

Important Documents for Homeowners

When you purchase a home in Pope's Crossing, your real estate agent, closing attorney and the previous homeowner have the responsibility to inform you about and provide you with a copy of four documents that are binding on all residents and owners of houses in the neighborhood. For your convenience, the Board of Directors has made copies of these documents available here. These are not legal copies, however, and the Board assumes no responsibility for errors or omissions.

Articles of Incorporation of Pope's Crossing Homeowners Association Inc. – Information about membership, voting rights, and composition of the Board of Directors.

Bylaws of Pope's Crossing Homeowner's Association Inc. – Requirements for meetings; nomination, selection and term of office for the Board of Directors; powers of the Board; officers and their duties; committees, record keeping and assessments (general description).

Declaration of Covenants, Conditions and Restrictions – Book 1419 – Property rights, assessments (detailed description), remedies for nonpayment of assessments, management agreements, liability insurance, and other general provisions.

Declaration of Covenants, Conditions and Restrictions – Book 1451 – Architectural and appearance requirements, approval required for changes, property use restrictions and prohibitions.

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**ARTICLES OF INCORPORATION OF
POPE'S CROSSING HOMEOWNER'S ASSOCIATION, INC.**

In compliance with the requirements of Chapter 55A of the General Statutes of North Carolina, the undersigned, all of whom are residents of the State of North Carolina and all of whom are of full age, have this day voluntarily associated themselves together for the purpose of forming a corporation not for profit and do hereby certify:

ARTICLE I. The name of the corporation is Pope's Crossing Homeowners Association, Inc., hereinafter called the Owner's Association.

ARTICLE II. The initial registered office of the Owner's Association is located at 20 West Colony Place, Suite 120, Durham, NC 27707.

ARTICLE III. S. Craig Morrison, whose address is 20 West Colony Place, Suite 120, Durham, NC 27707, is hereby appointed the initial registered agent of this Owner's Association.

ARTICLE IV. This Owner's Association does not contemplate pecuniary gain or profit to the members thereof, and the specific purposes for which it is formed are:

(a) To manage, own and maintain the lands and improvements located on the Common Area of Pope's Crossing Property, for the benefit and use of the members of the Association subject to such restraints or suspensions of use and voting rights of members as are provided herein and in the Bylaws.

(b) To own, purchase, manage, maintain, repair and replace any or all of the improvements used in connection with the Common Area.

(c) To establish an orderly and efficient system of billing to pay for the expenses incurred in the furtherance of the aforesaid purposes.

(d) To promulgate such rules and regulations and perform such deeds as are deemed necessary to achieve the aforesaid objectives, and to promote the health, safety and welfare of the members of the Owner's Association, and for these purposes to:

(e) Exercise all of the powers and privileges and to perform all of the duties and obligations or things reasonably necessary or desirable for carrying out the Owner's Association purposes, and for protecting the lawful rights and interests of its members in connection therewith;

(f) Fix, levy, collect and enforce payment by any lawful means, all charges or assessments more fully hereinafter described; to pay all expenses in connection therewith and all office and other expenses incident to the conduct of the business of the Owner's Association, including all licenses, taxes or governmental charges levied or imposed against the property of the Owner's Association;

(g) Acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real property in connection with the affairs of the Owner's Association;

(h) Borrow money, and with the assent of two-thirds (2/3) of each class of members, mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred;

(i) Dedicate, sell 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. No such dedication or transfer shall be effective unless an instrument has been signed by two-thirds (2/3) of each class of members, agreeing to such dedication, sale or transfer (such instrument or instruments may be executed in several counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument);

(j) Participate in mergers and consolidations with, or as a member in, other nonprofit corporations organized for the same or similar purposes provided that any such merger or consolidation shall have the assent of two-thirds (2/3) of each class of members;

(k) Have and to exercise any and all powers, rights and privileges which a corporation organized under the Non-Profit Corporation Act of the State of North Carolina by law may now or hereafter have or exercise.

ARTICLE V. MEMBERSHIP AND USE

Every person or entity who is a record owner of a fee or undivided fee interest in any single family lot, condominium lot, patio home or townhouse lot which is subject to the Declaration of Covenants, Conditions and Restrictions of the Pope's Crossing Homeowners Association shall be a member of this Owner's Association.

ARTICLE VI. VOTING RIGHTS

The Owner's Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners (with the exception of Declarant) and all Resident Permit Owners and shall be entitled to one vote for each single family lot, condominium unit, patio home or townhouse lot owned. When more than one person holds an interest in any such single family lot, condominium unit, patio home or townhouse lot, all such persons shall be members. The vote for such single family lot, condominium unit, patio home or townhouse lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any one single family lot, condominium unit, patio home or townhouse lot.

Class B. Class B member(s) shall be Cimarron Capital, Inc., a North Carolina corporation, its successors and assigns, and it shall be entitled to three (3) votes for each single family lot, condominium unit, patio home or townhouse 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 outstanding in the Class A membership equal the total votes outstanding in the Class B membership; or
- (b) On or by January 1, 1990.

ARTICLE VII. BOARD OF DIRECTORS

The affairs of this Owner's Association shall be managed by a Board of Directors, consisting of not less than three (3) directors nor more than twelve (12) directors, the exact number of directors to be fixed in the manner provided from time to time by the Bylaws of the corporation, who must be members of the Owner's Association, officers of a corporation owning

a single family lot, condominium unit, patio home or townhouse lot, or partner in a partnership owning a single family lot, condominium unit, patio home or townhouse lot. From the time of incorporation until the expiration of their respective initial terms of office, the Board shall consist of three (3) persons appointed by Cimarron Capital, Inc. and need not own or occupy a single family lot, condominium unit, patio home or townhouse lot. Until these persons are replaced by elected Board members, they shall constitute the Board of Directors and exercise all powers and duties granted to the Board of Directors in these Articles of Incorporation and the Bylaws of the Owner's Association. The names and addresses of the persons who are to act in this capacity are:

S. Craig Morrison, [address]

Maureen E. Oaks, [address]

Kathleen T. Williams, [address]

At the expiration of the initial term of office of each of the respective directors, his successor shall be elected pursuant to the method of election set out in the Bylaws of the Owner's Association to serve a term of two years.

ARTICLE VIII. DISSOLUTION

The Owner's Association may be dissolved with the assent given in writing and signed by not less than two-thirds (2/3) of each class of members. Upon dissolution of the Owner's Association, other than incident to a merger or consolidation, the assets of the Owner's Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Owner's Association was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any non-profit corporation, association, trust or other organization to be devoted to such similar purposes.

ARTICLE IX. INDEMNIFICATION

Each Director and officer of this Owner's Association shall be indemnified by the Association against all costs and expenses reasonably incurred or imposed upon him in connection with or arising out of any action, suit or proceedings in which he may be involved or to which he may be made a party by reason of his having been a Director or officer of this Association, such expense to include the cost of reasonable settlements (other than amounts paid to the Association itself) made with a view of curtailment of costs and litigation. The Association shall not, however, indemnify such Director or officer with respect to matters as to which he shall be finally adjudged in any action, suit or proceedings to be liable for gross negligence or misconduct in the performance of his duty as such Director or officer, or in respect to any matter in which any settlement or compromise is effected if the total expense, including the cost of such settlement, shall substantially exceed the expense which might reasonably be incurred by such Director or officer in conducting such litigation to final conclusion, and in no event shall anything herein contained be construed as authorizing this Association to indemnify any such Director or officer against any liability of the Association to which he would otherwise be subject by reason of willful malfeasance, bad faith, gross negligence or reckless disregard of the duties involved in the conduct of his office. The foregoing right of indemnification shall be in addition to any other rights to which any such Director or officer may be entitled as a matter of law or otherwise.

ARTICLE X. DURATION

The corporation shall exist perpetually.

ARTICLE XI. AMENDMENTS

Amendments of these Articles shall require the assent of seventy-five percent (75%) of the membership, that is three-fourths (3/4) of the total votes of both the Class A membership and Class B membership, if any.

ARTICLE XII. INCORPORATOR

The name and address of the Incorporator is C. Thomas Biggs, 122 East Parrish Street, Durham, Durham County, NC 27701.

(signatures and witnesses, dated December 8, 1987)

BYLAWS OF POPE’S CROSSING HOMEOWNERS ASSOCIATION INC.

ARTICLE I

The name of the corporation is Pope’s Crossing Homeowners Association Inc., hereinafter referred to as the Owner’s Association. The principal office of the corporation shall be located at 20 West Colony Place, Suite 120, in the City of Durham, County of Durham, North Carolina 27705, but meetings of members and directors may be held at such places within the State of North Carolina, County of Durham, as may be designated by the Board of Directors.

ARTICLE II DEFINITIONS

Section 1. “Owners Association” shall mean and refer to Pope’s Crossing Homeowners Association Inc., its successors and assigns.

Section 2. “Properties” shall mean and refer to that certain real property subjected to the Declaration of Covenants, Conditions and Restrictions (Pope’s Crossing) and such additions thereto as may hereafter be brought within the jurisdiction of the Owner’s Association.

Section 3. “Common Area” shall mean all property owned by the Owner’s Association for the common use and enjoyment of the Owners.

Section 4. “Unit” shall mean and refer to any condominium unit constructed and existing upon the Properties, or any portion thereof, and established as a condominium unit by virtue of a Declaration of Unit Ownership filed under the provisions of Chapter 47C of the General Statutes of North Carolina.

Section 4.1. “Single Family Lot” shall mean and refer to any plot of land shown upon any recorded sub-division map of the properties (excepting common areas and areas reserved for construction of condominium units or townhouses) to be used for development of single family detached homes.

Section 4.2. “Townhouse Lot” shall mean and refer to any plot of land shown upon any recorded sub-division map of the properties, (excepting common areas and areas reserved for construction of condominium units or single family lots) to be used for development of single family attached homes.

Section 4.3. “Patio Home” shall mean and refer to any residences or residential building within the Development Area which is NOT subject to, or to be subject to, the North Carolina Unit Ownership Act and which is NOT, or NOT to be, a townhouse lot, and which is, or is to be, subject to assessments by this Owner’s Association.

Section 5. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any single family lot, patio home, townhouse lot or condominium unit, which is part of, or constructed upon, the Properties, but excluding those having such interest merely as security for the performance of an obligation.

Section 6. "Declarant" shall mean and refer to Cimarron Capital, Inc. its successors and assigns.

Section 7. "Declaration" shall mean and refer to any Declaration of Unit Ownership or Declaration of Covenants, Conditions and Restrictions applicable to the Properties recorded in the Office of the Register of Deeds of Durham, North Carolina.

Section 8. "Member" shall mean and refer to those persons entitled to membership as provided in any such Declaration and/or Articles of Incorporation of this Corporation.

ARTICLE III MEETING OF MEMBERS

Section 1. Annual Meetings. The first annual meeting of the members shall be held on the 14th day of January 1989, and each subsequent regular annual meeting of the members shall be held on the same day of the same month of each year thereafter, at the hour of 8:00 p.m. If the day for the annual meeting of the members is a legal holiday, the meeting will be held at the same hour on the first day following which is not a legal holiday.

Section 2. Special Meeting. Special meetings of the members may be called at any time by the President or by the Board of Directors or upon written request of the members who are entitled to vote one-fourth (1/4) of all votes of the membership.

Section 3. Notice of Meetings. Written notice of each meeting of the members shall be given by, or at the direction of, the secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, not less than ten (10) days nor more than sixty (60) days before such meeting to each member entitled to vote thereat, addressed to the member's address that appears on the books of the Owner's Association, or supplied by such member to the Owner's Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting and, in the case of a special meeting, the purpose of the meeting.

Section 4. Quorum. The presence at the meeting of members entitled to cast, or of proxies entitled to cast, one-tenth (1/10) of the votes of the membership shall constitute a quorum for any action except as otherwise provided in a Declaration, the Articles of Incorporation, or these Bylaws. If, however, such quorum shall not be present or represented at any meetings, the members entitled to vote thereat shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or represented.

Section 5. Proxies. At all meetings of members, each member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the member of his unit.

ARTICLE IV BOARD OF DIRECTORS, SELECTION, TERM OF OFFICE

Section 1. Number. The affairs of this Owner's Association shall be managed by the Board of Directors, which Board shall consist of not less than three directors nor more than twelve directors, the exact number of directors required from time to time to be fixed by Resolution of the Board of Directors of this Corporation. Said directors must be members of the Owner's Association, officers of a corporation owning an individual patio home, condominium unit, single family lot or townhouse lot, or a partner in a partnership owning an individual patio home, condominium unit, single family lot or townhouse lot, except as provided in Section 6 of this Article IV.

Section 2. Term of Office. The initial Directors of this Association shall be appointed by the Declarant and shall consist of five Directors; one of whom will have a term of one year, two of whom will have a term of two years, and two of whom will have a term of three years. At the first annual meeting of the Members, the Members shall elect one Director to fill the vacancy of the Director whose term has expired, and thereafter the Members shall fill the vacancies of the Directors whose terms expire. In the event of any increase in the number of directors, the additional directors shall be elected so that each respective "third" of directors shall be increased equally as nearly as may be, and, in the event of any decrease in the number of directors, each respective "third" of directors shall be decreased equally, as nearly as may be.

Section 3. Removal. Any director may be removed from the Board, with or without cause, by a majority vote of the members of the Owner's Association. In the event of death, resignation or removal of a director, his successors shall be selected by the remaining members of the Board, and shall serve for the expired term of his predecessor.

Section 4. Compensation. No director shall receive compensation for any service he may render to the Owner's Association. However, any director may be reimbursed for his actual expenses incurred in the performance of his duties.

Section 5. Action Taken Without a Meeting. The directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the directors. Any action so approved shall have the same effect as though taken at a meeting of the directors.

Section 6. Initial Board. From the time of incorporation until the first annual meeting of members as provided in the Bylaws, the Board shall consist of three persons appointed by Cimarron Capital Inc. The persons may be employees of Cimarron Capital Inc. and need not own or occupy a patio home, condominium unit, single family lot or town home lot. Until these persons are replaced by elected Board members at the first annual meeting of members, they

shall constitute the Board of Directors and exercise all powers and duties granted the Board of Directors in these Articles and Bylaws of this corporation.

ARTICLE V NOMINATION AND ELECTION OF DIRECTORS

Section 1. Nomination. Nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two or more members of the Owner's Association. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the members, to serve from the close of such annual meeting until the close of the next annual meeting and such appointments shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations may be made from among members only.

Section 2. Election. Election to the Board of Directors shall be by secret written ballot. At such election the members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

ARTICLE VI MEETING OF DIRECTORS

Section 1. Regular Meetings. Regular meetings of the Board of Directors shall be held quarterly without notice, at such place and hour as may be fixed from time to time by resolution of the Board. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

Section 2. Duties. It shall be the duty of the Board of Directors to:

- (a) Cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the members, or at any special meeting when such a statement is requested in writing by one-fourth (1/4) of the members who are entitled to vote;
- (b) Supervise all officers, agents and employees of this Owner's Association and to see that their duties are properly performed;
- (c) Establish the annual assessment period and fix the amount of the annual assessment against each member at least thirty (30) days in advance of each annual assessment period;
- (d) Send written notice of each assessment to every owner subject thereto at least thirty (30) days in advance of each annual assessment period;

- (e) Foreclose the lien against any Unit or property of a member for which assessments are not paid within thirty (30) days after due date or to bring an action at law against the owner personally obligated to pay the same;
- (f) Issue, or cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. If a certificate states an assessment has been paid, such certificates shall be conclusive evidence of such payment;
- (g) Procure and maintain adequate liability and hazard insurance on property owned by the Owner's Association;
- (h) Cause all officers or employees of the Association and the officers and employees of any managing agency having fiscal responsibilities to or for the Association to be adequately bonded; and
- (i) Cause the Common Area to be maintained and the ad valorem taxes to be paid thereon.

Section 3. Powers. The Board of Directors shall have the power to:

- (a) Adopt and publish rules and regulations governing the use of the facilities of the Owner's Association, and the personal conduct of the members and their guests thereon, and to establish penalties for the infraction thereof;
- (b) Suspend the voting rights and rights to use of the facilities of a member during any period in which such members shall be in default in the payment of any assessment levied by the Owner's Association. Such rights may also be suspended after notice and hearing, for a period not to exceed sixty (60) days for infraction of published rules and regulations;
- (c) Exercise for the Owner's Association all powers, duties, and authority vested in or delegated to the Owner's Association and not reserved to the membership by other provisions of these Bylaws, or the Articles of Incorporation;
- (d) Declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from two (2) consecutive regular meetings of the Board of Directors; and
- (e) Employ a manager, an independent contractor, or such other employees as they deem necessary, and to prescribe their duties.

ARTICLE VII OFFICERS AND THEIR DUTIES

Section 1. Enumeration of Officers. The officers of this Owner's Association shall be a president and vice president, who shall at all times be members of the Board of Directors, a secretary and a treasurer, and such other officers as the Board may from time to time by resolution create.

Section 2. Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors and following each annual meeting of the members.

Section 3. Term. The officers of this Owner's Association shall be elected annually by the Board of Directors and each shall hold office for one (1) year unless he shall sooner resign, or shall be removed, or otherwise be disqualified to serve.

Section 4. Special Appointments. The Board may elect such other officers as the affairs of the Owner's Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, for time to time, determine.

Section 5. Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time by giving written notice to the Board, the president or the secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Vacancies. A vacancy in an office may be filled by appointment by the Board. The officers appointed to such a vacancy shall serve for the remainder of the term of the Officer he replaces.

Section 7. Multiple Offices. The offices of secretary and treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 4 of this Article.

Section 8. Duties. The duties of the officers are as follows:

PRESIDENT

The president shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments, and shall co-sign all checks and promissory notes.

VICE PRESIDENT

The vice president shall act in the place and stead of the president in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board.

SECRETARY

The secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the members; keep the corporate seal of the Owner's Association and affix it to all papers requiring said seal; serve notice of meetings of the Board and of the members; keep appropriate current records showing the members of the Recreational Association together with their addresses, and shall perform other such duties as required by the Board.

TREASURER

The treasurer shall receive and deposit in appropriate bank accounts all monies of the Owner's Association and shall disburse such funds as directed by resolution of the Board of Directors; shall sign all checks of the Owner's Association; keep proper books of account; cause an annual audit of the Association books to be made at the completion of each fiscal year by a special committee of three (3) members of the Association who shall be appointed annually by the president and shall not be an officer or director of the Association while serving on the committee. The treasurer shall also prepare an annual budget and a statement of income and expenditures to be represented to the membership at its regular annual meeting, and deliver a copy of each to the members.

ARTICLE VIII COMMITTEES

The Owner's Association Board of Directors shall appoint a Nominating Committee, as provided in these bylaws. In addition, the Board of Directors shall appoint other committees deemed appropriate in carrying out its purposes.

ARTICLE IX BOOKS AND RECORDS

The books, records and papers of the Owner's Association shall at all times, during reasonable business hours, be subject to inspection by any member. The Articles of Incorporation and the Bylaws of the Owner's Association shall be available for inspection by any member at the principal office of the Owner's Association.

ARTICLE X ASSESSMENTS

As more fully provided in the Declaration of Covenants, Conditions and Restrictions, each member is obligated to pay to the Owner's Association annual and special assessments which are secured by a continuing lien upon the property against which the assessment is made. Any assessment which is not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of six percent (6%) per annum, and the Owner's Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property and interest, costs, and reasonable attorney's fees of any such action shall be added to the amount of the assessment. No Owner may waive or otherwise escape a liability for

the assessments provided for herein by nonuse of the Common Area or abandonment of his Unit or property.

ARTICLE XI CORPORATE SEAL

The Owner's Association shall have a seal in circular form having within its circumference the words: Pope's Crossing Homeowners Association, Inc., Corporate Seal, Durham County, North Carolina.

ARTICLE XII AMENDMENTS

Section 1. These Bylaws may be amended, at a regular or special meeting of the members, by the affirmative vote of 75% of the membership, that is, three-fourths (3/4) of the total votes of both the Class A membership and Class B membership, if any.

Section 2. In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control.

ARTICLE XIII FISCAL YEAR

The fiscal year of the Owner's Association shall begin on the 1st day of January and end of the 31st day of December every year, except that the first fiscal year shall begin on the date of incorporation.

IN WITNESS WHEREOF, we, being all of the Directors of the Pope's Crossing Homeowners Association Inc. have hereunto subscribed our names and affixed the seal of said Owner's Association, this the 21st day of August, 1987.

(signatures)

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BOOK 1419, PAGES 270 -283

**DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
(Pope's Crossing)**

**STATE OF NORTH CAROLINA
COUNTY OF DURHAM**

THIS DECLARATION, made and entered into as of the 1st day of December 1987 by Cimarron Capital Inc., a North Carolina corporation, maintaining its principal office and place of business in Durham County, NC, hereinafter referred to as "Declarant."

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in the County of Durham, NC, which is located in said county and state and more particularly described as set forth on Schedule A annexed and attached hereto, made a part hereof and incorporated herein by reference as full and to the same extent as if said description were set forth herein verbatim in words and figures; and

WHEREAS, Declarant has set aside certain lands for the use and benefit of the owners and occupants of the overall Property on a portion of the Property (the "Common Area"), which lands are to be owned and maintained by the POPE'S CROSSING HOMEOWNERS ASSOCIATION INC. (the "Owners Association"), a North Carolina nonprofit corporation; and

WHEREAS, it is the desire of Declarant to submit the Property to the terms, provisions and conditions of the Declaration:

NOW, THEREFORE, Declarant hereby declares that the Property (Schedule A hereof) as herein described and referred to shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, said real property and be binding on all parties having any right, title or interest in the described properties or any party thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE 1: DEFINITIONS

Section 1. Owners Association shall mean and refer to the POPE'S CROSSING HOMEOWNERS ASSOCIATION INC., a North Carolina nonprofit corporation, its successors and assigns, which has been or will be formed pursuant to Chapter 55A of the North Carolina General Statutes.

Section 2. Owner or Homeowner 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 described on Schedule A hereof, as may be hereafter subjected to the terms, provisions and conditions of this Declaration in accordance with the provisions hereinafter provided, including contract sellers, but excluding those having interest merely as security for the performance of an obligation, and shall further include the record owner of a fee simple title to any Lot which is

shown upon any subdivision map for any property hereafter subjected to the terms, provisions and conditions of this Declaration in accordance with the provisions therefore hereinafter provided.

Section 3. Property shall mean and refer to that certain real property, described on Schedule A annexed and attached hereto, made a part hereof and incorporated herein by reference as fully and to the same extent as if said description were set forth herein verbatim in words and figures, which is the property subjected to this Declaration of Covenants, Conditions and Restrictions, as may be hereafter subjected to the terms, provisions and cognitions of this Declaration in accordance with the provisions hereinafter provided.

Section 4. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the property described on Schedule A hereof, as may be hereafter subjected to the terms, provisions and conditions of this Declaration in accordance with the provision hereinafter provided.

Section 5. "Declarant" shall mean and refer to Cimarron Capital Inc., a North Carolina corporation, its successors and assigns.

Section 6. "Member" shall mean and refer to every person or entity who holds membership in the Owner's Association.

Section 7. "Class A Lots" shall mean and refer to any Lot which has been conveyed to an owner other than the Declarant.

Section 8. "Class B Lots" shall mean and refer to an Lot which HAS NOT been conveyed to an owner other than the Declarant.

Section 9. "Common Area" shall mean and refer to all real property and improvements thereon, together with all easements appurtenant thereto owned by the Owner's Association for the common use and enjoyment of the members. The Common Area is described on Schedule B annexed and attached hereto, [text omitted]

Section 10. The term "Board" or "Board of Directors" shall mean and refer to the Board of Directors of the Owner's Association.

Section 11. "Institutional lender" shall be defined as a bank or savings and loan association or an insurance company or a title insurance company or a pension trust or real estate investment trust, or other private or governmental institutions which are regularly engaged in the business of mortgage financing, or a subsidiary of any of the foregoing or a designee of any of the foregoing, owning an institutional mortgage on one or more Lots, or any of the foregoing who acquires an institutional mortgage as herein defined, by assignment or through assignments from a non-intuitional lender.

ARTICLE II: ADDITIONS TO EXISTING PROPERTY

Section 1. Additions by Developer. Additional land within the area described in Deed Book 1334 at Page 40, Deed Book 1334 at Page 44, Deed Book 1391 at Page 979, and Deed Book 1399 at Page 186 of the land records of Durham County, State of North Carolina, may be annexed by the Developer and become subject to this Declaration without the consent of members within three (3) years of the date of this instrument, provided that the FHA and the VA determine that the annexation is in accord with the general plan heretofore approved by them.

The additions authorized under this and the succeeding subsection, shall be made by filing of record a supplementary Declaration of Covenants and Restrictions with respect to the additional property which shall extend the scheme of the covenants and restrictions of this

Declaration to such property or by adopting these Covenants and Restrictions in whole or in part by reference.

Such supplementary Declaration may contain such complementary additions and modifications of the covenants and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the added properties or as are not inconsistent with the scheme of this Declaration. In no event, however, shall such supplementary Declaration revoke, modify or add to the covenants established by this Declaration within the Existing Property.

Section 2. Other Additions. Upon approval in writing of the Association pursuant to a vote of two-thirds (2/3) of its members as provided in its Articles of Incorporation, the owner of any property who desires to add it to the scheme of this Declaration and to subject it to the jurisdiction of the Association may file of record a Supplementary Declaration of Covenants and Restrictions, as described in subsection (a) hereof.

Section 3. Mergers. Upon a merger or consolidation of the Association with another association, its properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association, or alternatively, the properties, rights and obligations of another association may, by operation of law, be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the covenants and restrictions established by this Declaration within the Existing Property together with the covenants and restrictions established upon another properties as one scheme. No such merger or consolidation, however, shall effect any revocation, change or addition to the covenants established by this Declaration within the Existing Property except as hereinafter provided.

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 and the rights and easement hereby granted shall be appurtenant to and shall pass with the title to every Lot subject only to the following provisions:

- (a) The right of the Owner's Association to charge reasonable fees for the maintenance and use of the Common Area, if any;
- (b) The right of the Owner's Association to suspend the voting rights and right to the use of any recreational facilities situated upon the Common Area by an owner for any period during which any assessment against his Lot, as herein provided, remains unpaid; and for a period not to exceed sixty (60) days from any infraction of its published rules and regulations;
- (c) The right of the Owner's 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. No such dedication or transfer shall be effective unless an instrument or instruments signed by two-thirds (2/3) of each class of members agreeing to such dedication or transfer has been recorded (such instrument or instruments may be executed in several counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument);
- (d) The right of the Owner's Association, in accordance with its Articles and Bylaws, to borrow money for the purpose of improving the Common Area and facilities and in

aid thereof to mortgage and grant liens and encumbrances upon said Common Area and facilities shall be subordinate to the rights of the homeowners hereunder;

- (e) The right of the Owner's Association, through its Board of Directors, to determine the time and manner of use of any recreational facilities situated upon the Common Area by the Members;

Section 2. Delegation of Use. Any owner may delegate, in accordance with the Bylaws of the Owner's Association, his right of enjoyment to the Common Area and facilities to the members of his immediate family, his tenants, or contract purchasers, who reside on the property.

ARTICLE IV. MEMBERSHIP AND VOTING RIGHTS

Section 1. Every owner of a Lot which is subject to assessment shall be a member of the Owner's Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. The Owner's Association shall have two classes of voting membership:

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

Class B. Class B Member(s) shall be the Declarant and the Declarant 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 first occurs:

- (a) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or
- (b) On January 1, 1990.

ARTICLE V. COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation Assessments. Declarant, for each Lot owned within the properties, hereby covenants and agrees, and each owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay the Owner's Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. All such annual and special assessments, together with interest, costs, and reasonable attorney's fees for the collection thereof shall be a charge and lien upon the Lot and improvements of the respective owners thereof, and the same shall be continuing lien upon the property (Lot and Improvements) against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees for the collection thereof, shall also be a personal financial obligation of the person, or persons, who was, or were, the owner or owners of such property at the time when the assessments became due. The personal financial obligation for delinquent assessments shall not pass to successors in title to any such Lot and improvements unless expressly assumed by such purchasers; PROVIDED, HOWEVER, the same shall be an remain a charge and lien upon any such Lot and improvements until paid or otherwise satisfied except as may herein otherwise be provided.

Section 2. Purpose of Assessments. The assessments levied by the Owner's Association shall be used exclusively to promote the recreation, health, safety and welfare of the Owners and

residents of the Property and for the improvements and maintenance of the Common Area and facilities, for the improvements and maintenance of Wet Basin #1, Wet Basin #2, and the Infiltration Trench located on parcel of land adjacent to the property, and easements appurtenant thereto, and for payment of local taxes and special governmental assessments on or to the Common Area.

Section 3. Maximum Annual Assessment. Until January 1, 1988, the maximum annual assessment shall be \$72.00 per Lot, or \$6.00 per month.

- (a) From and after January 1, 1988, the maximum annual assessment may not be increased each year by more than 5 percent (5%) above the maximum assessment for the previous year without a vote of the membership of the Owner's Association, as herein below provided.
- (b) From and after January 1, 1988, the maximum annual assessment may be increased by more than 5 percent (5%) by a vote of two-thirds of each class of members of the Owner's Association who are voting in person or by proxy at a meeting duly called for such purpose.
- (c) The Board of Directors may fix the annual assessment in an amount not in excess of the maximum, as herein provided.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area and facilities, including (but not limited to) fixtures and personal property related thereto provided that any such assessment shall have the assent of two-thirds of the votes of each class of members of the Homeowner's Association who are voting in person or by proxy at a meeting duly called for such 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 and 4 shall be sent to all members of the Owner's Association not less than ten (10) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Class A Lots and Class B Lots, provided, however, that the assessments on all Class B Lots shall be fixed at fifty percent (50%) of the amount of assessments upon all Class A Lots.

Section 7. Date of Commencement of Annual Assessments: Due Date. The annual assessment provided for herein shall commence as to all Lots on the first day of November 1987 (provided there has been a prior conveyance of the Common Area to the Owner's Association). The first annual assessment shall be adjusted according to the number of months remaining in the fiscal year for the Owner's Association. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto.

The due dates shall be established by the Board of Directors, and unless otherwise provided, the Owner's Association shall collect each month from the Owner of each Lot one-twelfth (1/12th) of the annual assessment of such Lot. The Owner's Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Owner's Association setting forth whether the assessments on a specified Lot have been paid. Such certificates shall be conclusive evidence of payment of any assessment therein stated to have been paid, as to any purchases or mortgage of a Lot relying thereon.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Owner's Association.

Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of six percent (6%) per annum, and the Owner's Association may bring action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property, and interest, costs, and reasonable attorney's fees of any such action for collection thereof shall be added to the amount of such assessment. Each such Owner, by his acceptance of a deed to a Lot, hereby expressly vests in the POPE'S CROSSING HOMEOWNERS ASSOCIATION INC., or its agents, the right and power to bring all actions against such Owner personally for the collection of such charges and liens as a debt and to enforce the aforesaid charge and lien by methods available for the enforcement of such liens, including foreclosure by an action brought in the name of the Owner's Association in like manner as a mortgage or deed of trust lien on real property and such member expressly grants to the Owner's Association a power of sale in connection with any such charge or lien. The lien provided for in the section shall be in favor of the Owner's Association and shall be for the benefit of all other Lot Owners. The Owner's Association, acting on behalf of the Lot Owners shall have the power to bid in an interest foreclosed at foreclosure sale and to acquire and hold, lease, mortgage and convey the same, and to subrogate so much of its right to such liens as may be necessary or expedient to an insurance company continuing to give total coverage notwithstanding nonpayment of such defaulting Owner's portion of the premium. NO OWNER MAY WAIVE OR OTHERWISE ESCAPE LIABILITY FOR THE ASSESSMENTS PROVIDED FOR HEREIN BY NON-USE OF THE COMMON AREA OR FACILITIES OR ABANDONMENT OF HIS LOT.

Section 9. Subordination of the Assessment Lien to Mortgages, Deeds of Trust and Similar Security Interest. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage, deed of trust, or similar security interest owned or held by an institutional lender, and subordinate to tax liens and special assessments on a lot made by lawful governmental authority. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage or deed of trust 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. Exempt Property. All properties, if any, dedicated to, and accepted by a local public authority, the Common Area, and all properties owned by a charitable or nonprofit organization exempt from ad valorem taxation by the laws of the State of North Carolina shall be exempt from the assessments created herein. However, no land or improvements devoted to dwelling use shall be exempt from said assessments, irrespective of the tax status of the Owner thereof.

Section 11. Management Agreements. Each Owner of a Lot hereby agrees to be bound by the terms and conditions of any management agreements entered into by the Owner's Association. A copy of all such agreements shall be available to every owner. Any and all management agreements entered into by the Owner's Association shall provide that said management agreement may be cancelled, prior to the expiration of said agreement, by an affirmative vote of sixty percent (60%) of the votes of each class of the Members of the Owners Association. Except as herein provided, no such management agreements shall be cancelled prior to effecting by the Owner's Association or its Board of Directors a new management agreement with a party or parties, which new management agreement will become effective immediately upon the cancellation of the then existing management agreement. It shall be the duty of the Owner's Association or its Board of Directors to effect a new management agreement upon the expiration of any prior management agreement, unless self-management is undertaken as herein provided. Any and all management agreements shall be made with a responsible party or parties having experience adequate for the management of a project of this size and type. The Association may undertake self-management upon the affirmative vote of 75 percent (75%) of the votes of each class of members.

Section 12. Insurance Assessments. The Board of Directors or its duly authorized agent, shall have the authority to and shall obtain insurance for all the improvements owned by the Owner's Association against loss or damage by fire or other insurable hazards in the amount sufficient to cover the full replacement cost of any repair or reconstruction work in the event of damage or destruction from any hazard, and shall also obtain a broad form public liability policy covering all Common Areas, and all damage or injury caused by the negligence of the Owner's Association or any of its agents. Said insurance shall include coverage against vandalism. Premiums for all such insurance shall be common expenses. All such insurance coverage shall be written in the name of the Owner's Association as Trustee for each of the Lot owners in equal proportions. In the event of damage or destruction by fire or other casualty to any property covered by insurance written in the name of the Owner's Association, the Board of Directors shall, with concurrence of the mortgagee, if any, upon receipt of the insurance proceeds, contact to rebuild or repair such damaged or destroyed portions of the property to as good condition as formerly. All such insurance proceeds shall be deposited in a bank or other financial institution, the accounts of which bank or institution are insured by a Federal governmental agency, with the provision agreed to by said bank or institution that such funds may be withdrawn only by signature of at least one-third (1/3) of the members of the Board of Directors, or by an agent duly authorized by said Board of Directors. The Board of Directors may but shall not be obligated to advertise for sealed bids but shall contact with a licensed contractor. In the event the insurance proceeds are insufficient to pay all the costs of repairing and/or rebuilding to the same condition as formerly, the Board of Directors may levy a special assessment against all members of the Owner's Association, as established by Article IV, Section 4, above, or upon concurrence of two-thirds (2/3) of each class of members, and the respective mortgages may borrow sufficient funds to make up any deficiency for repair or rebuilding of the Common Areas and facilities.

ARTICLE VI. GENERAL PROVISIONS

Section 1. Enforcement. The Owner's Association or any Owner, shall have the right to enforce, by a proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter improved by the provisions of this Declaration. Failure by

the Owner's Association or by an Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other of the 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 the term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. The Board of Directors of the Owner's Association may cause to be recorded in the Public Records of Durham County such instruments or documents as may be necessary to cause any such extension to be legally effective. Except as provided in Section 4 of this Article, this Declaration may be amended during the first twenty (20) year period by an instrument signed by the Owners of not less than ninety percent (90%) of the Lots, and thereafter by an instrument signed by the Owners of not less than seventy-five percent (75%) of the Lots. Any amendment must be recorded and indexed in the name of the Owner's Association and each Lot Owner.

Section 4. Failure of the Owner's Association to Pay Taxes and Special Assessments on the Common Area. In the event that the Owner's Association shall, contrary to their respective obligations to do so, fail to pay the ad valorem taxes and/or any special governmental assessments on the Common Area (as defined and described in Article 1, Section 9, of this Declaration) on or before the expiration of one hundred eighty (180) days from and after the day before the date on which the same shall become delinquent, then and in such event, said taxes or assessments, together with any interest and penalties thereon shall be and become a lien, on a pro-rata basis, upon the Lots covered hereby. Such liens may be foreclosed by the governmental authority in the same manner as provided for foreclosure of liens for ad valorem taxes and assessments and public improvements.

Section 5. Conveyance of Property to Owner's Association. It is understood and agreed that Declarant, his successors and assigns, shall convey the Common Area and facilities to Pope's Crossing Homeowners Association Inc. free and clear of financial liens and encumbrances.

Section 6. Reserve Funds. From and after November 1, 1987, the Owner's Association shall establish and maintain a reserve fund for replacement and maintenance of the recreational area and facilities by allocation and payment monthly to such reserve fund in such amounts as are established by the Board of Directors of the Owner's Association.

Section 7. Gender and Grammar. The singular whenever used herein shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations or individuals, men or women, shall in all cases be assumed as though in each case fully expressed.

Section 8. Remedy for Violation. For violation or a breach of any of the provisions herein, or the provisions of the Articles of Incorporation or Bylaws of the Owner's Association by any person blaming by, through or under the Declarant and/or the Association, or by virtue of any judicial proceedings, the Owner, or the Association, or the Declarant, or any of them, shall have the right to proceed at law for damages or in equity to compel compliance with any of them, or for such other relief as may be appropriate.

Section 9. Drainage. The Association shall be responsible for maintenance of Wet Basin #1, Wet Basin #2, and the Infiltration Trench located on land adjacent to the Property herein.

Section 10. FHA/VA Approval. As long as there is a Class B membership, the following actions will require prior approval of the Federal Housing Administration or the Veterans Administration: Annexation of additional properties, dedication of Common Area, and amendment of this Declaration of Covenants, Conditions and Restrictions.

IN WITNESS WHEREOF, the undersigned CIMARRON CAPITAL INC., a North Carolina corporation, Declarant hereof, has caused this Declaration to be executed by its appropriate officers, all by authority of its Board of Directors, duly given the day and year first written above.

[signatures omitted]

[Notary Public statement and signature omitted]

[Schedule A omitted]

[Schedule B – Common Areas omitted]

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BOOK 1451 PAGE 440 – 449

**DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
(Pope's Crossing)**

**STATE OF NORTH CAROLINA
COUNTY OF DURHAM**

Prepared by & mail to C. Thomas Biggs, Attorney

This Declaration of Covenants, Conditions and Restrictions for Pope's Crossing made and entered into this the 13th day of April 1988 by Cimarron Capital, Inc., a North Carolina corporation, Post Office Box 2701, Durham, North Carolina 27705 (hereinafter referred to as the "Declarant"), and Joseph Espinal and Angela M. Rae, James E. Clark and wife, Sally B. Clark, David R Woodcox and wife, Laura L. Woodcox, Kathleen M. Christian, Wanda C. Welch, Theresa L. Gucker, residents of Durham County (hereinafter referred to as "Owners").

WITNESSETH:

WHEREAS, Declarant and Owners are owners of certain Properties located in the County of Durham, State of North Carolina, and

WHEREAS, Declarant and Owners desire to subject the Properties to certain protective covenants, conditions, restrictions and easements as hereinafter set forth, and

NOW, THEREFORE, Declarant and Owners hereby declare that all of the Properties described hereinafter shall be held, sold and conveyed as part of its general plan of development subject to the following easements, restrictions, covenants and conditions, which are for the purpose of enhancing and protecting the value and desirability of, and which shall run with, the Properties and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors, and assigns, and shall inure to the benefit of each Owner thereof.

ARTICLE I. DEFINITIONS

Section 1. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 2. "Properties" shall mean and refer to that certain real Property more particularly described on Exhibit A attached herein and incorporated herein by the reference.

Section 3. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the open areas and dedicated road rights-of-way.

Section 4. "Declarant" shall mean and refer to Cimarron Capital, Inc., a North Carolina corporation, Post Office Box 2701, Durham, NC 27705, its successors and assigns (if such successors and assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development).

ARTICLE II. ARCHITECTURAL AND APPEARANCE CONTROL

Section 1. Residential Use. Each Lot shall be used solely and exclusively for residential purposes and no dwelling shall be erected or allowed to remain upon any Lot except one detached, single-family private residence not exceeding three (3) stories and an attic in height as measured from the street grade of the Lot, a garage and other appurtenances as may be approved by the Declarant.

Section 2. Required Land Area. No Lot may be subdivided by sale or otherwise so as to reduce the total area of the Lot as shown on any subdivision map of the Properties recorded by the Declarant, provided, however, that Lot lines may be adjusted among Lots by Declarant or Owner subject to governmental approval provided that the total number of Lots shall not be increased.

Section 3. Approval of Structural Design. No residence, building, fence, wall, driveway, mail box, bus shelter, swimming pool, storage facility, landscape lighting, lights, utility shed, satellite dish or other structure or appurtenance shall be erected, altered, remodeled, added to, or allowed to remain upon any Lot unless the plans and specifications showing the nature, kind, shape, height, materials, color and location of the same have been submitted to and approved in writing by the Pope's Crossing Architectural Review Committee (hereinafter referred to as "the Committee") or its designate, and construction must be accomplished in strict conformity with such plans as approved, unless otherwise expressly agreed to in writing by the Committee or its designate. The Committee or its designate shall have the sole right, authority and complete discretion to approve or disapprove the plans and specifications for any reason, including, but not limited to, exterior colors and appearance, landscaping, location of the structure or structures and aesthetics. In the event the Committee or its designate does not approve or disapprove the plans and specifications in writing within thirty (30) days from the date they are received by it, this approval right will be waived and this covenant will be deemed to have been fully complied with. The Pope's Crossing Architectural Review Committee shall consist of the Declarant, or its designate until such time as the Declarant shall resign, at which time said Committee shall be comprised of three members appointed by the Pope's Crossing Homeowner's Association, Inc.

Section 4. Utilities Easement. In addition to such easements as may be reserved on any recorded plot, there is reserved an easement for and the right at any time in the future to grant a right-of-way and easement not more than ten (10) feet in width from any rear or side lot line for the purpose of drainage, underground or above ground installation, repair and maintenance of poles, street lights, lines, conduits, pipes and other equipment necessary to or useful in furnishing electric power, gas, sewer, cable and telephone service and any other utilities for or to the Lots.

Section 5. Radio and Television Antennae. No exposed or exterior radio or television transmission or receiving antennae shall be erected, placed or maintained on any part of a Lot or upon a structure thereon which shall exceed the height of the trees upon such Lot.

ARTICLE III. USE RESTRICTIONS

Section 1. Use of Properties. No portion of the Properties (except for a temporary office and/or sales model of the Declarant maintained for development and sales purposes) shall be

used except for residential purposes incidental or accessory thereto. This provision shall not be construed so as to prohibit domestic or health care personnel who work and provide on-premises services to or for the Owner, members of his family, his lawful tenants or contract purchasers from being provided with a place of residence within any residence situated on a Lot.

(a) No commercial signs, with the exception of a "For Sale" or "For Rent" sign no more than two feet in width and three feet in height, shall be erected or maintained on any lot. Such signs as allowed hereunder, being temporary in nature, shall not be subject to any setback requirements imposed by Article II, Section 5.

(b) No house trailers shall be permitted on any Lot. Boats, trailers, campers, tents or temporary building shall not be permitted on any Lot except in areas where they cannot be viewed from the streets. However, house trailers, temporary buildings and the like shall be permitted for construction purposes during the construction period of residential structures and shall be removed from the Lot within ten (10) days after a certificate of occupancy shall be issued for the residential structure or improvement being constructed.

(c) No exposed above ground tanks will be permitted for the storage of fuel or water or any other substance, except that such tanks may be placed above ground provided they are kept in a screened enclosure which must be compatible in appearance and locale with the previously constructed residential structure. Any such screened enclosure must exceed in height by at least one (1) foot any such tank as may be placed therein.

Section 2. Hobbies and Activities. The pursuit of hobbies or other actives, including specifically, without limited 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 any Lot.

Section 3. Animals and Pets. No stable, poultry house or yard, rabbit hutch or other similar structure shall be constructed or allowed to remain on any Lot without the express written permission of the Declarant. However, a reasonable number of household pets shall be permitted, provided they are not raised for commercial purposes and subject to Article II, Section 3, a structure or enclosure may be erected in the rear yard for such household pets that are to be kept out-of-doors.

Section 4. Prohibited Activities. Noxious, offensive or loud activities shall not be carried out upon any Lot. Each Owner shall refrain from any act or use of his Lot which could reasonably cause embarrassment, discomfort, annoyance or nuisance to the neighborhood.

Section 5. Governmental Regulations. All governmental building codes, health regulations, zoning restrictions and the like applicable to the Properties shall be observed. In the event of any conflict between any provision of such governmental code, regulation or restriction and any provision of this Declaration, the more restrictive provision shall apply.

ARTICLE IV. GENERAL PROVISIONS

Section. 1. Enforcement. The Declarant or its delegate, or any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Declarant or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

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

Section 3. Amendment. The covenants, conditions and restrictions of the Declaration shall run with and bind the land for a term of thirty (30) years from the date this Declaration is recorded, after which time they shall be automatically extended for two successive periods of ten (10) years each. This Declaration may be amended during the first thirty (30) year period by an instrument approved by not less than the record Owners of ninety percent (90%) of the Lots, and thereafter by an instrument approved by not less than the record Owners of seventy-five percent (75%) of the Lots.

Section 4. Amendment Form. If any amendment to these Covenants, conditions and restrictions is so approved, each such amendment shall be delivered to the Declarant or its delegate. Thereupon, the Declarant or its delegate shall within thirty (30) days, do the following:

(a) Reasonably assure itself that the amendment has been validly approved by the Owners of the required number of Lots. (For this purpose, the Declarant or its delegate may rely upon the evidence of record title available in the Durham County Registry, but shall not be required to cause any title to any Lot to be examined.)

(b) Attach to the amendment a certification as to its validity, which certification shall be executed by the Declarant or its delegate in the same manner that deeds are executed.

(c) Immediately, and within the thirty (30) day period aforesaid, Declarant or its delegate shall cause the amendment to be recorded in the Durham County Registry.

All amendments shall be effective from the date of their recordation in the Durham County Registry, provided, however, that no such instrument shall be valid until it has been indexed in the name of the Declarant. When any instrument purporting to amend the covenants, conditions and restrictions has been certified by the Declarant or its delegate, recorded, and indexed as provided by this Section, it shall be conclusively presumed that such instrument constitutes a valid amendment as to all persons thereafter purchasing any Lots.

IN WITNESS WHEREOF, the undersigned, being the Declaration herein, has hereunto set its hand and seal this 20th day of May, 1988.

(signatures)

Cimarron Capital, Inc.

Joseph Espinal

Angela M. Rae

James E. Clark

Sally B. Clark

David R. Woodcox

Laura L. Woodcox

Kathleen Christian

Wanda C. Welch

Theresa L. Gucker

EXHIBIT A. POPE'S CROSSING PROPERTY (*See Book 1451, page 449*)