

WhisperingPines

Declaration of Covenants & Restrictions

WHISPERING PINES SUBDIVISION
DECLARATION OF COVENANTS AND RESTRICTIONS

STATESVILLE, NORTH CAROLINA

Hold - Alan Carpenter

THIS DECLARATION OF COVENANTS AND RESTRICTIONS FOR WHISPERING PINES STATESVILLE NC (hereinafter referred to as the "Declaration"), made this 20TH day of September, 2003, by A Home America, Inc. a North Carolina Corp., with the principal mailing address of 1128 Shelton Ave Statesville NC 28677 (hereinafter referred to as the "Declarant").

WITNESSETH:

WHEREAS, Declarant is the owner of certain real property located in Iredell County, North Carolina, more particularly described in the legal description attached hereto as Exhibit "A" and incorporated herein (which property shall hereinafter be referred to as the "Property"); and

WHEREAS, Declarant has caused the Property to be subdivided into a subdivision which has been platted as Whispering Pines, which plat has been recorded in Book 43 at Page 69, of the Iredell County Registry; and

WHEREAS, it is the intention of the Declarant to develop Whispering Pines as a single family detached residential cluster subdivision (hereinafter referred to as the "Subdivision"); and

WHEREAS, Declarant may in the future acquire additional real property in the vicinity of the Property (hereinafter referred to as the "Additional Property"); and

WHEREAS, it is the intention of Declarant to develop all or part of the Additional Property as subsequent sections to the Whispering Pines Subdivision, and Declarant desires to provide for the incorporation of all or part of said Additional Property into this Declaration at a later date by the filing of a supplemental declaration or declarations for that purpose; and

WHEREAS, Declarant desires to provide for the preservation of the values and amenities in the Subdivision and other facilities as may be specifically designated on the plat of Whispering Pines and to this end, desires to subject the Property to the covenants, restrictions, easements, charges and liens hereinafter set forth, each of which is for the benefit of the Property and each subsequent owner of all or part thereof; and

WHEREAS, Declarant has deemed it desirable, for the efficient preservation of the values and amenities in the Subdivision, to create a homeowners' association to which should be delegated and assigned the powers of maintaining and administering the Common Area, entrance area, roads, signage, features and landscaping; administering and enforcing the covenants and restrictions; and collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, Declarant has incorporated under the laws of the State of North Carolina, SUBDIVISION, WHISPERING PINES (hereinafter referred to as the "Association"), for the purpose of exercising the functions afore said; and

NOW THEREFORE, the Declarant hereby declares that all of the Property shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions:

ARTICLE I

EFFECT OF DECLARATION

This Declaration shall impose upon the Property certain restrictions, covenants and conditions, and the Property shall be held, transferred, sold, conveyed, given, donated, leased, occupied and used subject to the following easements, restrictions, covenants, conditions, charges, burdens, assessments, affirmative obligations and liens which are hereinafter set forth for the purpose of protecting the value and desirability of, and which shall run with, the Property and shall bind all parties having any right, title or interest in the Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE II

DEFINITIONS

1. "Association" shall mean and refer to Whispering Pines Subdivision, a North Carolina Community, its successors and assigns.
2. "Property" shall mean and refer to that certain real property described on the plat of Whispering Pines on Exhibit "A" attached hereto.
3. "Additional Property" shall mean and refer to any property which may be annexed to the Whispering Pines Subdivision in accordance with Section 4 of Article X. Upon such annexation, any reference contained herein to the Property shall mean, refer to, and shall apply to the Additional Property as well, except to the extent of any modification hereof as may be contained in a Supplementary Declaration as described in Section 4 of Article X.
4. "Common Area" shall mean and refer to all personal property and real property including the improvements thereon owned by the Association for the common benefit and enjoyment of the "Owners", whether acquired by the purchase or conveyance from the Declarant, its successors or assigns, or otherwise. At the time of execution of this Declaration, the Common Area is described as 3.8-Acre Tract on the plat of Whispering Pines. The term Common Area shall also include any tangible or intangible personal property acquired by the Association, if such Property is designated as such by the Association, and shall also include all recreational facilities constructed or to be constructed on one of the tracts herein above described. All Common Areas are to be devoted to and intended for the common use and enjoyment of the members of the Association, their families, guests, and persons occupying "Dwelling Units" on a guest or tenant basis, to the extent designated on recorded plats or authorized by the Board of Directors of the Association.



Doc ID: 008241870008 Type: CRP
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Fee Amt: \$35.00 Page 1 of 8
Iredell County, NC
Brenda D. Bell Register of Deeds

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5. "Lot" shall mean and refer to any plot of land shown upon the Plat of the Property with the exception of any Common Area, street, roadway, driveway or parking area dedicated to public use.
6. "Dwelling Unit" shall mean and refer to a Lot as defined herein with a single family detached site built residence constructed thereon which is not a manufactured home, mobile home or home with less than 1100 sq ft or less than a 5/12 roof pitch. **Stick-built, Modular homes are permitted**, but must pass a review board approval. **Manufactured, steel framed homes are not allowed**. A certificate of occupancy must also be issued by the applicable governmental authorities.
7. "Declarant" shall mean and refer to A Home America, Inc., a North Carolina corporation, its successors and assigns.
8. "ARC" shall mean and refer to the Architectural Review Committee established by virtue of this Declaration in accordance with Article VI of this declaration.
9. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot or Dwelling Unit 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.
10. "Single Family Detached Residence" shall mean and refer to any portion of a building situated upon the Property designed and intended for use and occupancy as a residence by a single family susceptible to ownership in fee simple as a non-condominium, and not being attached to other similar units.
11. "Subdivision" shall mean and refer to Whispering Pines and portions of the Additional Property platted as subsequent phases of Whispering Pines, as provided in Article X, Section 4 herein.
12. "Member" shall mean and refer to any Owner, as defined herein above.

ARTICLE III

PROPERTY RIGHTS

Section 1. Owner's Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to The Common Area that shall be appurtenant to and shall pass with the title to every Lot or Dwelling Unit, subject to the following provision:

- (a) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Members. However, no such dedication or transfer shall be effective, unless an instrument agreeing to such dedication or transfer signed by two-thirds (2/3) of each class of Members has been recorded.
- Section 2. Declaration of Use. Any Owner may delegate, in accordance with the Bylaws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants or contract purchasers who reside on the Property.

ARTICLE IV

MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership. Every Owner of a Lot who is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot that is subject to assessment. No person or corporation or other business entity holding any liens, mortgage or other encumbrance upon any lot or dwelling unit shall be entitled, by virtue of such lien, mortgage or other encumbrance, to membership in the Association or to any of the rights or privileges, or be charged with any of the duties of such membership; provided, however, that nothing contained herein shall be construed as prohibiting membership in the Association of a person, corporation or other business entity which acquires title to a lot or dwelling unit either by foreclosure or by voluntary conveyance from its mortgagor or his successor or assign.

Section 2. Voting Rights. The Association shall have two classes of voting Membership.

Class A. Class A Members shall all be Owners, with the exception of the Declarant, and shall be entitled to one (1) vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

Class B. The Class B Member shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B Membership shall cease and be converted to Class A Membership on the happening of either of the following events, whichever occurs earlier.

- (a) When the total votes in the Class A Membership equal the vote total in the Class B membership; or
- (b) On December 31, 2008.

After the happening of one these events, whichever occurs earlier, the Class B Member shall be deemed a Class A Member entitled to one (1) vote for each Lot in which it holds the interest required for Membership under Article IV, Section 1.

ARTICLE V

MUNICIPAL SERVICE TAXING UNITS AND COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Each Owner of any Lot, by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be fixed, established and collected from time to time as hereinafter provided. However, the liability for assessment with respect to Lots owned by Declarant for which no Certificate of Occupancy has been issued shall be: (1) twenty-five percent (25%) of the annual assessment or charges, and (2) twenty-five percent (25%) of the special assessments for capital improvements. So long as Declarant pays such reduced assessment for said Lots owned by Declarant, Declarant shall be responsible for any funding deficiency of the Association as a result thereof for the year in which such reduced assessment is paid. Upon the issuance of a Certificate of Occupancy or similar governmental approval permitting occupancy of the previously unoccupied Dwelling Unit owned by Declarant, whether or not ownership of that Lot is retained by Declarant, the full annual and special assessments shall be immediately and permanently Attached to the Lot from the date of such issuance. The annual and special assessments, together with interest, costs and reasonable attorneys' fees, shall be a charge on the land, and shall be a continuing lien upon the Lot 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 person who was the Owner of such Lot at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to successor in title unless expressly assumed by them. However, the Lot shall remain subject to such lien and such lien shall be enforced as set forth herein. Notwithstanding anything contained herein to the contrary, the obligation shall be joint and several as to the Owner in the event that the Owner constitutes more than one person or entity.

Section 2. Purpose of Assessments. 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 for the improvement and maintenance of the Common Area.

Section 3. Basis and Maximum of Annual Assessments. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment by the Association for all Lots on which a Dwelling Unit has been completed and for which a Certificate of Occupancy has been issued or any similar governmental approval permitting occupancy of a Dwelling Unit shall be one HUNDRED AND 00/100 DOLLARS (\$100.00) per Lot. The maximum annual assessment by the Association for all other Lots shall be ONE HUNDRED TWENTY AND 00/100 (\$120.00) per Lot or as provided in Section 1.

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(a) After January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment by the Association may not be increased each year more than ten percent (10%) above the maximum assessment for the previous year without a vote of the membership.

(b) After January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased by the Association above ten percent (10%) by a 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.

(c) The Board of Directors of the Association may fix the annual assessment at an amount not in excess of the maximum.

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

Section 5. Notice and Quorum for any Action Authorized under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Sections 3 or 4 shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At any such meeting called, the presence of Members of the Association, or of proxies, entitled to cast a majority of all the votes of each class of membership shall constitute a quorum. If the required quorum is not forthcoming at said meeting, another meeting may be called, subject to the same notice requirements, and the required quorum at any such subsequent meeting shall be one-third (1/3) of all the votes of each class of membership, provided that no such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots, except as provided in Sections 1 and 3 above, and shall be collected on a monthly basis.

Section 7. Date of Commencement of Annual Assessments; Due Dates. The annual assessments provided for herein shall commence on the date that the Lot is conveyed from the Declarant. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors of the Association shall fix the amount of the annual assessments against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

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Section 8. Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of ten percent (10%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien of such assessments as to payments, which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 10. Construction of Dwelling Unit. At such time as Lot Owner obtains a building permit to build on a Lot, Owner shall pay a five hundred dollar (\$500.00) impact fee to the Association and a bond or a refundable security deposit in favor of the Association in a minimum amount of two thousand dollars (\$2,000.00), as security for possible road repairs or other damage caused by the construction of the Owner's Dwelling Unit.

ARTICLE VI

ARCHITECTURAL CONTROL

Section 1. Approval of Architectural Review Committee. No building, fence, wall or other structure shall be commenced, erected or maintained upon the Property, nor shall any exterior addition to or change or alteration therein be made, unless it is in compliance with the zoning code of Iredell County, North Carolina, and other applicable regulations and until the plans and specifications showing the nature, kind, shape, height, materials and location of the same have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by the Architectural Review Committee (ARC).

Section 2. Composition of ARC. The ARC shall be composed of at least three (3) Members appointed by the Board. However, so long as ten (10) or more Dwelling Units and/or portions of the Lots within the Subdivision Community suitable for the construction of one (1) Dwelling Unit thereon remain titled in the Declarant, or within ten (10) years of the date of this Declaration, whichever shall last occur, the Declarant shall be entitled to appoint all members of the ARC and any successor members. The Board may appoint non-Members of the Association to the ARC. The members of the ARC shall be appointed for staggered three (3) year terms. In the event of death, resignation, inability to serve or other vacancy in office of any member of the ARC, the Board shall promptly appoint a successor member who shall serve for the duration of the unexpired term of the member whom he/she replaced. The membership, rules of procedure and duties of the ARC shall be prescribed by and, from time to time, changed or modified by the Board.

Section 3. Procedure of ARC. Any Owner needing the approval of the ARC shall deliver an application or request for action to the ARC by certified mail with return receipt requested or by hand delivery with signed receipt together with a floor plan, elevation, site clearing plan with well and septic tank specifically noted, and abbreviated specifications, including exterior material and colors, location of driveways, location of other out buildings and a landscaping plan. As soon as reasonably possible, the ARC shall indicate its approval or disapproval of the matters required to be acted upon by them by a written instrument filed with the Secretary of the Board of Directors of the Association, and served personally or by certified mail upon the Owner and all interested parties identifying the proposed building or structure and the reasons for such disapproval or approval. The decision of the ARC may be appealed to the Board of Directors of the Association within ten (10) days of the date after which the ARC makes its written decision as provided herein above. If there is no appeal within ten (10) days, then the decision of the ARC is final. Said appeal shall be affected by delivering a letter to the Association by certified mail with return receipt requested or by hand delivery with signed receipt, which said letter should specifically identify the decision of the ARC with respect to which the appeal is being taken. The Board of Directors of the Association shall take action on such appeal and either approve or disapprove the decision of the ARC as soon as reasonably possible.

ARTICLE VII

EASEMENT RESERVED TO DECLARANT

Section 1. Easement over Common Area. For so long as Declarant is the Owner of the Common Areas, the Declarant hereby reserves unto itself the right to grant a perpetual easement over, upon, under and across all Common Areas shown on the recorded subdivision plat of the Property, together with the right to grant easements to others, and such easement shall include, but shall not be limited to, the right to use the said Common Area to erect, maintain and use electric and telephone poles, wires, cables, conduits, sewers, water mains, television cable and other suitable equipment for the conveyance and use of electricity, telephone equipment, gas, sewer, water, television cable systems or other public conveniences, or utilities, drainage and the right to cut any trees, bushes or shrubbery, make any grading of the soil or take any other similar action reasonably necessary to provide economical and safe public convenience or utility installation or to provide for drainage and to maintain reasonable standards of health, safety and appearance, and the right to locate wells, pumping stations and tanks; provided, however, that said reservation and right shall not be considered an obligation of the Declarant to provide or maintain any such utility or service.

Section 2. Easement over Lots. For so long as Declarant is the Owner of any Lot, the Declarant hereby reserves unto itself a (5) foot perpetual easement from the center of any and all roads and a (5) foot perpetual easement from the center of any and all common driveways, as noted on the plat. Declarant also reserves a (5) foot easement along each lot line, which does not face a roadway. Further, Declarant shall be able to grant a perpetual easement to itself or any other entity over each such Lot owned for purposes of ingress and egress to include driveways common to two (2) or more Lots, roads, drainage, utility and electrical services. With respect to an easement thus granted, the Declarant shall have and does hereby retain and reserve the right to release the Lot from the encumbrance of the easement, provided, however, that Declarant shall not have the power to release any portion of a utility easement on a Lot without the consent of the utilities served thereby.

Section 3. Establishment of Easements. One or more of the following methods, to wit, as provided for in this Article, shall establish all easements:

- (a) By a specific designation of an easement on the recorded plat of the Property;
- (b) By a reservation or specific statement providing for an easement in the deed of conveyance of a given Lot or Dwelling Unit;
- (c) By a separate instrument executed by the Declarant referencing this Article VII, said instrument to be subsequently recorded by the Declarant; or
- (d) By virtue of the reservation of rights set forth in Section 2 of this Article VII.

ARTICLE VIII

GENERAL RESTRICTIONS

Section 1. General Restrictive Covenants. The general restrictive covenants contained in this Article shall apply uniformly to all Lots and Dwelling Units on the Property, unless otherwise set forth herein.

Section 2. Residential Use Only. No Lot shall be used for any purpose other than a one family residential Dwelling Unit with not less than (1,100) square feet of living area for a one story building and not less than (2,214) square feet for a two story building with all residential Dwelling Units being site built by conventional construction as interpreted by the ARC. The term "residential" is intended to prohibit any commercial use, including professional office use, of any portion of any Lot or Dwelling Unit. No Dwelling Unit shall be erected, altered, placed or permitted to remain on any Lot other than Dwelling Units designed for residential use, private garages, accessory buildings and structures such as swimming pools and screened enclosures. No garage may be converted to living space. The foregoing shall not prohibit the Declarant from using Dwelling Units as models or offices. All Dwelling Units shall be built in accordance with the applicable zoning standards and conditions, including but not limited to, those standards applicable to minimum square footage of floor area and minimum setbacks, imposed by Iredell County, North Carolina. Setbacks from the Common Area or from a road 10 feet minimum for residential Dwelling Units from the lot line shall be a minimum of 1-5 feet. Side shall be a minimum of 1-5 feet and rear set backs shall be a minimum of 20 feet. The ARC may give relief from said Dwelling Unit setback lines to any Lot Owner upon a showing of extraordinary circumstances by said Lot Owner. Such extraordinary circumstances may include unusual topography, Lot shape and frontages. Use of out buildings shall be limited to guests and help quarters and shall not include additional rental units. No out buildings may be rented out to other persons besides the lessee of the main quarters. Declarant reserves the right to require that Lot Owners use cluster mailboxes.

Section 3. No Temporary Structures. No structure of a temporary nature or character, including, but not limited to, a trailer, house trailer, mobile home, camper, tent, shack, shed, barn or other similar structure or vehicle, shall be used or permitted to remain on any Lot as a storage facility or residence, or other living quarters whether temporary or permanent, unless approved by the ARC for use during construction only.

Section 4. Parking Restrictions. No automobile, truck, boat, boat and trailer, trailer, house trailer, recreational vehicle, mobile home, camper or other similar vehicle shall be parked on the street, including the right-of-way.

Section 5. Storage Restrictions. No automobile shall be parked for any period of time in excess of seventy two (72) consecutive hours or stored or otherwise permitted to remain on any Lot except in a garage attached to a Dwelling Unit or within the confines of a paved driveway leading from the street adjoining a Lot to the doorway of a garage attached to a Dwelling Unit. Furthermore, no commercial vehicle, house trailer, recreational vehicle, mobile home, camper, boat, boat and trailer or other similar vehicle shall be parked for any period of time in excess of seventy two (72) consecutive hours or stored or otherwise permitted to remain on any Lot except in an enclosed garage attached to a Dwelling Unit with the garage door closed or other approved structure or hedge line as deemed acceptable by the ARC in isolating the vehicle from the view of any neighboring lot.

Section 6. Livestock and Animal Restrictions. No livestock, poultry or animals of any kind or size shall be raised, bred or kept on any Lot or in any Dwelling Unit; provided, however, that dogs, cats or other common domesticated household pets may be raised and kept; and provided such pets are not kept, bred or maintained for any commercial purposes. Such permitted pets shall be kept on the Owner's Lot and shall not be allowed to roam free in the Subdivision or on to any other Owner's Lot. No permitted pet shall be allowed to make noise in a manner or of such volume as to annoy or disturb other Owners.

Section 7. Restriction on Activity. No obnoxious or offensive activity shall be conducted or permitted to exist upon any Lot, or in any Dwelling Unit, nor shall anything be done or permitted to exist on any Lot or in any Dwelling Unit that may be or may become an annoyance or private or public nuisance.

Section 8. Restrictions on Hedges, Fences or Walls. No hedge, fence or wall shall be planted, placed, altered, maintained or permitted to remain on any Lot unless and until the height, type or location, materials and manner of construction have been approved by the ARC in accordance with Article V hereof.

Section 9. Water Wells. Water wells for the production of irrigation water shall be drilled or used or permitted to be drilled or used on the Property to support the needs of irrigational purposes only. Each Lot Owner shall be required to use the public water system for residential water needs. Relief from the required use of the public water system may be given by the ARC to any Lot Owner upon a showing of extraordinary circumstances, which would include being unable to access the public water system, by said Lot Owner. The provisions of Article X, Section 3 shall not apply to the restrictions set forth in this Section 9.

Section 10. Antenna Restrictions. No one shall be permitted to install or maintain on any Lot, Dwelling Unit or structure, any outside television or radio antenna, dish if twenty one (21) inches or greater, mast, aerial or other tower for the purpose of audio or visual reception or transmission unless the same is approved by the ARC. This restriction shall not serve to prohibit Declarant or the Association from installing an antenna or satellite antenna/dish or contracting with a third party to install such antenna/dish, for the purpose of providing master or cable television, radio or other electronic service to the Owners in the Subdivision.

Section 11. Aesthetic and Safety Control. In order to implement effective insect, reptile and fire control, the Association shall have the right, but not the duty, to enter upon any Lot or Dwelling Unit, such entry to be made by personnel with tractors or other suitable devices, for the purpose of mowing, removing, clearing, cutting or pruning underbrush, weeds or other unsightly growth, which in the opinion of the Association detracts from the setting and safety of Whispering Pines. Such entrance for the purpose of mowing, removing, cutting, clearing or pruning shall not be deemed a trespass but shall be deemed a license coupled with an interest. The Association and its agents may likewise enter upon such land to remove any trash, which has collected on such Lot or Dwelling Unit without such entrance and removal being deemed a trespass. The provisions in this Section shall not be construed as an obligation on the part of the Association to mow, clear, cut or prune any Lot, nor to provide garbage or trash removal services, or any other service. All expenses reasonably incurred by the Association in exercising its rights under this Section shall become and constitute a lien against the Lot or Dwelling Unit and a personal obligation of the Owner of the Lot or Dwelling Unit. Such lien shall be established by recording a Claim of Lien among the Public Records of Whispering Pines, North Carolina and shall in every respect constitute a lien against said Lot or Dwelling Unit of equal dignity with liens created by recorded mortgage or judgment.

Section 12. Signs. No commercial signs, excepting "For Rent," or "For Sale" signs not exceeding two (2) square feet in area erected by Owners or Owner's authorized real estate agent, shall be erected or maintained on any Lot or Dwelling Unit except with the written permission of the Association or except as may be required by legal proceedings. It being understood that the Association will not grant permission for said signs unless their erection is reasonably necessary to avert serious hardship to the Owner. If such permission is granted, the Association shall have the right to restrict size, color and content of such signs. Property identification and like signs exceeding a combined total of more than two (2) square feet may not be erected without the written permission of the Association. This restriction shall not apply to restrict Declarant or its agents from erecting such signs as Declarant deems, in its sole discretion, to be necessary to assist Declarant in selling any Lot or Dwelling Unit.

Section 13. Allowable Trim. No Owner or tenant of an Owner shall install chimneys, shutters, awnings or decorative exterior trim, except small exterior decorations such as address plates and nameplates, without prior approval of the ARC. All external structural and trim modifications to structures existing on any Lot shall be submitted to the ARC for approval prior to being made. Any modification made without prior approval of the ARC, which are properly subject to such prior approval, shall, at the written direction of the ARC, be restored to the conditions existing prior to the modification. Failure to restore modifications when directed by the ARC shall be cause for the Association to undertake such restoration, and the Association, through its agents or independent contractors, is hereby empowered to make such restoration as it deems necessary and to enter onto any Lot for such purpose, which entry shall be deemed a license coupled with an interest and not a trespass. All expenses reasonably incurred by the Association in making such restorations shall become and constitute a lien against said Lot or Dwelling Unit and a personal obligation of the Owner of the Lot or Dwelling Unit. Such lien shall be established by recording a Claim of Lien among the Public Records of Iredell County, North Carolina and shall in every respect constitute a lien on the Lot or Dwelling Unit in the same manner and with the same dignity as any lien created by recorded mortgage and judgment.

Section 14. Exterior Maintenance. Each individual Owner shall have the responsibility to maintain the exterior and lawn of his Lot and Dwelling Unit. In the event the exterior or lawn of said Lot and Dwelling Unit is damaged in such fashion so as to create a health or safety hazard to adjoining Lots or Dwelling Units, or deteriorates in such a way as to create a nuisance or to be unsightly and not in keeping with the quality of the Subdivision, as determined by the ARC in its sole discretion, and such damage is not repaired or repair is not commenced within thirty (30) days from the occurrence of the damage and timely pursued to completion, then in such an event, the Association shall have the right to make reasonable repairs to the exterior or lawn of such Lot and Dwelling Unit and shall be entitled to place a lien against the Owner of the Lot and Dwelling Unit for the costs of such repairs, or to pursue recovery of said costs as a personal obligation of the Owner of the Lot and Dwelling Unit. Such lien shall be established by recording a Claim of Lien among the Public Records of Iredell County, North Carolina and shall in every respect constitute a lien on the Lot or Dwelling Unit in the same manner and with the same dignity as any lien created by recorded mortgage or judgment.

Section 15. Access at Reasonable Hours. For the sole purpose of performing any landscaping, maintenance, repairs or restorations authorized by this Declaration, the Association through its duly authorized agents, contractors or employees shall have a license which shall be exercisable after reasonable notice to the Owner to enter upon any Lot or exterior of any Dwelling Unit, or after reasonable notice to and the granting of permission by the Owner, to enter any Dwelling Unit at reasonable hours on any day of the week.

Section 16. Solar Panels, Screened Porches, Air Conditioners. No solar panels or screened porches shall be installed in the front or on the side of any residence constructed on a Lot or at the rear of any such residence in such a manner as to extend beyond the side of any such residence so as to be visible from the front. Solar panels may only be installed on the rear of the Dwelling Unit. Provided, however, if the ARC determines that suitable screening exists, or that the installation sought is of a nature which would not detract from the Subdivision, then the ARC may approve a non-conforming installation after receipt of a detailed set of plans showing site, location, color and material of construction, and a written request for such non-conforming installation.

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Section 17. Clothes Lines. No clothes line, clothes pole or other device which has as its intended purpose or principal use the hanging of clothes or other articles to dry or air shall be permitted in any location which is visible from the street or any other Lot.

Section 18. Accessory Facilities. All garbage or trash containers, oil tanks, bottled gas tanks or the like shall be located at the rear or side yard of the Dwelling Unit, and shall be installed underground or located within an acceptable screened or a walled-in area not visible from the street or an adjoining Lot. Sanitary capped containers are required for all garbage. Sewer is supplied by the city of Statesville.

Section 20. Utilities. Electric power, telephone and any cable television service to all Dwelling Units shall be by underground cable or wires from the prospective utility company's main underground cables or lines to the respective Dwelling Units. Further, the Declarant reserves the right to subject the Property to a contract with Carolina Power & Light Company or any other power and light company for the installation of streetlights, power service and underground wiring.

ARTICLE IX

COVENANTS AGAINST PARTITION

Recognizing that the full use and enjoyment of any Lot located in the Subdivision is dependent upon the right to the use and enjoyment of the Common Area and the improvements made thereto, and that it is in the interests of all of the Owners that the right to the use and enjoyment of the Common Area be retained by the Owners, it is therefore declared that the right to the use and enjoyment of any Owner in the Common Area shall remain undivided, and such Owners shall have no right at law or equity to seek partition or severance of such right to the use and enjoyment of the Common Area. In addition, other than as provided in Article III, Section 2, there shall exist no right to transfer the right to the use and enjoyment of the Common Area in any manner other than as an appurtenance to and in the same transaction with a transfer of title to a Lot. Any conveyance or transfer of a Lot shall include the right to the use and enjoyment of the Common Area appurtenant to such Lot, subject to reasonable rules and regulations promulgated by the Declarant or the Association for such use and enjoyment, whether or not such right shall have been described or referred to in the deed by which said Lot is conveyed.

ARTICLE X

GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. All costs and reasonable attorney's fees associated with such enforcement by the Association shall be the personal obligation of the person who is or was the Owner of the Lot against which such enforcement is required, and shall further be a charge on the land, and a continuing lien upon said Lot. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

11.

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

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive ten (10) year periods. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the Lot Owners, and thereafter of not less than seventy-five percent (75%) of the Lot Owners. Any amendment must be recorded in the Public Records of Iredell County, North Carolina.

Section 4. Annexation.

(a) Additional residential property and Common Area, other than that described in Subparagraph (b) below, may be annexed to the Property with the consent of two-thirds (2/3) of each class of Members;

(b) Additional Property may be annexed by the Declarant without the consent of members so long as Declarant is a Class B Member of the Association, provided that the Federal Housing Administration (FHA) or the Veteran's Administration (VA) consents to such annexation. Upon annexation of said Additional Property, the Owners of Lots within the land so annexed for all intents and purposes shall be deemed to be Members of WHISPERING PINES SUBDIVISION in accordance with the provisions of this Declaration. The Owners of the Lots shall be subject to its rules, regulations and bylaws in the same manner and with the same effect as the original Lot Owners. When all or a portion of the Additional Property is annexed, the Declarant shall file a Supplementary Declaration among the Public Records of Iredell County, North Carolina, which Supplementary Declaration shall reference this Declaration and shall contain the legal description of the land annexed. Notwithstanding any other provision of this Declaration to the contrary, the Supplementary Declaration adding such annexed lands shall not be required to be executed by any existing Lot Owners, other than Declarant.

Section 5. Right of Association to Merge. The Association retains the right to merge with any other homeowners association, provided such homeowners association is for a FHA or VA approved subdivision, and provided FHA or VA approves such merger. This right shall be exercised by recordation of an Amendment to this Declaration recorded among the Public Records of Iredell County, which Amendment shall set forth a legal description of the property to which this Declaration, as amended, shall apply. The Amendment shall further have attached to it a resolution of this Association and the homeowners association with which a merger is to take place, and such resolution shall be certified by the Corporate Secretary thereof and shall state:

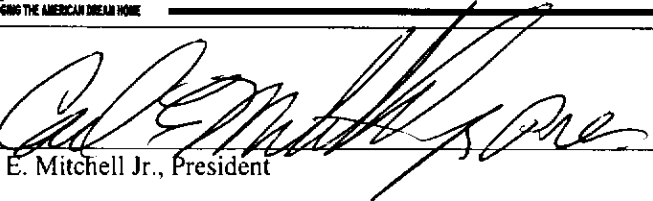
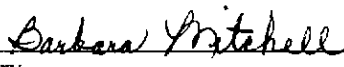
(a) That a meeting of the homeowners association was held in accordance with its bylaws; and

(b) That a two-thirds (2/3) vote of all classes of Members approved the merger.

The foregoing certificates when attached to the Amendment shall be deemed sufficient to establish that the appropriate procedure was followed in connection with the merger.

Section 6. FHA/VA Approval. As long as there is a Class B Membership, the following actions will require the prior approval of the Federal Housing Administration and the Veteran's Administration: Annexation of additional properties not covered by Article X, Section 4(b), dedication of Common Area, merger and amendment of this Declaration.

IN WITNESS WHEREOF, the Declarant has hereunto caused this Declaration to be executed by its duly Authorized officer in manner and form sufficient to bind it on the day and year first above written.

		1128 Shelton Ave. Statesville, North Carolina 28677 (704) 871-1411 Fax (704) 871-1400	
By:  Carl E. Mitchell Jr., President		Subscribed and sworn to before me this date _____ by Carl E. Mitchell, Jr. President of A Home America Inc., a North Carolina Corporation, who is personally known to me or has produced a NC Driver's License as identification.	
Attest:  Secretary		_____ Commission Expire	
STATE OF NORTH CAROLINA COUNTY OF IREDELL		_____ Notary Public	
		Name of Notary typed, printed or stamped.	

North Carolina
Iredell County

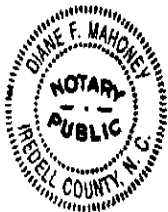
I, a Notary Public of Iredell County, North Carolina certify that Barbara Mitchell personally came before me this day and acknowledged that she is Secretary of A Home America, Inc., a North Carolina corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal and attested by her as its Secretary.

Witness my hand and official seal, this the 7th day of May, 2004.

Diane F. Mahoney
Notary Public

My Commission Expires: 04-11-2006

(Official Seal)



NORTH CAROLINA
IREDELL COUNTY

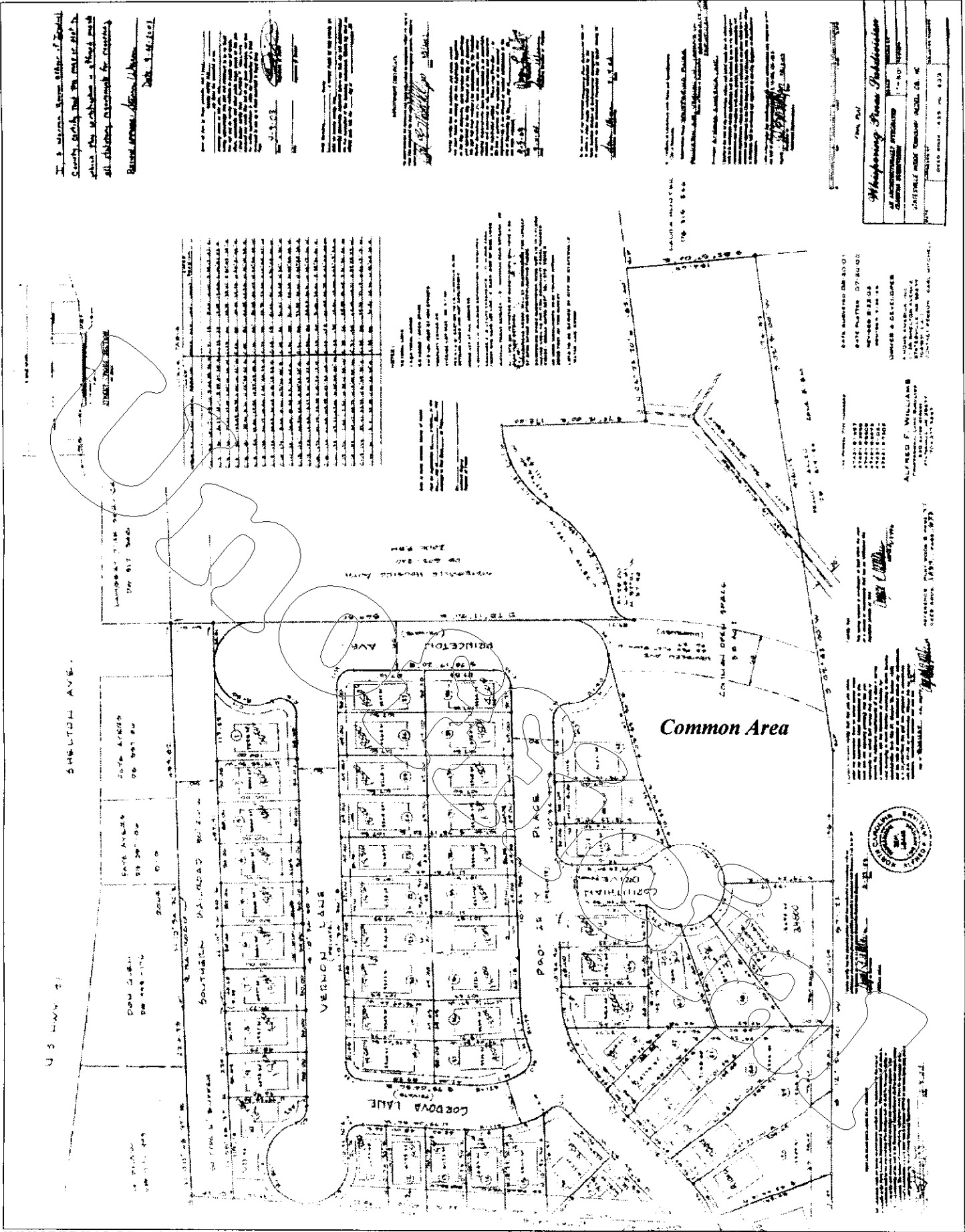
THE CERTIFICATE OF:

Diane F. Mahoney
IS CERTIFIED TO BE CORRECT.

BRENDA D. BELL, REGISTER OF DEEDS

BY: Joyce Bess
ASST./DEPUTY

Exhibit A



WHISPERING PINES COMMUNITY, INC.
FINAL PLAT AS RECORDED
IREDELL COUNTY, NORTH CAROLINA

THIS MAP IS NOT A CERTIFIED SURVEY AND HAS NOT
BEEN REVIEWED BY A LOCAL GOVERNMENT AGENCY
FOR COMPLIANCE WITH ANY APPLICABLE LAND
DEVELOPMENT REGULATIONS.