section 7. Design Variances. The ARC may authorize variances from compliance with the WCDG or any of its guidelines and procedures with circumstances such as topography, natural obstructions or architectural merit. No variance shall be effective unless in writing nor shall it bind the ARC to grant a variance in other similar circumstances.

Section 8. Additional Meetings with the ARC. If an application for design approval has been denied, or the approval issued by the ARC is subject to conditions which the applicant feels are unacceptable, the applicant may request a meeting with the ARC designated agents to discuss the plans and the ARC reasons for denial.

Section 9. Design Orientation Meeting. The Design Orientation Meeting is an introductory meeting with the ARC designated representative. This meeting will cover the design guidelines,

the design review process and general information about building a house in the Property. The applicant architect and builder, if selected, are encouraged to attend this meeting.

Section 10. Conceptual Design Review. The Conceptual Design Review is a preliminary review of the initial design concepts including, but not limited to proposed plans, elevations and images of design precedents. Form A, a copy of which is available in the ARC office, and one (1) set of the Required Documents listed in Exhibit B attached hereto, must be submitted to the C. The ARC reserves the right to request additional information in order to review the proposed improvements.

Upon reviewing the information received, the ARC will provide written comments to the applicant on the general design direction of the house, issues to be aware of as they move forward in the design review process, and potential opportunities to explore in their design. In order to get the greatest value out of this design review step, the applicant is encouraged to include as much information as desired to describe the intended architectural character and overall design direction.

Section 11. Final Design Review. The Final Design Review has been established to ensure that the applicant designs for all improvements are in compliance with the WCDG. This step in the review process is also to verify the incorporation of requirements and recommendations made by the ARC during the Conceptual Design Review. Form B, a copy of which is available in the ARC office, and one (1) set of the Required Documents listed in Exhibit C attached hereto, should be submitted to the C. The ARC reserves the right to request additional information in order to review the proposed plans.

Upon completion of this stage of the design review process, the design will be approved without exception, not approved, or approved with conditions. If the design is approved without exception, the applicant may proceed with the construction of the proposed improvement pending an approved Stakeout Review. If the design is conditionally approved, the applicant must submit the required modifications and additional information requested by the C. Once the information is reviewed and approved by the ARC, the applicant may proceed with the construction of the proposed improvements pending an approved Stakeout Review. If the applicant does not agree to make the required modifications, the plans shall be considered not approved. If the plans are not approved, the applicant shall re-design and re-submit the plans to the ARC for reconsideration for Final Design approval.

Section 12. Stakeout Review. The Stakeout Review has been established to verify that the placement of the house and ancillary structures is consistent with the approved design. The applicant or the applicant builder is required to stake out the position of the house and ancillary structures. All trees, over 6 caliper to be removed shall be tagged and all corners of any buildings must be clearly staked.

Tree protection fencing, silt fencing and erosion control measures must be installed properly at the time of the Stakeout Review.

The applicant or the applicant builder should request a Stakeout Review, Form C, a copy of which is available in the ARC office, from the ARC at least seven (7) days prior to the review. The Owner is welcome to attend the Stakeout Review.

Section 13. Landscape Design Review. The Landscape Design Review has been established to ensure the applicant landscape design is in compliance with the established landscape standards.

Form D, a copy of which is available in the ARC office, and one (1) set of the Required Documents listed in Exhibit D attached hereto, must be submitted to the ARC prior to the commencement of the installation of any landscape improvements. Deadlines for design submittal and installation completion shall be established as per the Owner Lot Purchase Agreement. The ARC reserves the right to request additional information in order to review the proposed plans.

Section 14. Final Inspection. Upon completion of the construction, the applicant should submit Form E, Request for Final Inspection, a copy of which is available in the ARC Office, to the ARC at least seven (7) days prior to requested inspection date. During the Final Inspection, the ARC will verify that the exterior of the house was built in substantial compliance with the approved design, and that landscape plan has been completed as submitted and approved by the ARC. Upon receiving an approved Final Inspection, the landscape/construction completion deposit will be refunded within seven (7) days.

Section 15. Changes to Approved Designs. Any changes, prior to or during construction, to the plans that were submitted and approved by the ARC at the Final Review, must receive written approval from the ARC prior to execution. In the event a change to the approved drawings is desired by the applicant, the applicant must submit Form F, a copy of which is available in the ARC office, and drawings of the proposed change. Major changes/additions not previously approved during the Final Design Review, may require an additional design review and requisite fee.

If changes are made without prior written approval from the ARC, the ARC has the right to require the applicant to remove, revise and replace the unauthorized change at the applicant expense.

Section 16. Alterations to Existing Structures and Lot Improvements. If an alteration to an existing structure and/or lot improvements is minor (including but limited to, change in paint color, fences, and modifications/additions to landscaping, and pools) the applicant shall submit Form G, Changes to Existing Structures, a copy of which is available in the ARC office, for minor improvements, and information fully describing the intended improvements to the C. A design review fee must accompany this submittal. The ARC reserves the right to request additional information in order to review the proposed plans.

If an alteration to an existing structure and/or improvements is major (including but not limited to porches, new wings, garages, storage or garden sheds or additions), the applicant shall submit Form G, Changes to Existing Structures, for major improvements. The information required and the design review process is similar to that established for new house construction. A design review fee must accompany this submittal.

The ARC approval, in writing, of the proposed alterations and/or improvements is required before work on the alterations and/or improvement may commence.

Section 17. Members of the ARC. The ARC shall consist of the following three members; (i) an architect appointed by the Developer; (ii) a representative of the Developer; and (iii) a third person appointed by the architect and the representative of the Developer.

Section 18. Right of Inspection. The ARC, its agents and representatives, shall have the right during reasonable hours to enter upon and inspect any Lot and structure thereon for the purpose of ascertaining whether the installation, construction, alteration or maintenance of any structure or the use of any Lot or structure is in compliance with the provisions of this Declaration; and the ARC shall not be deemed to have committed a trespass or other wrongful act solely by reason of such entry or inspection.

ARTICLE VII **CONSTRUCTION COVENANTS**

Section 1. Permits. Each lot owner shall be responsible for obtaining and paying for all permits, fees, aids to construction and all other requirements pertaining to the design and construction of the home.

Section 2. Excavation. Except for the excavation material necessary for the backfilling of a residence and other on-site construction, all excavated material must be immediately removed from the site and the development at the time of excavation. Except as noted above, no excavated material shall remain or be stored on any lot or outlot that is part of Windswept. Storage piles for topsoil or fill shall be located to the rear of the home.

Any materials to be used for bacilli, or any other purpose, may not be stored within a 10-foot radius of any tree. All trees in the immediate area of construction shall be protected by an acceptable measure approved by the Architectural Guidelines Committee (AGC). All lots shall conform to the grading and drainage plans for Windswept as approved by the City of Morristown.

Section 3. Erosion Control and Site Maintenance. During construction, measures shall be taken, by Owners and their contractors, to control erosion. Drainage paths on individual lots will require placement of hay bales or silt fencing to protect against erosion during construction and until the property is vegetatively stabilized.

In addition, it shall be the responsibility of the individual lot Owners and their contractors to control the tracking of mud, dirt, clay, stones and other construction debris on public streets during construction on a daily basis. Pressurized water may not be for purposes of cleaning public streets.

All construction sites shall be maintained in a neat and clean condition. Construction debris shall be cleaned up daily and disposed of at least on a weekly basis. All material stored on site shall be placed in an orderly manner and protected so as not to create a hazard to workers or visitors to the site.

Material stored at the site shall be located no closer than thirty feet from the front property line, 15 feet from the side property line, and 20 feet from the rear property line.

Entry to the property shall be at the point of the proposed driveway. No additional entries will be permitted. A crushed stone base of a minimum of 4" shall be maintained at the temporary driveway and parking areas. No vehicles shall be permitted to be parked outside of the maintained graveled areas. Vehicles are not allowed to drive over curbing at any location.

Any site vegetation shall be kept trimmed during the construction period.

Section 4. Temporary Structures. Structures of a temporary nature including, but not limited to, a trailer, tent, shack, garage, barn, or other utilitarian type outbuilding, shall not be used on any lot at any time as a residence or for any other purpose, whether temporarily or permanently unless otherwise provided for herein.

Temporary toilet facilities shall be permitted under the following conditions:

1. Only one facility per lot.
2. Temporary facility shall be provided by a professional, state licensed sanitation provider.
3. The structure shall be located at the rear of the residential structure, a minimum of twenty feet from the rear lot line.
4. The door shall face the residential structure, and be placed so that the door is not visible from the street.
5. The sanitation provider shall change the facility at their recommended intervals.
6. The structure is removed immediately upon substantial completion of the residence.

The general contractor of a residence for an Owner may, upon approval of the AGC and payment of a \$500.00 security deposit, provide a job trailer on the Owner lot only during the time of construction of the home. Said trailer shall be kept in good repair during the construction of the home and be removed immediately upon substantial completion. Any lettering on the job trailer shall not exceed 3" in height. Only temporary electrical, telephone, and alarm hookups are allowed. The trailer may not be used for overnight habitation. The job trailer shall be located at least forty feet from the front property line, 15 feet from the side property line, and thirty feet from the rear property line. Violation of any of the above conditions shall be cause for the AGC, upon proper notice, to have the trailer removed and the area cleaned up. Such action by the AGC will cause forfeiture of the \$500.00 security deposit.

Section 5. Construction Time Limits. The following construction time limits will be in effect for all projects approved by the Architectural Guidelines Committee for construction in Windswept:

Completion. Except for unforeseen circumstances (i.e.) strikes, extreme weather or shortage of materials, all construction of dwellings, outbuildings, patios, decks, courtyards and swimming pools shall be completed within one year of the date of issuance of a building permit by the City of Morristown.

Driveways and Walks. The gravel base for all driveways and walks shall be in place at the time of substantial completion of the dwelling, and prior to a written certificate of occupancy

from the City of Morristown. Finished hard-surfaced drives and walks shall be completed within 60 days of that date.

Landscaping. All sodding and seeding of lots, as required, shall be complete at the time of substantial completion of the dwelling. Landscaping features such as planting beds, etc. shall be completed within six months of the date of substantial completion. All such planting beds, etc. shall be rough graded and edged at the time of substantial completion.

Section 6. Easements. Easements affecting the properties in Windswept are recorded on the final Plat in the office of the Register of Deeds for Hamblen County, Tennessee. Each lot shall be subject to any easement granted, or hereinafter to be granted, by the Developer, or its successors and assigns, to the governments of Hamblen County and City of Morristown, for stormwater management, drainage, access or maintenance purposes or to public or semi-public utility companies for the erection, construction and maintenance of all poles, wires, pipes and conduits for the transmission of electricity, telephone, cable TV, sewers, storm water drains and drainage, gas mains, water pipes and mains, and for performing any public or quasi-public utility function that the developer or its successors and assigns may deem suitable and proper for the improvement and benefit of all properties in Windswept Subdivision. Such easements shall be confined, so far as possible, in underground pipes or conduits, and in an area within 10 feet of lot lines shown on the recorded Final Plat, with the necessary rights of ingress to, and egress therefrom and with the rights to whatever may be necessary to carry out the purposes for which the easement is created.

Section 7. Automobile Parking. No construction related parking shall be allowed on the street at any time. Vehicles shall be parked on the prepared gravel parking areas.

Section 8. Hours and Days for Construction Activity. Construction activities shall be limited to the hours of 7:00 AM to 6:00 PM, local time, and from Monday thru Saturday.

Section 9. Construction Personnel Requirements, Conduct and Appearance. The Lot Owner shall have the responsibility to obtain and pay for all required approvals and permits relative to the construction process.

The Lot Owner is required to select a contractor that is properly and legally licensed and insured to perform the work required for the construction of the home.

Construction personnel shall dress appropriately for public view. All personnel shall wear shirts at all times.

Construction personnel shall conduct themselves in a professional manner, refraining from profanity, loud or obvious argumentation, or other activities considered unprofessional by the A. Sound levels from radios or other audio/video devices shall be kept at a level that cannot be heard from adjacent properties.

Construction vehicles shall not have loud mufflers or be driven within Windswept in a reckless manner. Construction vehicles are considered as vehicles normally considered as construction equipment, and as any vehicle conveying construction personnel or equipment.

Construction equipment including, but not limited to grading equipment, cement mixers, etc., shall not be left parked in the front of the home overnight or on weekends.

The construction process shall be performed in a manner consistent with all OSHA and other safety procedures. Neither the developer nor agents of the developer shall have any duty or obligation for project safety.

The Developer shall have the right, but not the obligation, to deny the presence from Windswept any construction personnel that create or have created any undesirable disruption.

The Developer shall have the right, but not the obligation, to disapprove any contractor that has not adhered to the covenants of Windswept from working on any home in Windswept.

Section 10. Responsibility for Damage. Lot Owners shall repair at their own cost any damages caused to common areas, streets, utilities or other fixtures and improvements as a result of any construction activities upon or appurtenant to Lot Owner lot.

ARTICLE VIII **GENERAL COVENANTS**

Section 1. Nuisances. No noxious or offensive activity shall be carried on upon any lot or outlot in Windswept, nor shall anything be done thereon which may be, or may become a nuisance to the neighborhood. No activities causing loud noise or disruption, including but not limited to lawn mowing, shall be allowed between the hours of 7:00 pm to 8:00 am local time.

Section 2. Garbage and Waste. Trash, garbage or other wastes shall be kept in sanitary containers and all such materials shall be properly screened from public view and disposed of as early as possible. Outside incinerators are not allowed. The burning of any waste of any kind, including leaves, will not be allowed on any property in Windswept.

Section 3. External Equipment. No exterior antennas, aerials, satellite dishes or other apparatus for the transmission of television, radio and/or reception of television, radio or other signals of any kind shall be placed, allowed or maintained upon any portion of the Property including any Lot, without the prior written consent of the Board or its designee. However, the 18 inch mini dish satellites are approved, provided they are installed in the most discreet location possible. The Developer and/or the Association shall have the right, without obligation, to erect an aerial, satellite dish, or other apparatus for a master antenna or cable system for the benefit of all or a portion of the Property should any such master system or systems be utilized by the Association and require any such exterior apparatus.

No solar energy collector panels or attendant hardware or other energy conservation equipment shall be constructed or installed unless it is an integral and harmonious part of the architectural design of the structure as determined in the sole discretion of the AGC.

Section 4. Use of Other Structures and Vehicles. Except for vehicles reasonably necessary to be on or about the Lots in the subdivision during construction or alteration of any buildings or other improvements upon a Lot, no trailer, motor home, boat, camper, truck or commercial vehicle shall be parked or kept on any Lot at any time unless housed in a garage. A Lot owner may park

boats, campers and other- recreational vehicles on a Lot, outside of a garage, for no more than twenty-four (24) hours during any seven-day period. Said vehicles may be parked in the vehicle and vessel storage area located at the Marina, if a space is available. No automobile or motorcycle shall be parked or kept on any Lot at any time unless located in a driveway or housed in a garage. No automobile which in inoperable shall be habitually or repeatedly parked or kept on any Lot or street except within an approved enclosed garage. No person shall engage in major car repairs either for himself or others at any time.

Section 5. Construction or Placement of Buildings. No Building (including without limitation all structures, homes, accessory buildings, and storage sheds) shall be erected, placed or altered on any Lot until the construction plans and a plan showing the location of the structure have been approved by the AGC, as provided herein. Approval shall be based upon, but not limited to, quality of workmanship and materials, harmony of external design with existing structures including color, shape, and design and as to location with respect to topography, finish grade elevation and overall appearance on the lot.

Section 6. Animals. No animals, livestock, including pot-bellied pigs or poultry, or any other exotic animal of any kind shall be raised, bred or kept on any lot or in any structure in Windswept. The only exceptions permitted are domestic pets (meaning the domestic pets traditionally recognized as household pets in this geographic area). Up to two domestic pets may be kept in a manner which will not disturb the quality of life and the environment of Windswept and its residents. No animal shall be left unattended and/or unrestrained in any part of Windswept. No pet shall be allowed to make an unreasonable amount of noise or cause a nuisance. Any pet, which in the opinion of the Developer, or the Association, is considered to be dangerous will not be permitted. No animals shall be kept, bred or maintained for commercial purposes. Outside kennels will be permitted only if they are an integral part of a dwelling or outbuilding and are placed away from public view or exposure. Upon review and approval by AGC, a limited use of chain link type fencing may be allowed for the kennel only.

Section 7. Clotheslines, Garbage Cans, Tanks, etc. All garbage cans, above ground tanks, and other similar items shall be located and/or screened so as to be concealed from view of neighboring Lots, streets, and Property located adjacent to the Lot. All rubbish, trash and garbage shall be regularly removed from the Unit and shall not be allowed to accumulate thereon. No clotheslines shall be permitted on any Lot.

Section 8. Unsightly or Unkempt Conditions. It shall be the responsibility of each Owner to prevent the development of any unclean, unhealthy, unsightly or unkempt condition on his Lot. The pursuit of hobbies or other activities including specifically, without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices which might tend to cause disorderly, unsightly or unkempt conditions, shall not be pursued or undertaken on any part of the properties.

Section 9. Tree Removal. No trees shall be removed from any portion of the Property by any person other than the Developer except with the prior written approval of the Developer.

Section 10. Sight Distance at Intersections. All Property located at street intersections shall be landscaped so as to permit safe sight across the street corners. No fence, wall, hedge, or shrub planting shall be placed or permitted to remain where it would create a traffic or sight problem.

Section 11. Lakes. All lakes, ponds and streams within the Property shall be aesthetic amenities only and no other use thereof including without limitation, swimming, boating, playing or use of personal flotation devices shall be permitted without written authorization of the Developer. Neither the Developer nor the Association shall be responsible for any loss, damage or injury to any Person or property arising out of the authorized or unauthorized use of lakes, ponds or streams within the properties.

Section 12. Fences. No fences of any kind shall be permitted on any Lot except as approved in accordance with Article VI of this Declaration.

Section 13. Signs. House numbers and name plates of standard sizes determined by the Developer, and signs of the Developer located on the Common Areas or Lots of the Developer advertising the sale of Lots by the Developer shall be the only sign displayed on any lot.

Section 14. Yard Ornament and Decoration. All yard ornament must be approved by the AGC. Yard ornaments include, but are not limited to, bird baths, cast figures of human-like or animal statues, statues of any type or reflecting balls. In general, yard ornaments will not be allowed, but will be *reviewed* for special exceptions.

Seasonal decorations, such as Christmas lights, etc. are allowed if in the sole discretion of the Developer, they are maintained within reasonable bounds. No rooftop or yard located displays, flashing or blinking lights, or other displays viewed as spectacular are permitted.

Section 15. Property Maintenance, Exterior Maintenance It shall be the duty of each Owner of Property to maintain his home and facilities and to keep the grass on the Lot properly cut, to keep the Lot free from weeds and trash, and to keep it otherwise neat and attractive in appearance. Each Owner is individually responsible to provide all maintenance for his or her lot, drainage ways, landscape improvements, utility and storm water management easements, building maintenance and upkeep necessary in order to maintain a high level of aesthetic quality. Should any Owner fail to do so, then in addition to maintenance upon Common area, the Association, upon approval by a majority of the Board of Directors, shall be authorized, but not obligated, to perform exterior maintenance upon each Lot and/or Unit which is subject to assessment hereunder as follows: Paint, repair, replace and care for roofs, gutter, down spouts, exterior building surfaces, trees, shrubs, grass, walks and other exterior improvements. In addition, upon the failure of any Lot Owner to comply with any condition or requirement of Article VI or this Article, for actions or failure to act arising prior to vesting of architectural control in the Board of Directors, the Developer may take such action as is necessary to comply therewith and the Owner on demand shall reimburse Developer for the expense incurred in so doing. For actions or failure to act arising after architectural control is turned over to the Board of Directors by the Developer as set forth in Article II all such enforcement provisions shall be vested in the Board of Directors who may, by a majority vote, authorize work to remedy the noncomplying conditions and add the cost of such work to the assessment to which the subject Lot is subject.

Section 16. Garage Doors. Garage doors shall not be left open more than a total of two hours per day.

Section 17. Architectural Control. After the Class B membership terminates and is converted to Class A membership as provided for in Article II, Section 2, hereof, the architectural control shall be vested in the Board of Directors or in an architectural committee composed of three or more representatives appointed by the Board of Directors. In the event said Developer, Board of Directors or its designated committee, as the case may be, fails to approve or disapprove such design and location within sixty (60) 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. Prior to delivery of architectural control to the Board of Directors, Developer may vary the established building lines in its sole discretion where not in conflict with applicable zoning regulations.

Section 18. Vegetable Gardens. Gardens must be confined to the rear of the Lot and must not be closer than 5 from the rear Lot line or side Lot line. They may not exceed 20% of the total Lot size.

ARTICLE IX
LAKE FRONT LOTS

Section 1. Acknowledgment. The Owners of Lake Front Lots hereby acknowledge, consent and agree to the design of the Windswept insofar as said Lots abut directly onto and adjoin the Cherokee Lake and furthermore, acknowledge, consent and agree to the design and layout of Lake Front Lots. Said Owners of Lake Front Lots hereby indemnify and hold harmless Developer from any injury or damage which may be incurred by said Owner, Owner family, guests, invitees, tenants, employees and servants as a result of the location of said Lake Front Lot adjacent to the Cherokee Lake. This indemnification shall include without limitation indemnification against all costs and expenses (including attorney fees, amounts of judgment paid and amounts paid in settlement) incurred in connection with any claim, action, suit, or proceeding whether civil, criminal, administrative or other. This acknowledgment and agreement however shall not authorize any negligent, willful or other unlawful act nor shall it permit any trespass on the Lake Front Lots.

ARTICLE X
CONDEMNATION

Whenever all or any part of the Common area not located within the dedicated right-of-way shall be taken (or conveyed in lieu of and under threat of condemnation by the Board of Directors acting on the written direction of voting members representing at least two-thirds (2/3) of the total Association vote and the Developer, as long as the Developer owns any property described on Exhibit A) by any authority having the power of condemnation or eminent domain, each Owner shall be entitled to notice thereof. The award made for such taking shall be payable to the Association as trustee for all Owners to be disbursed as follows:

If the taking involves a portion of the Common Area on which improvements have been constructed, then, unless within sixty (60) days after each taking the Developer, so long as the Developer owns any property described in Exhibit A of this Declaration, and voting members representing at least seventy-five (75%) percent of the total vote of the Association shall otherwise agree, the Association shall restore or replace such improvements so taken on the adjoining land included in the Common Area to the extent lands are available therefor, in accordance with plans approved by the Board of Directors of the Association. If such improvements are to be repaired or restored, the proceeds of the award shall be used to defray the cost of restoration or replacement. If the taking does not involve any improvements on the Common Area, or if there is a decision made not to repair or restore, or if there are net funds remaining after such restoration or replacement is completed, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board of Directors shall determine.

ARTICLE XI GENERAL PROVISIONS

Section 1. Enforcement. Enforcement of these restrictions shall be by proceeding of law or in equity brought by any Owner, by the Association or by Developer against any party violating or attempting to violate any covenant or restriction either to restrain violations, to direct restoration and/or to recover damages. Failure of any Owner, the Association, or Developer to demand or insist upon observance of any of these restrictions or to proceed for restraint of violation, shall not be deemed a waiver of any violation of the covenants, conditions and restrictions nor the right to seek enforcement of the same. Any Lot owner found in violation of these restrictions shall be obligated to pay attorney fees to the successful plaintiff in all actions seeking to prevent, correct, or enjoin such violations or in damage suits thereon.

Section 2. Severability. Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

Section 3. Restrictions Run with Land. These covenants and restrictions are to run with the land and shall be binding on all parties claiming under them for a period of thirty (30) years from the date this document is recorded after which time they shall be extended automatically for successive periods of ten (10) years. These restrictions may be canceled at any time by a written instruments signed by the Owners of seventy-five (75%) percent of the Lots in the Association and recorded in the Hamblen County Register of Deeds Office.

Section 4. Annexation of Additional Property. Developer shall have the unilateral right, privilege, and option, from time to time at any time to subject to- the provisions of this Declaration and the jurisdiction of the Association all or any portion of any real property that adjoins the Property subject to this Declaration, whether in fee simple or leasehold, by filing in the public records of Hamblen County, Tennessee, an amendment annexing such properties. Such subsequent amendment to this Declaration shall not require the consent of Members or voting Members. Any such annexation shall be effective upon the filing for record of such subsequent amendment unless otherwise provided therein. Developer shall have the unilateral right to transfer to any other Person the said right, privilege, and option to annex additional property which is herein reserved to Developer.

Section 5. Amendment. Prior to the conveyance of the first Lot, Developer may unilaterally amend this Declaration. After such conveyance, the Developer may amend this Declaration so long as it still owns any part of the Property for development and so long as the amendment has no material adverse effect upon any right of any existing Owner who owns a Lot at the time of the recording of the amendment in the public records of Hamblen County; thereafter or otherwise, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of voting members representing sixty (60%) percent of the total votes of the Association. However, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause. Any amendment must be recorded in the public records of Hamblen County.

If an Owner consents to any amendment to this Declaration or the By-Laws, it will be conclusively presumed that such Owner has the authority to so consent and no contrary provision

in any mortgage or contract between the Owner and a third party will affect the validity of such amendment.

No amendment may remove, revoke, or modify any right or privilege of Developer without the written consent of Developer or the assignee of such right or privilege.

Section 6. Easements of Encroachment. There shall be reciprocal appurtenant easements of encroachment as between each Lot and such portion or portions of the Common Area adjacent thereto or as between adjacent Lots due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of these restrictions) to a distance of not more than one (1) foot, as measured from any point on the common boundary between each Lot and the adjacent portion of the Common Area or as between each Lot and the adjacent portion of the Common Area or as between said adjacent Lots, as the case may be, along a line perpendicular to such boundary at such point; provided, however, in no event shall an easement for encroachment exist if such encroachment occurred due to willful and knowing conduct on the part of an Owner, tenant, or the Association.

Section 7. Easements for Utilities, Etc. There is hereby reserved unto Developer and its designees, so long as any of the foregoing own any property described on Exhibit A, and to the Association and its designees, (which include, without limitation, Hamblen County, Tennessee, City of Morristown, Tennessee, and any utility) blanket easements upon, across, over, and under all of the Common Area and, to the extent shown on any plat, over the Lots for ingress, egress, installation, replacing, repairing, and maintaining cable television systems, master television antenna systems, security, and similar systems, walkways, and all utilities, including, but not limited to, water, sewers, meter boxes, telephones, gas and electricity.

Notwithstanding anything to the contrary contained in this section, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on said Property, except as may be approved by the Association Board of Directors or as provided by Developer. Should any entity furnishing a service covered by the general easement therein. provided request a specific easement by separate recordable document, the Board of Directors shall have the right to grant such easement on said Property without conflicting with the terms hereof. The easements provided for in this Article shall in no way adversely affect any other recorded easement on the Property.

Section 8. Right of Entry. The Association shall have the right, but not the obligation, to enter into any Lot for emergency, security, and safety, which right may be exercised by the Board of Directors, officers, agents, employees, managers, and all policemen, firemen, ambulance personnel and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner. This right of entry shall include the right of the Association to enter a Lot to cure any condition which may increase the possibility of a fire or other hazard in the event an Owner fails or refuses to cure the condition upon request by the Board of Directors and shall also include the right to enter upon the land comprising any Lot for the purpose of inspecting for compliance with the requirements of Article W.

Section 9. Perpetuities. If any of the covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

Section 10. Amendments to Articles and By-Laws. Nothing in this Declaration shall limit the right of the Association to amend from time to time its Articles and By-Laws.

Section 11. Non-Liability of the Directors and Officers. Neither Developer nor the directors or officers of the Association shall be personally liable to the Owners for any mistake or judgment or for any other acts or omissions of any nature whatsoever while acting in their official capacity except for any acts or omissions found by a court to constitute gross negligent or actual fraud. The Owners shall indemnify and hold harmless each of the directors and officers and their respective heirs, executors, administrators, successors and assignees in accordance with the By-Laws. The indemnification shall include without limitation indemnification against all costs and expenses (including attorney fees, amounts of judgment paid and amounts paid in settlement) incurred in connection with any claim, action, suit or proceeding whether civil, criminal, administrative or other.

Section 12. Board Determination Binding. In the event of any dispute or disagreement between any Owners relating to the Property or any questions of interpretation or application of the provisions of this Declaration or the By-Laws, the determination thereof by the Board of Directors shall be final and binding on each and all of such Owners.

ARTICLE XII **DEVELOPER RIGHTS**

Any or all of the special lights and obligations of the Developer may be transferred to other Persons, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained herein, and provided further, no such transfer shall be effective unless it is in a written instrument signed by the Developer and duly recorded in the public records of Hamblen County, Tennessee.

Notwithstanding any provisions contained in this Declaration, the By-Laws, Articles of Incorporation, use restrictions, rules and regulations, design guidelines, and any amendments thereto, so long as construction and initial sale of Lots shall continue, it shall be expressly permissible for Developer and any builder or developer approved by Developer to maintain and carry on upon such portion of the Property as Developer may deem necessary, such facilities and activities as, in the sole opinion of Developer, may be reasonable required, convenient, or incidental to Developer, and such builder or developer development, construction and sales activities related to the Property and any builder or developer approved by Developer.

The undersigned Developer hereby executes this Declaration of Covenants, Conditions, Restrictions and Design Guidelines for Windswept this 19th day of October, 2006.

LAKE DEVELOPERS II, LLC

By: JMP Holdings, LLC, Member

By: John M. Potter
John M. Potter, Manager

COMMONWEALTH OF KENTUCKY

COUNTY OF Pike

Before me Debra L. Smith, a Notary Public of the state and county aforesaid, personally appeared, John M. Potter, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and whom, upon oath, acknowledged himself to be John M. Potter, the Manager of JMP Holdings, LLC, a Member of Lake Developers II, LLC, a Kentucky limited liability company, the within named bargainer, and that he, as such Manager of JMP Holdings, LLC, a Member of Lake Developers II, LLC, being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing the name of Lake Developers II, LLC by himself as the Manager of JMP Holdings, LLC, a Member of Lake Developers II, LLC. my hand and official seal at office, this 19th day of October, 2006.

Debra L. Smith
NOTARY PUBLIC
My Commission Expires: Oct. 6, 2010

BK/PG:1214/102-135

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34 PGS : AL - RESTRICTIONS	
MARILYN BATCH: 30334	
10/26/2006 - 02:57 PM	
VALUE	0.00
MORTGAGE TAX	0.00
TRANSFER TAX	0.00
RECORDING FEE	170.00
DP FEE	2.00
REGISTER'S FEE	0.00
TOTAL AMOUNT	172.00

STATE OF TENNESSEE, HAMILTON COUNTY

JIM CLAWSON
REGISTER OF DEEDS

LIST OF EXHIBITS

Exhibit A	Real Property Subject to Declaration
Exhibit B	Conceptual Design Review Requirements
Exhibit C	Final Design Review
Exhibit D	Landscape Review Requirements

EXHIBIT A

Real Property Subject to Declaration

All of Lots 82 through 118 inclusive, as shown on Final Plat of Windswept Subdivision, Morristown, Tennessee, Phase III, of record in Plat Cabinet J, Slide 7 in the Office of the Hamblen County, Tennessee Register of Deeds.

EXHIBIT B

Conceptual Design Review Requirements

1. **Form A**
2. **References, Sources, Prototypes**
Any drawings, photographs, clippings, etc. that are being used for design inspiration.
3. **Floor Plans** (optional, but recommended)
 4.Elevation(s) (optional but recommended) Minimum Scale 1/8" = 1' 0"
 Showing:
 - Openings, doors and windows;
 - Exterior finish materials rendered
5. **Narrative** (optional, but recommended)
A brief statement outlining the site planning and design of the house.
6. **Site Plan**
Minimum Scale 1" = 20' Showing:
 - North arrow;
 - dimensioned property lines, including adjacent areas of Right-of-Way to edge of paving or pedestrian path;
 - dimensioned footprint of home;
 - easements and/or setbacks, utilities
 - location of any trees 16" or greater in caliper, including those encroaching from adjacent property;
 - all elements required by WCDG
7. **Submittal Packaging**
Submittal material must be packaged together in one container, box, envelope, etc. for transfer or delivery.

EXHIBIT C

Final Design Review

1. **Form B**
2. **Site Plan**
Minimum Scale $1/8" = 1' 0"$ or $1" = 10'$

Showing:

- north arrow;
- accurate lot lines including dimensions, metes, and bounds;
- all buildings, structures, fences, setbacks, sidewalks, easements and street right-of-way contiguous to the lot;
- required build-to-lines per WCDG;
- tree survey indicating all existing trees six (6) inches or greater in caliper identifying those to be removed, including protection zones, including those encroaching from adjacent property;
- any proposed drainage improvements and erosion control devices;
- building footprint with overall dimensions and distances between proposed structures and property lines;
- roof overhangs shown as dashed lines;
- driveways, walks, landscape areas, hardscape areas, pools;
- landscape and hardscape elements required by WCDG;
- fences and dimensions, heights and material;
- water, sewer, and electrical service;
- location of all exterior equipment, including, but not limited to, electric meter, air conditioning condenser, propane tank, pool equipment, etc;

3. **Grading Plan (if requested)**
Minimum Scale: same as site plan above.

Showing:

- existing contours;
- any proposed changes;
- any proposed drainage improvements and erosion control devices

4. **Floor Plans**
Minimum Scale = $1/8" = 1' 0"$

Showing:

- all rooms, porches, landings and stairs on all structures;
- all windows and exterior doors with swings shown;
- roof plan;
- overhangs of floors and roofs shown as dashed lines.

5. Elevations

Minimum Scale 1A = 1 O

Showing:

- openings, doors and windows;
- exterior finish materials, identified and rendered;
- all finish floor elevations and ceiling heights, dimensioned in relation to the finished exterior grade;
- eave and roof ridge(s) dimensioned in relation to the finished exterior grade;
- roof pitch(es).

6. Building Section(s) (if requested, taken through major living areas)

Minimum Scale $\frac{1}{4}$ = 1 O

Showing:

- rooms - labeled;
- eave, roof ridge(s), all finish floor elevations, and ceiling heights, dimensioned in relation to the finished exterior grade;
- roof pitch(es)

7. Typical Wall Section(s)

Minimum Scale 3/4 = 1 O Showing:

- floor and ceiling heights;
- foundation, wall, floor, porch, and roof structure;
- window head and sill heights;
- eave and roof, detailed dimensioned in relation to the finished exterior grade;
- roof pitch(es);
- material designations - labeled and dimensioned.

8. Typical Porch Section(s)
Minimum Scale % = 1 0

Fully dimensioned and noted.

- for each type of porch;
- show adjacent wall.

9. Exterior Details

Minimum Scale 1 2 = 1 0 Fully dimensioned sections and elevations, noted showing:

- eave and cornice details;
- chimney details;
- column details;
- porch and railing details; window-head, jamb and sill details; door and door frame details;
- major architectural element, i.e. entry surrounds, balconies, bays, dormers, foundation vents, porch pier screening, etc
- exterior siding details (corner boards, foundation, jointing, brick bonds, etc.);
- material designations - labeled and dimensioned.

10. Product and Material Samples

Color samples for all exterior elements.

11. Submittal Packaging

Submittal material must be packaged together in one container, box, envelope, etc., for transfer or delivery.

EXHIBIT D

Landscape Review Requirements

Form D

1.

Landscape Plan

2.

Minimum Scale 1/8" = 1' 0" or 1" = 10' Showing:

- 1. all elements required by WCDG, notated;**
- 2. plant schedule indexed to plan, showing location, quantity, species and planting size of landscaped materials;**
- 3. north arrow;**
- 4. all existing trees six (6) inches or greater in caliper to remain, including protection zones, including those encroaching from adjacent property;**
- 5. accurate lot lines, including dimensions, metes and bounds;**
- 6. all buildings, structures, setbacks, easements, and street rights-of-way contiguous to lot to edge of pavement or pedestrian path;**
- 7. locations, dimensions, materials, paving patterns, colors and textures of all hardscape elements, including driveways, walks, locations of all fence and/or wall types, and pools with dimensions and materials indicated;**
- 8. fences, gates and any built hardscape features indicating dimensions, heights and materials and details at minimum scale of 1" = 10';**
- 9. sheet flow, both existing and as modified by landscaping plan, showing drainage systems and erosion control;**
- 10. location of all exterior equipment, including, but not limited to, electric meter, air conditioning units, propane tanks, pool equipment, trash receptacles, including location and type of screening for each.**