

DECLARATION
OF
COVENANTS, CONDITIONS, RESTRICTIONS,
LIENS AND RESERVATIONS OF EASEMENTS
FOR
COOL SPRINGS

Prepared by:

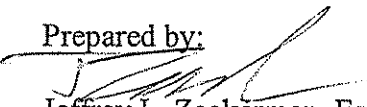

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- A -- Legal Description for the Property
- B -- By-Laws of the Association
- C -- Articles of Incorporation of the Association

**DECLARATIONS OF COVENANTS, CONDITIONS, RESTRICTIONS, LIENS
AND RESERVATIONS OF EASEMENTS FOR**

THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS, LIENS AND RESERVATIONS OF EASEMENTS FOR COOL SPRINGS ("Declaration") is made this 13th day of JANUARY, ~~1999~~ 2006, by **ZARING HOMES, INC.**, an Ohio corporation ("Developer"), under the following circumstances:

WHEREAS, Developer is the owner of certain real property located in Boone County, Kentucky, more particularly described in Exhibit A attached to this Declaration (the "Property").

WHEREAS, Developer desires to declare that the Property shall be held, sold and conveyed subject to the provisions of this Declaration.

WHEREAS, Developer has formed Cool Springs Homeowners' Association, Inc., which shall be responsible for the administration and enforcement of the provisions of the Declaration.

WHEREAS, Developer owns or may acquire other real property in the vicinity of the Property that may be annexed to the Property, enjoy the benefit of all amenities in the Development, and be subjected to this Declaration.

NOW, THEREFORE, for the purposes of establishing and assuring a uniform plan for the development of the Property, and enhancing and protecting the value, desirability and attractiveness of the Property, Developer declares that the Property shall be held, occupied, sold and conveyed subject to this Declaration and be binding on all parties having any right, title and interest in the Property or any part thereof, their heirs, successors and assigns and shall inure to the benefit of each owner thereof.

ARTICLE 1 – DEFINITIONS

In addition to any definitions contained elsewhere in this Declaration, the following terms used in this Declaration shall have the meanings set forth in this Article 1.

- 1.1 Additional Property. "Additional Property" means other real property in the vicinity of the Property which is owned and/or acquired by Developer which may be annexed to the Development, enjoy the benefit of all amenities in the Development, and be subject to this Declaration.
- 1.2 Articles and Articles of Incorporation. "Articles" and "Articles of Incorporation" mean those articles, as the same may be amended from time to time, filed with the Secretary of the Commonwealth of Kentucky, incorporating the Association, as a non-profit corporation under the laws of Kentucky. A true copy of the Articles is attached hereto as Exhibit C and made a part hereof.
- 1.3 Assessments. "Assessments" means the charges established by Article 3 of this Declaration.

- 1.4 Association. "Association" means Cool Springs Homeowners' Association, a Kentucky non-profit corporation, which will own, operate and/or maintain the Common Property, and any successor organization that owns, operates and/or maintains the Common Property.
- 1.5 Board. "Board" means the Board of Trustees of the Association.
- 1.6 Builder. "Builder" means any person or entity, other than Developer, who, in the ordinary course of business, constructs a Dwelling Unit with or without accessory structures (i) for resale to, or on behalf of, a third party, or (ii) for Builder's own use or the use of Builder's family. A Builder may or may not be an Owner.
- 1.7 By-Laws. "By-Laws" means the By-Laws of the Association, as the same may be amended from time to time. A true copy of the By-Laws is attached hereto as Exhibit B and made a part hereof.
- 1.8 Common Expenses. "Common Expenses" shall be those expenses described in Section 3.6.
- 1.9 Common Property. "Common Property" means all real and personal property owned by, leased to or under the control of the Association for the benefit, use and enjoyment of the Owners, and including any easements or other rights over real property adjacent to or near the Property which easements or other rights are created for the benefit of the Association.
- 1.10 Declaration. "Declaration" means this instrument as the same may be amended from time to time as hereinafter provided.
- 1.11 Default. "Default" means any violation, breach or any failure to comply with, this Declaration or the By-Laws, or other standards, rules or regulations adopted pursuant to this Declaration.
- 1.12 Developer. "Developer" means exclusively Zaring Homes, Inc., an Ohio corporation, its successors and assigns.
- 1.13 Development. "Development" shall mean all phases or sections of the record plat for Cool Springs, a subdivision in Boone County, Kentucky, and consisting of the Property and Additional Property from time to time made subject to the provisions of this Declaration.
- 1.14 Dwelling Unit. "Dwelling Unit" means any building or portion of a building situated upon a Lot designed and intended for use and occupancy as a residence by persons or a family.
- 1.15 Lot. "Lot" means any parcel shown as such on the record plat of the Development. Unless the context otherwise requires, the term "Lot" shall be deemed to include both the parcel of land and the Dwelling Unit on that land, if any, excluding Common Property.

- 1.16 Member. "Member" means any Owner who is a member of the Association as provided in the Articles of Incorporation.
- 1.17 Owner. "Owner" means the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Development, including purchasers on land installment contracts and including contract sellers on other forms of executory contracts for the sale of a Lot, but excluding those having such interest merely as security for the performance of an obligation.
- 1.18 Phase or Section. "Phase or Section" shall mean all of the land area encompassing a group of Lots as designated on a recorded subdivision plat including streets and Common Property.
- 1.19 State. "State" shall mean the state in which the Property is located.
- 1.20 Trustee. "Trustee" means any person elected or appointed to the Board.

ARTICLE 2 - ASSOCIATION MEMBERS AND VOTING

- 2.1 Members. Every Owner shall be a member of the Association, and such membership shall be appurtenant to and may not be separated from ownership of a Lot. Developer shall be a member of the Association so long as it qualifies as a Class A or Class B member as defined in Section 2.2.
- 2.2 Classes and Voting Rights. The Association shall have two (2) classes of voting memberships:
- A. CLASS A – Class A members shall be all the Owners, except the Developer (if the Class B membership exists). Except as provided below, Class A members shall be entitled to one (1) vote for each Lot owned. When more than one (1) person holds an interest in any Lot, the vote for such Lot shall be exercised as the majority of such persons among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot notwithstanding the number of persons who may own an interest therein. The Board shall be entitled to suspend voting rights of a Member in the Association during the time period in which the Member is in Default.
- B. CLASS B – The Class B member shall be Developer and such member shall be entitled to such number of votes as will constitute seventy-five percent (75%) of the total voting power of the Association, so long as the Class B membership continues to exist. The Class B membership shall continue to exist to the extent permitted by the law of the State and shall be converted to Class A membership upon the happening of either of the following events, whichever occurs earlier:

- (i) Upon the annexation to this Declaration of the Property described in Exhibit A and the Additional Property by Developer and upon the sale of seventy-five percent (75%) of the Lots included from time to time to individual Lot Owners;
- (ii) Upon the expiration of seven (7) years after the date this Declaration is filed for record. Provided, further, that nothing herein shall be construed to prohibit the Class B member from converting its Class B membership to Class A membership with the results set forth above at any time earlier by written statement executed by Developer and delivered to the Association.

2.3 Administration by Association. Subject to the rights retained by Developer pursuant to this Declaration, the ownership, operation and maintenance of the Common Property and of the administration and enforcement of this Declaration shall be by the Association in accordance with the terms and provisions of this Declaration.

2.4 Compliance by Owners. Each Owner, tenant or occupant of a Lot shall comply with the provisions of this Declaration, By-Laws, rules and regulations of the Association and the decisions and resolutions of the Association or its representatives, all as lawfully amended from time to time. Failure to comply with any such provisions, rules and regulations, decisions and resolutions shall be grounds for an action to recover sums due and for damages and injunctive and other appropriate relief.

ARTICLE 3 – ASSESSMENTS

3.1 Covenant of Payment; Creation of Lien. Each Owner of a Lot (other than Developer, except as hereinafter provided), by acceptance of a deed or other instrument of conveyance for a Lot, agrees to pay to the Association the Assessments provided in this Article 3. The Assessments (including late charges and costs of collection, as provided below) shall be a charge and a lien on each Lot and shall be the personal obligation of the Owner of each Lot, to the extent and for the period provided in this Article 3.

3.2 Purpose of Annual Assessment. The annual assessment is established for the benefit and use of the Association and shall be used in covering all of the Common Expenses; the operation, maintenance, and repair of Common Property; other portions of the Property that the Association is obligated to repair under this Declaration; and the performance of all other duties and obligations to be performed by the Association under this Declaration. The Common Expenses may include, but are not limited to, the costs of employees' wages, materials, equipment, supplies, insurance premiums for the insurance of Common Property, officers and Trustees liability insurance, rental fees for any Common Property leased to the Association, the cost of reasonable reserves for contingencies,

replacements, and working capital, taxes and assessments on the Common Property, management fees, legal and accounting fees, capital improvements and additions for Common Property, and all other costs and liabilities incurred by the Association in the exercise of its powers and duties pursuant to this Declaration or the By-Laws.

3.3 Initial Assessment. Upon each initial conveyance of a Lot by the Developer or a Builder to an Owner, the Owner shall pay an initial assessment of \$400.00. The initial assessment shall be used as working capital for the Association and not collected in lieu of any installments of the annual assessment. The initial assessment is non-refundable. No initial assessment shall be due on any Lot purchased from an Owner other than Developer or a Builder, nor shall any initial assessment be due on any Lot purchased from Developer by a Builder.

3.4 Annual Assessment. The annual assessment or prorated portion thereof for each Lot Owner in each respective Phase or Section of the Development shall commence on the first day of the month following the conveyance of the first Lot from Developer to an Owner in that Phase or Section of the Development. Notwithstanding anything herein to the contrary, (i) there shall be no annual assessment allocated to Lots owned by the Developer if they are not occupied, and (ii) the annual assessment allocated to Lots owned by a Builder, if such Lots are not occupied, shall be equal to fifty percent (50%) of the annual assessment allocated to Lots owned and occupied by others. Not later than the initial conveyance of a Lot in a Phase or Section to an Owner (other than a Builder), Developer shall convey all Common Property within that specific Phase or Section of the Development to the Association. The Board shall have the right to require the annual assessment to be paid in periodic installments during the year or in a single installment as determined by the Board and shall be due and payable on such date or dates as determined by the Board. It shall be the duty of the Board to determine the amount of the annual assessment allocated to each Lot. The Board shall make reasonable efforts to determine the assessment amount for the following year, by the first day of December of each year, and shall at that time, prepare a roster of the Lots and the portion of the assessment allocated thereto, which shall be open for inspection by any Owner upon reasonable notice to the Board. The Board shall be entitled to change the method of collection of assessments as it may, from time to time, elect.

Failure to act within any time period established in the Declaration shall not affect the rights of the Board to collect assessments as provided herein.

3.5 Calculation of Annual Assessment. Each Owner shall be responsible for and shall pay that portion of the annual assessment allocable to the Owner's respective Lot as determined by the Board. The annual assessment per Lot shall be determined based upon the estimate of the Common Expenses for the year plus an amount determined by the Board as adequate to provide a reserve fund for future use by the Association for the maintenance and/or replacement of the Common Property, and the number of Lots then subject to this Declaration as adjusted for Lots not

subject to full annual assessment as specifically provided herein. The Board during any calendar year shall be entitled to increase the annual assessment for that year if it should determine that the estimated or current assessment is insufficient to cover Common Expenses for that year, provided that the Board shall give at least thirty (30) days advance written notice thereof to the Owners.

- 3.6 Special Assessment (Operating Shortfalls). In the event that the annual assessment is less than the Common Expenses incurred for said year, the amount of any operating deficit may, at the Board's sole option, be charged to the Owners by means of a special assessment and the same shall be immediately due and payable as provided in Section 3.9.
- 3.7 Individual Assessment. If any portion of the Common Property that the Association is obligated to maintain, repair and/or replace is damaged due to the willful or negligent act or omission of an Owner or an Owner's guest or invitee, the Board shall have the right to undertake the necessary maintenance, repair or replacement. The choice between repair and replacement is in the sole discretion of the Board. The cost so incurred by the Board shall be assessed as an individual assessment against all Lots owned by the Owner responsible for the damage. No such assessment may be levied against Lots owned by the Developer without the Developer's written consent.

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

- 3.8 Interest. Delinquent assessments shall bear interest at such interest rates as are from time to time established by the Board (which interest rate shall not exceed the maximum legal interest rate allowed to be charged to an individual under the laws of the State). The Board shall have the right to establish a late charge for delinquent payments in addition to interest charges.
- 3.9 Creation of Lien and Personal Obligation for Assessments. Each Owner, by acceptance of a deed for the Lot, whether or not it shall be so expressed in such deed, shall be deemed to have covenanted and agreed to pay to the Association the Assessments. The Assessments, together with interest and costs, and reasonable attorney's fees for collection, shall be a continuing lien upon the Lot against which each such Assessment is made. Each such Assessment, together with interests, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the Assessment was made. The personal obligation for a delinquent Assessment shall not pass to a successor in title, unless expressly assumed by such successor (although any liens for Assessments established hereunder shall run with the land). If the obligation is so assumed by a successor in title, the successor and the

former Owner shall be jointly and severally liable for payment of the amount due and payable.

Each Owner covenants for himself, his heirs, successors and assigns, to pay each Assessment levied by the Association on his Lot within ten (10) days after receipt of an invoice for the same, and further covenants that if said charge shall not be paid within thirty (30) days from the date that said invoice is deposited, postage prepaid in the United States mail, in an envelope addressed to the Owner at the address of the Lot, the amount of such charge shall become a lien upon said Owner's Lot and shall continue to be such lien, until fully paid. The Association may perfect such lien by recording a notice of lien with the Clerk of Boone County, Kentucky. The lien shall be prior to all other liens and encumbrances whatsoever, except real estate taxes and assessments, liens of record in favor of the United States of America, the Commonwealth of Kentucky, or other governmental instrumentalities to the extent made superior by applicable law, and all bona fide recorded first mortgages.

- 3.10 Enforcement of Lien. Any lien established under this Declaration may be enforced by the Association in the same manner and to the same extent (including appointment of a receiver, foreclosure sale and deficiency judgment) and subject to the same procedures as in the case of foreclosure of a real property mortgage. In any enforcement proceeding, the amount that may be recovered by the Association shall include all costs of the proceeding, and, to the extent permitted by law, reasonable attorney's fees. In any foreclosure sale, the Association may purchase the Lot.
- 3.11 Purchaser at Foreclosure Sale. Any purchaser of a Lot at a foreclosure sale shall automatically become a Member of the Association and shall be subject to all of the provisions of this Declaration. When the purchaser of a Lot acquires title to the Lot as a result of a foreclosure action, if the proceeds are insufficient to pay all delinquent Assessments, the purchaser shall not be solely liable for the share of the Assessments chargeable to the acquired Lot that became due prior to the acquisition of title to that Lot. Instead, any unpaid share of the Assessments that became due and payable prior to the date of purchase shall be deemed to be part of the Assessments collectible from all of the Lots, including that of the purchaser.

ARTICLE 4 - COVENANTS AND RESTRICTIONS

- 4.1 Real Covenants. The provisions of this Declaration are for the benefit of Developer and Owners as provided herein, and run with the land and shall be binding on all parties and all persons claiming ownership under them, except as otherwise specifically provided herein.
- 4.2 Residential. All of the Lots shall be used for private residential purposes exclusively, except that an Owner may conduct business activities within the Lot

as long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from the outside; (b) the activity conforms to all zoning requirements for the Property; (c) the activity does not involve regular visitation of the Lot by clients, customers, suppliers, or other business invitees or door-to-door solicitation of residents of the Property; and (d) the activity is consistent with the residential character of the Property and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Property, as may be determined in the sole discretion of the Developer or the Board. This Subsection shall not apply to any activity conducted by Developer or a Builder with respect to its development and sale of the Property or its use of any Lots which it owns within the Property.

4.3 Activity Restrictions. Except for the activities of Developer prior to the date on which the Developer has sold and conveyed all Lots in the Development:

- A. No noxious or offensive trade shall be carried on or upon any Lot or within any improvement situated upon the Property, nor shall anything be done thereon which may or may become an annoyance or nuisance to the neighborhood or the Owners; provided that this shall not apply to the construction of Dwelling Units on the Lots.
- B. The maintenance, keeping, boarding or raising of animals, livestock or poultry of any kind, regardless of number, shall be and is hereby prohibited on any Lot, except that this shall not prohibit the keeping of dogs, cats, caged birds or aquarium fish or other domestic pets provided they are not kept, bred, or maintained for commercial purposes, and provided they are kept according to the rules and regulations of the Association. No Owner shall permit or conduct an activity which may violate any applicable law affecting any Lot.
- C. No burning of any trash, accumulation or storage of litter, new or used building materials, or trash of any kind shall be permitted on any Lot.
- D. Except as provided herein, no commercial vehicle, trailer, trucks of more than one ton, motorcycle, camper, camp truck, horse trailer, boat or the like shall be kept or used on the Property unless totally enclosed within an improvement or garage, so as not to be visible from the exterior thereof. No junk vehicle, inoperative or unlicensed motor vehicle, structure of a temporary character, mobile home, tent, shack, barn, or other outbuilding shall be kept or used upon any Lot, nor (except for bona fide emergencies) shall the major repair or extraordinary maintenance of automobiles or other vehicles be carried out thereon. Notwithstanding the provisions hereof, Developer or any Builder and their contractors may, for purposes of business use in connection with the development of the Lots or construction of the Dwelling Units, maintain trucks, equipment, temporary offices (including trailers) and structures in connection with such development and construction.

- E. Trash and garbage containers shall not be permitted to remain in the public view except on days of trash collection.
- F. No signs of any character shall be erected, posted, or displayed upon any Lot, except street and identification signs installed by the Association or the Developer and excepting one (1) temporary real estate sign not to exceed six (6) square feet in area erected upon any Lot which advertises the same upon the market for sale or rent. This restriction shall not apply to Builders or Developers. Builders who may erect such signs as are authorized by Developer.
- G. No structure, planting or other material other than driveways or sidewalks shall be placed or permitted to remain upon any Lot which may damage or interfere with an easement for the installation or maintenance of utilities, or which may change, obstruct or retard direction of flow of any drainage channels.
- H. No vegetable garden shall be larger than 300 square feet and must be maintained so as not to be unsightly. No Owner shall be allowed to store more than two cords of firewood on any Lot. Firewood must be neatly stacked and free of unsightly debris.
- I. No oil drilling, quarrying, or mining operation shall be permitted on any Lot.
- J. No above-ground swimming pools shall be permitted on any Lot.
- K. Swingsets, jungle-gyms, playhouses or similar yard equipment, basketball courts, trampolines or any other recreational facilities may not be placed, installed or maintained on any Lot without prior approval of the Board. Tennis courts shall not be permitted.
- L. Mailboxes shall be of uniform design as specified by the Developer or as approved by the Board. Mailboxes may be located within the signage, entrance way and landscaping easement.
- M.
 - (i) No fence or any portion thereof may be installed on that part of any Lot which is closer to the street than the primary rear wall of the Dwelling Unit on the Lot. The "primary rear wall" shall be determined by lineal feet of wall area at the rear of the Dwelling Unit, and garage walls shall not be included in the calculation of the primary rear wall if the garage extends further to the rear of the Dwelling Unit than does the living area of the Dwelling Unit.
 - (ii) All fences shall be of a type and quality approved by Developer or the Board; provided that any fence enclosing a swimming pool and

located entirely within thirty (30) feet of such pool may be of a design and construction as is from time to time required by applicable government authorities for enclosure of swimming pools.

N.

- (i) The Association may regulate the location, manner of installation, color and screening of any satellite dish or any television broadcast antenna placed outside a Dwelling Unit (each, a "Reception Device"), as long as such regulation does not (i) unreasonably delay or prevent the installation of an Owner's chosen Reception Device(s), (ii) unreasonably increase the cost of the installation, maintenance or use of an Owner's Reception Device(s), or (iii) preclude reception of an acceptable quality broadcast signal.
- (ii) If an acceptable quality signal can be received by placing Reception Devices inside a Dwelling Unit without unreasonable delay or unreasonable cost increase, then installation outside a Dwelling Unit is prohibited. If not so prohibited, then Reception Devices may be no larger or installed no higher than is absolutely necessary for reception of an acceptable quality signal. Reception Devices may not encroach upon any Common Property.
- (iii) The Association may require an Owner to paint a Reception Device to match the Dwelling Unit with a specific type and color of paint, as long as such paint will not preclude reception of an acceptable quality signal or void a manufacturer's warranty for a Reception Device. The Association may require repainting or replacement if the exterior surface of a Reception Device deteriorates. The Association may require camouflaging of Reception Devices through inexpensive screening or plantings at the Owner's expense if the Reception Device is visible from other Dwelling Units or the Common Property.
- (iv) Prior to the installation of a Reception Device, a Unit Owner must notify the Association in writing of the type of Reception Device and proposed location and provide the Association with a copy of any required permit.

O. There shall be no violation of any rule or regulation for the use of any Common Property which may from time to time be adopted by the Board and promulgated among the members in writing. The Board is hereby authorized to adopt such rules.

P. The Owner of a Lot upon which a portion of the Common Property is located shall not alter the Common Property and shall not otherwise

adversely affect or interfere with the intended use of the Common Property.

- Q. There shall be no violation of any additional restrictions which may be, from time to time, reasonably imposed on the Owners by the Association in their use and enjoyment of the Lots.

4.4 Right of Association to Remove or Correct Violations. The Association and/or Developer may, in the interest of the general welfare of the Owners, and after reasonable notice to an Owner, enter upon any Lot within reasonable hours on any day for the purpose of directing Owner to correct any violations or breach or any attempted violation of any of the covenants and restrictions contained in Article 4, or a violation of the rules and regulations of the Board, or for the purpose of directing an Owner to abate anything herein defined as a prohibited use or nuisance, provided, however, that no such actions shall be taken without a resolution of the Board. Before any improvements constructed may be altered or demolished pursuant to this Article, the Association or Developer must have participated in binding arbitration with such Owner. Such arbitration should be conducted in accordance with the commercial rules of arbitration of the American Arbitration Association. The arbitration award shall be final and binding, and judgment may be entered upon it in any court of competent jurisdiction to the fullest extent permitted under the laws of the State. If the Owner refuses to participate in binding arbitration as provided for herein, then judicial proceedings must be brought against the Owner in order to alter or demolish any constructed improvements. Notwithstanding the foregoing, any signs which are prohibited by Article 4.3(F) may be removed pursuant to a resolution of the Board and without arbitration or judicial proceedings. All charges incurred by the Association or Developer in correcting a violation hereunder, (including arbitration or court costs and reasonable attorneys' fees) shall constitute a charge against the Lot and a personal obligation of the Owner thereof, and the Association shall have a lien upon the property and Lot for such expenses, and including costs of collection of such lien amount, which lien shall be subordinate to real estate taxes and assessments, liens of record in favor of the United States of America, the State in which the Lot is located, or other governmental instrumentalities to the extent made superior by applicable law, and all bona fide recorded first mortgages, as provided in Section 3.9.

4.5 Board Hearing. In the event of any dispute between Owners regarding the application of this Declaration or any rule or regulation, the party aggrieved shall submit a complaint in writing to the Board specifying the dispute. The Board shall set a time and place for a hearing thereon within thirty (30) days thereafter, and give written notice to each party thereof not less than five (5) days in advance of such hearing. The Board shall act as arbitrator and, after hearing such evidence and arguments as it deems proper, shall render a written decision on the matter to each party within thirty (30) days after such hearing. No legal action may be instituted by either party on such dispute unless the arbitration provided for herein has occurred, or unless the parties have waived the requirement for arbitration.

ARTICLE 5 - COMMON PROPERTY

- 5.1 Rights of Enjoyment in Common Property. Each Owner shall have a right and a nonexclusive easement for the use and enjoyment of the Common Property. This right and easement shall be appurtenant to, and shall pass with the title to the Lot. Each Owner shall have a perpetual right of ingress and egress across the Common Property to that Owner's Lot, which shall be appurtenant to the ownership of the Lot. These rights and privileges shall be subject, however, to the following:
- A. The right of the Board to levy the Assessments.
 - B. The right of the Board to adopt, enforce and amend reasonable rules and regulations pertaining to the use of the Common Property.
 - C. The right of the Board to suspend the right of any Owner to use any of the Common Property that is recreational in nature for any infraction of the rules and regulations relating to the Common Property, which period of suspension shall not exceed 60 days per infraction.
 - D. The right of the Board to suspend the right of any Owner to use any of the Common Property that is recreational in nature for the nonpayment or delinquency of any Assessments until paid.
 - E. All other easements, restrictions, and rights to which the Property is subject, including, but not limited to, any easements granted or reserved pursuant to Article 7.
 - F. The right of the Board to convey such Common Property to eliminate any existing setback violation, encroachment or zoning violation created by the original construction of Developer, free, clear and unencumbered from any and all easements and/or licenses granted pursuant to the Declaration.
- 5.2 Subordination to Mortgage or Other Lien. The rights and privileges provided in this Article shall be subordinate to any mortgage or other lien given by the Association for purposes of acquiring, improving or maintaining the Common Property.
- 5.3 Maintenance and Management of Common Property. The Association shall provide for the maintenance, repair, replacement and management of all Common Property as provided in Section 3.2. The Association may fulfill this responsibility and any other duties and obligations of the Association under this Declaration by contracting with any professional management company upon such terms and conditions as shall be agreed upon by the Board and the management company.

Until such time as the Developer has sold and conveyed all Lots within Development, the design of landscaping and plant, shrub and tree varieties installed on and/or comprising any part of the Common Property shall be maintained as initially installed unless otherwise approved by Developer. Thereafter, modifications to landscaping design and plant, shrub and tree varieties shall be approved by the Board.

- 5.4 Use of Common Property by Developer. In addition to the rights described in Section 5.1, Developer and its affiliates shall have the right during the period Developer owns any Lot, to use the Common Property, free of charge, for promotional, construction, management, maintenance, repair, remodeling, rental and sales purposes.

ARTICLE 6 - LOT MAINTENANCE

- 6.1 General Maintenance. Subsequent to transfer of a Lot to an Owner, the Owner thereof shall keep the Lot well-landscaped and in a good and well-maintained condition. In the event that a portion of the Common Property encumbers a Lot, the Owner thereof shall be responsible for the maintenance of the Lot occupied or affected by the Common Property to the extent that the Association or Developer does not maintain the same.
- 6.2 Maintenance of Common Drives. All Owners who share a common driveway for ingress and egress to their Lots shall participate in the cost and maintenance, repair or replacement of said common driveway based on their allocable use thereof. An Owner's allocable use shall be calculated by taking the longest distance within the common driveway which is being used for access by such Owner and dividing that distance by the sum of all the longest distances of every Owner's use of the common driveway. The maintenance, repair or replacement of a common driveway shall be agreed upon by the Owners of said Lots. In the event Owners fail to agree on the manner in which such maintenance, repair or replacement of the common driveway is to be performed, or the amount of each Owner's allocable share thereof, then the same shall be determined by the Board upon application by an interested Owner. The decision of the Board shall be final and non-appealable. No parking shall be permitted on any portion of the common driveway which serves another Lot.
- 6.3 Private Sewer Line. The maintenance, repair or replacement of utility distribution lines and connections or private sewer laterals (which connect a Lot to a sewer main) and are located on or exclusively service the Lot shall be the responsibility of the Owner using the line, connections or laterals. If more than one Owner is using a line, connection or lateral and the Owners fail to agree on a formula to determine their share of the cost or in the event the Owners fail to agree on the manner in which such maintenance, repair or replacement shall be done, then the Board shall make such determination upon application by an interested Owner. The decision by the Board shall be final and non-appealable.

- 6.4 Storm Water Control Structures. The Association shall be responsible for the care and maintenance of only those storm water control structures constructed by Developer or at the direction of the Association and located on the Common Property and/or within private drainage easements and/or private storm sewer easements (including detention basin structures, outlet structures, paved channels, headwalls and any and all other storm drainage structures) which are located outside the public right of way and which easements are specifically shown on the record plat or plats applicable to the Development except for those specifically assumed by the Boone County Engineer or any other applicable governmental authority. If applicable, all such care and maintenance shall comply with and conform to any requirements, standards and specifications of the Boone County Engineer or other applicable governmental authorities. Each Owner of a Lot shall be responsible for the care and maintenance of private drainage easements and private storm sewer easements located on such Lot other than the care and maintenance of storm water control structures for which the Association is responsible.

ARTICLE 7 - EASEMENTS AND LICENSES

- 7.1 Utility and Support Easements. Developer hereby grants, conveys, and reserves non-exclusive easements over the Property as indicated on any record plat of the Development for the purpose of (i) the construction, reconstruction, alteration, and maintenance of all facilities necessary to provide utility services, including without limitation, telephone, water, gas, sanitary and storm sewer services to each Lot and the Common Property, and (ii) the cutting, grading and maintaining of slopes, retention walls and other supports, both for the benefit of each Lot and the Common Property. Developer further reserves the right to grant easements or modify existing easements over any portion of the Property for any of the purposes set forth in this Article 7.1. Upon sale of the last Lot in the Development by Developer to an Owner, Developer's rights under this Article 7.1 shall automatically pass to the Association.
- 7.2 Common Property Easement. Developer hereby grants, conveys, establishes and reserves an non-exclusive easement for the benefit of Developer and Association over the Common Property for the purpose of the construction, reconstruction, alteration, maintenance and use thereof by Developer and the Association. Developer further grants, conveys, establishes and reserves a non-exclusive easement over that portion of the Property not defined as Common Property for the temporary occupation thereof in order to facilitate the exercise of any of the foregoing easements by either Developer or the Association.
- 7.3 Owner License. Developer hereby grants, conveys and reserves unto each Owner a non-exclusive license over the Common Property designated by Developer, or by the Association upon the termination of the Class B membership therein, as defined in Article 2, for the use and enjoyment of the individual Owners and of

the Lots, including without limitation, utilities, and sidewalks, roadways and similar amenities, if any.

- 7.4 Self-Help Easement. In the event that an Owner should violate any of the provisions of the Declaration, the Association and Developer are hereby granted a non-exclusive easement over the Lot of the violating Owner so as to permit the Association to occupy the same and to rectify such breach as set forth in Articles 4.4 or 12.6 hereof.
- 7.5 Prohibition. No Owner, other than Developer, shall grant an easement, right of way or license over a Lot, without the prior consent of the Association.
- 7.6 Easement to Run with the Land. All easements and rights described in this Declaration shall run with the land, perpetually in full force and effect, and at all times shall insure to the benefit of and be binding on Developer, the Association, and any Owner, purchaser, mortgagee or other person now or in the future having an interest in any part of the Property.

ARTICLE 8 - ARCHITECTURAL CONTROL

- 8.1 Architectural Control. No building, fence, wall or other structure shall be commenced, erected or maintained upon the Property, nor shall any exterior addition or change (including any change in color) or alteration thereof be made, until a detailed set of plans and specifications is submitted to and approved by the Board. Notwithstanding the foregoing, initial construction of Dwelling Units and improvements by a Builder or Developer shall be under the exclusive control of Developer as provided in Section 8.4, below. All plans and specifications shall be delivered to the Board, in such form and shall contain such information as the Board may reasonably require, including but not limited to any or all of the following: a site plan; proposed landscaping; patio and walkway locations; description of materials; location of lighting; architectural plans including cross-sections, floor plans and elevations; evidence of conformity with building codes; the exterior design, color and the location of the proposed improvements in relation to the surrounding improvements and topography of the surrounding property. Review of the plans and specifications shall include the following considerations: the continued maintenance of the Development as a residential community of high aesthetic quality; the promotion of the health, safety and welfare of all Owners, the preservation, beautification and maintenance of the Property, and all structures thereon; the preservation and promotion of environmental quality; and the assurance of adequate water, sewer and drainage facilities and other utilities and services. The Board shall either (i) approve the plans and specifications, (ii) disapprove them, or (iii) approve them with conditions or qualifications. The approval of the plans and specifications by the Board shall not constitute a representation or warranty by it as to the quality of the workmanship, materials or architectural or engineering design covered thereunder, or the proposed work's feasibility or compliance with any applicable laws. In the

event the Board fails to approve or disapprove such design and location and notify Owner of its decision within thirty (30) days after plans and specifications have been received by it, the Owner may give written notice to the Board of the Board's failure to so approve or disapprove. The Board shall have seven (7) days after receipt of such notice to approve or disapprove such design and location and notify Owner of its decision, otherwise approval will not be required and this Article 8 will be deemed to have been fully complied with. Such submission to the Board shall be in person, or by registered or certified mail, with return receipt, directed to the Association manager, or if there is no manager, to its President.

8.2 Enforcement. In the event of a violation of the provisions of this Article 8, the Association shall have the right to enforce this Article by any proceedings authorized in this Declaration, the By-Laws, or by applicable law.

8.3 Fees. The Board may charge reasonable fees for the processing of said plans and specifications and any inspections. Any modifications to be undertaken to the exterior of a Dwelling Unit, Lot, or the Common Property shall comply with the guidelines and regulations of the United States Department of Housing and Urban Development for buildings and facilities providing accessibility and usability for physically handicapped people; and shall be undertaken pursuant to a contract, the terms, conditions and specifications of which, shall be approved by the Board. The approved contractor shall provide an adequate performance bond for the benefit of the Association.

Notwithstanding the other provisions herein, including those requiring approval of the Members, the Board is authorized to make reasonable accommodations to any rules, policies, practices or services as may be necessary to afford a handicapped person equal opportunity to use and enjoy his Dwelling Unit and Lot, including the Common Property.

8.4 Approval of Plans by Developer. Each Builder, prior to initial construction of a Dwelling Unit and/or accessory structures on a Lot, shall deliver its plans and specifications to Developer and secure the approval by Developer of such plans and specifications (as described in Article 8.1, above). Such approval of plans and specifications by Developer shall be conducted in the same manner and in the same time frame as set forth in Article 8.1, above. Developer shall have all legal and equitable remedies available under this Declaration to enforce its decision against Builders, Owners, or their successors.

8.5 Handicap Accessibility. Notwithstanding the other provisions herein, an Owner of any Dwelling Unit and Lot may, at his expense, have such reasonable modifications made to the interior and exterior of his Dwelling Unit and Lot and the Common Areas as may be necessary to afford the physically handicapped a Lot in connection therewith. Fees shall be paid at the time the plans and specifications are submitted to the Board.

ARTICLE 9 - ANNEXATION AND ALTERATIONS TO THE DEVELOPMENT

The provisions of this Declaration are imposed upon the Property and the Dwelling Units located thereon. Developer shall have the right at any time to remove any portion of the Property from the scope of this Declaration or to subject any Additional Property to the provisions of this Declaration by the execution and recording of a supplement to the Declaration.

Developer may annex to this Declaration any Additional Property without the consent of the members of the Association, within seven (7) years after the date this Declaration is filed for record. However, the Developer is not bound to annex any of the Additional Property to this Declaration, and until such time as any of the Additional Property is annexed, the same shall not be subject to the provisions of this Declaration.

Any annexations made pursuant to this Article 9, or Declaration with the Recorder of Boone County, Kentucky, shall extend this Declaration to such Additional Property. The Supplementary Declaration may contain additional covenants, conditions, restrictions, easements and liens as Developer shall deem appropriate for the purpose of completing the development of the Property. Such Additional Property shall enjoy the benefit of all amenities in the Development.

ARTICLE 10 - INSURANCE

- 10.1 Maintenance of Liability Insurance. The Association, as a Common Expense, shall insure itself, the Board, Developer, all Owners and members of their respective families and other persons residing with them in the residence, their tenants, and all persons lawfully in possession or control of the Lots, against liability for bodily injury, disease, illness or death and for injury to persons or destruction of property occurring upon, in or about, or arising from, the Common Property and the portions of the Lots to be maintained by the Association, such insurance to afford protection with limits of not less than \$500,000.00 with respect to bodily injury, disease, illness or death suffered by any one person and of not less than \$1,000,000.00 with respect to bodily injury, disease, illness or death suffered by more than one person in any one occurrence, and not less than \$500,000.00 with respect to damage to or destruction of property arising out of one accident.
- 10.2 Other Insurance. The Association shall have a right to maintain officers and trustees liability insurance and such insurance or extended coverage insurance insuring the Common Property in such amounts, against such perils, for such time periods and under such circumstances as the Association through its Board determines, in its sole discretion, is appropriate and in the best interest of the Development.
- 10.3 Insurance Limitation. Except as otherwise provided in Article 10.1, the policies of insurance maintained by the Association pursuant to this Article 10 shall not insure against liability for personal injury or property damage arising out of or

relating to the Lots. Each Owner shall be responsible for obtaining insurance with respect to any Lot and improvements thereon and the contents thereof and any personal liability to the extent not covered by insurance provided in this Article 10. All insurance procured by the Association shall have such deductibles as the Board shall, from time to time, determine necessary and appropriate.

- 10.4 Dwelling Unit Insurance. The Association shall have no responsibility or liability to obtain or maintain any type of insurance upon any Dwelling Unit constructed on Lots and such insurance shall be the sole responsibility of the Owner.
- 10.5 Premiums. All premiums paid for any insurance procured by the Association hereunder shall be deemed to be a Common Expense.
- 10.6 Insurance Proceeds. Any and all insurance proceeds received by the Association shall be held by the Association and used for the benefit of the Owners, the Common Property and the Lots as the Board shall, from time to time, determine. No Owner shall have any right in or to the proceeds of any such insurance.
- 10.7 Casualty. In the event that any portion of the Common Property is damaged or destroyed, the Association shall restore the affected portion of the Common Property to substantially its condition existing immediately prior to such damage or destruction to the extent reasonably practicable. If such damage or destruction is not covered by insurance maintained by the Association or the proceeds are insufficient to fully restore the affected portion of the Common Areas as a result thereof, then the Association shall effect the restoration thereof in such a manner as the Association may determine appropriate in its sole judgment and shall levy a special assessment against each Owner for any deficiency in a proportion to its respective share thereof.

ARTICLE 11 - REAL ESTATE TAXES AND ASSESSMENTS

- 11.1 Real Estate Taxes. Each Owner shall be responsible for and shall pay when due all taxes and assessments, general and special, levied or imposed upon his Lot and the improvements located thereon.
- 11.2 Allocation. Prior to the time the Auditor of Boone County, Kentucky, or any other applicable taxing authority, establishes separate tax parcels for each Lot, Developer shall allocate the real estate taxes and assessments upon the Property among and against the Lots and against the remainder of the Property in a fair and equitable manner so as to allocate the real estate taxes and assessments charged in common to the various Lots as well as the remainder of the Property within the Development. The allocation by Developer made in accordance with the terms hereof shall be binding upon all Owners.
- 11.3 Common Property. Taxes and assessments, general and special, charged against the Common Property of the Development shall be deemed a Common Expense.

Assessments, general and special, charged against the Development shall be paid by the Owners as set forth in Article 3 hereof.

ARTICLE 12 – MISCELLANEOUS

- 12.1 Duration. Except where permanent or perpetual easements or other permanent rights or interests are herein created, the terms and provisions of this Declaration shall run with and bind the Property, and shall inure to the benefit of and be enforceable by the Association or by any of the Lot Owners, their respective legal representatives, heirs, successors and assigns, for a term of twenty (20) years from the date of recordation of this Declaration, after which the Declaration shall be automatically extended for successive periods of ten (10) years in perpetuity, unless a recorded instrument signed by the Owners of two-thirds (2/3) of the Lots have been recorded, agreeing to terminate the Declaration.
- 12.2 Assignment by Developer. Developer shall be entitled to assign to any party, by a separate recorded instrument or instruments, all or a portion of the rights and benefits contained in this Declaration which are reserved to Developer. In the event of any assignment, such party shall be deemed to be a “Developer” to the extent of the rights and benefits hereunder which are assigned. Any such rights and benefits of Developer contained herein shall not be assignable or transferable without an express assignment hereof by Developer. Such assignment may transfer rights and benefits exclusively or non-exclusively.
- 12.3 Amendment. The Declaration may be amended, from time to time as follows:
- A. Class B Member. Developer reserves the right and power, and each Owner by acceptance of a deed to a Lot is deemed to and does grant to Developer a Power of Attorney coupled with an interest, the burden of which interest shall run with the title to the Lot, and shall be irrevocable except by Developer for a period of seven (7) years from the date hereof, to amend this Declaration to the extent necessary to conform to any requirements imposed or requested by any governmental agency, public authority or financial institution, (including the U.S. Department of Housing and Urban Development, the U.S. Veteran’s Administration, Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, or similar agency); without the approval of the Lot Owners, or to the extent necessary to enable Developer to meet any other reasonable need or requirement including those associated with completion of the development of the Property and to facilitate the making and marketing of first mortgages upon any of the Lots. Any amendment must be recorded and shall be effective upon recording.
- B. Lot Owners. This Declaration may be amended at any time by an instrument executed by persons or entities able to exercise seventy-five

percent (75%) of the voting power of both classes of the Association and approved by eligible first mortgage holders representing Lots having at least fifty-one percent (51%) of the voting power; provided, however, that Developer's rights hereunder may not be amended or altered without the prior written consent of Developer. Any amendment must be recorded and shall be effective upon recording.

- 12.4 Personal Liability. Nothing in this Declaration or the Articles or By-Laws of the Association, or any rules or regulations enacted pursuant to any of the aforesaid, shall impose personal liability upon any Trustee or any officer of the Association acting in their capacity as such, for the maintenance, repair or replacement of any Dwelling Unit or part of the Common Property or give rise to a cause of action against any of them except for damages resulting from their own willful omissions or misconduct, and each person who becomes an Owner or Member hereby releases and discharges all persons now or hereafter serving as an officer or Trustee, or both, from any liability for injury or damages to such Member or Owner or to such Member's or Owner's property and covenants not to initiate any legal proceedings against any such person or persons unless such person is covered by insurance and in such event the amount of recovery shall be limited to the amount of insurance.
- 12.5 Notices. Any notice required to be sent to a Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, by ordinary mail, postage prepaid, to the last known address of the person who appears as Member or Owner appearing on the records of the Association at the time of such mailing.
- 12.6 Enforcement. Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity against (i) any person or persons violating or attempting to violate any covenant or restriction, to restrain and/or to enjoin violation and/or to recover damages, and against the Development to enforce any lien created by these covenants; and the failure or forbearance by the Association 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. In the event of a Default, the Association shall have the right to enforce any covenant or restriction by proceedings authorized in this Declaration, the Articles, By-Laws or by law.
- 12.7 Severability. Invalidation of any one of these covenants or restrictions by judgment, decree or order shall in no way effect any other provision hereof, each of which shall remain in full force and effect.
- 12.8 Conflicts; Applicable Law. In the case of any conflict between this Declaration and either the Articles or By-Laws of the Association, the Declaration shall control. This Declaration shall be governed by the laws of the State.
- 12.9 Rights of Mortgage Holders. Any mortgagee of a Lot may pay any taxes or other charges which are in default and which may or have become a charge against the

Common Property or any part thereof any may pay any overdue premiums on hazard insurance policies, or secure new hazard insurance coverage upon the lapse of a policy, for such Common Property, and such mortgagee making such payments shall be owed immediate reimbursement therefor from the Association.

The holder, insurer or guarantor of the first mortgage on any Lot shall be entitled to timely written notice of the following:

- A. Any condemnation or casualty loss that affects either a material portion of the Development or the Lot securing its mortgage;
- B. Any delinquency of at least sixty (60) days in the payment of Assessments or charges owed by the Owner of any Lot on which it holds the mortgage;
- C. A lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; and
- D. Any proposed action that requires the consent of a specified percentage of mortgage holders.
- E. Any proposed action that requires the consent of a specified percentage of mortgage holders.

A mortgage holder, insurer or guarantor shall send a written request to the Association, stating both its name and address and the Lot number or address upon which it holds a mortgage, in order to obtain the foregoing notices.

12.10 Condemnation.

- A. In the event any Lot or any portion thereof, is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, the net proceeds of any award or settlement shall be the property of the Owner and the holder of the first mortgage, to the extent of their respective interests. Each Owner shall give the holder of a first mortgage on the Owner's Lot timely written notice of such proceeding or proposed acquisition.
- B. In the event any Common Property or any portion thereof is made the subject matter of any condemnation or eminent domain proceedings or otherwise sought to be acquired by a condemning authority, the proceeds of any award or settlement shall be distributed to the Association for the common benefit of the Owners and their mortgagees, as their interests appear.

EXHIBIT A

Legal Description
Cool Springs Subdivision
Lots. 6-16, 36-62, 69, 84-87
115-118, 124-126

Situate in the State of Kentucky, County of Boone, Cool Springs Subdivision and being more described as follows:

Section 1 Plat #532A Recorded. September 15, 1999 *Group 3993*
Lots. 6-11, 43 and 44 inclusive

Section 2 Plat #543A Recorded. November 10, 1999 *Group 4017*
Lots. 45-62, 69, 84-87, 115-118, and 124-126 inclusive

Section 3 Plat #554B Recorded December 14, 1999 *Group 4039*
Lots. 12-16 and 36-42 inclusive

MARILYN ROUSE - BOONE COUNTY CLERK
COURTHOUSE - PO BOX 874
BURLINGTON KY 41005

RCPTH 666
CLERK RENA' PING

REG # 6

DATE : 6/29/2000
TIME : 4:04 PM

1 X EASEMENT
12 PAGES
ZARING HOMES INC
GROUP : 4017
BK: EA59
/0017151
PG: 611 - 622
\$30.00

CASH
TOTAL
PAYMENT OF
CHANGE DUE
\$30.00
\$30.00
\$0.00
OFFICE HOURS:
M, W, TH, F 8:30 - 4:30
TUES 8:30 - 6:00

12

CONSERVATION EASEMENT

THIS CONSERVATION EASEMENT is made this 16th day of June, 2000, by ZARING HOMES, INC., an Ohio corporation ("Grantor"), having an address at 11300 Cornell Park Drive, Suite 500, Cincinnati, Ohio 45242, in favor of COOL SPRINGS HOMEOWNERS' ASSOCIATION, INC. ("Grantee"), having an address at 11300 Cornell Park Drive, Suite 500, Cincinnati, Ohio 45242.

RECITALS:

WHEREAS, Grantor is the owner and developer of certain real property in the Cool Springs subdivision located in Boone County, Kentucky ("Cool Springs");

WHEREAS, Grantor's development of Cool Springs from 156 acres of open pasture habitat into a residential subdivision with both single and multiple-family units will require filling of .2 acres of jurisdictional wetlands and constructing over 660 feet of intermittent stream ("Project");

WHEREAS, wetlands are defined as natural resources that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions;

WHEREAS, any discharge or placement of dredged or "fill" materials from a point source into any surface water is prohibited by law unless a permit is issued by the U.S. Army Corps of Engineers (the "Corps") under Section 404 of the Clean Water Act (33 U.S.C. § 1344);

WHEREAS, in connection with the Project, the Corps has issued Permit No. 199801407 to Grantor, which requires Grantor, as a special condition of the Permit, to comply with the conditions specified by the Natural Resources and Environmental Protection Cabinet of the Commonwealth of Kentucky in its Water Quality Certification #1999-0032-1 (the "Certification");

WHEREAS, the Certification requires that Grantor and future owners will not fill, disturb or impact .9 acres of jurisdictional wetlands and 3,470 linear feet of intermittent stream (the "Affected Areas") located on certain lots within Cool Springs, as more particularly described on attached Exhibit A (the "Property");

WHEREAS, the Certification requires the Grantor to place the Affected Areas under permanent conservation easement;

WHEREAS, the exact location of the Affected Areas in Cool Springs is depicted on the plats for the Property, as recorded in the Boone County Clerk's records at Burlington, Kentucky, which plats are referenced in attached Exhibit A;

*Tony A.E. Chaney
Land Acquisition Manager
11300 Cornell Park Dr.
Cincinnati Ohio 45242*

RETURN TO

WHEREAS, Grantor and Grantee acknowledge that the Affected Areas currently exist in a relatively undisturbed, natural state, have ecological values, and provide natural habitat for native plants and wildlife;

WHEREAS, Grantor, as the owner and developer of Cool Springs, owns the affirmative rights to identify, preserve and protect, in perpetuity, the Affected Areas, and their significant natural and ecological features;

WHEREAS, Grantor intends that the Affected Areas be preserved, enhanced and maintained by allowing only those land uses that do not significantly impair or interfere with these areas;

WHEREAS, Grantor desires to transfer such rights to identify, preserve, and protect, in perpetuity, the Affected Areas and their significant natural and ecological features, to Grantee;

WHEREAS, Grantor and Grantee share the mutual goal of cooperation in an effort to foster private land uses that are compatible with the conservation of significant ecological values; and

WHEREAS, Grantee has recognized the importance of retaining and protecting natural areas and using conservation easements to acquire interests in real property, Grantee hereby agrees to protect the Affected Areas, as provided for by the enactment of K.R.S. Title 32, Chapter 382, Section 382.800, et. seq.;

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, and in exchange of the mutual covenants, terms, conditions and restrictions contained herein, and pursuant to the laws of the State of Kentucky, and in particular K.R.S. §§382.800 to 382.860, the parties hereto agree as follows:

AGREEMENTS

1. **RECITALS.** The parties hereto acknowledge and agree that the Recitals stated above are true and accurate as of the date hereof.
2. **PURPOSE.** The parties agree that it is the purpose of Conservation Easement: (i) to assure that the Affected Areas will be preserved forever in their predominantly scenic, undeveloped and natural condition; (ii) to prevent any use of the Property that will significantly impair or interfere with the ecosystem of Affected Areas; (iii) to conserve the habitat of the Affected Areas for wildlife; (iv) to protect the unique native plants and animals currently known or later identified adapted for life in the Affected Areas; (v) to conserve the vegetative communities of the Affected Areas; and (vi) to promote the conservation purposes stated in K.R.S. § 382.800 (1).
3. **GRANT OF EASEMENT.** In consideration of the sum of TEN DOLLARS AND 00/100 CENTS (\$10.00), and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, Grantor hereby voluntarily

grants, conveys, transfers and sells to Grantee a conservation easement, in perpetuity, the terms and conditions of which are stated herein, over and across the Affected Areas of the Property, which Conservation Easement shall run with the land and shall bind the Grantor and Grantee in perpetuity, subject to the terms and conditions contained herein.

4. **RIGHTS OF GRANTEE.** Grantor hereby grants and conveys the following rights to Grantee, which rights shall be in addition to, and not in limitation of, any other rights and remedies available to Grantee, provided further that any right of Grantee to enter onto the Property shall not require the payment of any fee, charge, cost or other consideration to Grantor:

- 4.1 To identify, preserve, protect and monitor, in perpetuity, the Affected Areas;
- 4.2 To prevent Grantor or third persons from conducting any activity on or use of the Property that is prohibited or inconsistent with the Conservation Easement;
- 4.3 To enter upon the Property (but not residence interiors), for four (4) visits per year for a period of seven (7) days per visit, for the purpose of monitoring the terms of this Conservation Easement; provided that, such entry shall be upon seven (7) days prior written notice to Grantor, and Grantee shall not in any case unreasonably interfere with Grantor's use and quiet enjoyment of the Property;
- 4.4 Upon thirty (30) days prior written notice to Grantor, and subject to Grantor's approval, which shall be in Grantor's reasonable discretion, to enter on the Property (but not residence interiors) to engage in ecological studies, research and special projects provided that, Grantee shall not in any case unreasonably interfere with Grantor's use and quiet enjoyment of the Property; and
- 4.5 To enter upon the Property (but not residence interiors) at any time under emergency circumstances, provided Grantee shall give Grantor such notice as may be practical under the circumstances, to prevent an imminent default of the terms of this Conservation Easement or, in Grantee's sole discretion, to prevent damage or destruction of the Affected Areas.

5. **PERMITTED USES AND PRACTICES.** Subject to the terms and conditions of this Conservation Easement, Grantor reserves to itself, and its successors and assigns, all rights accruing from the ownership of the Property, including the right to engage in or permit or invite others to engage in all uses of the Property that: (i) are not expressly prohibited by this Conservation Easement; and (ii) are not inconsistent with the terms, conditions, intent and purpose of this Conservation Easement. Grantor hereby expressly reserves the following specific rights in connection with Grantor's uses of the Property. Grantee acknowledges that the following rights relating to the uses and practices on the Property are not an exhaustive recital of uses and practices that shall be deemed consistent with this Conservation Easement, and the uses and practices shall not be precluded, prevented or unreasonably limited by this Conservation Easement.

- 5.1 The right to continue all manner of existing residential use and enjoyment of the buildings and grounds of the Property, including but not limited to: (i) the

maintenance of existing driveways and paths; (ii) the maintenance of existing utility lines; and (iii) immediately around any permitted buildings/residences on the Property, the right to cut, remove and clear grass or other vegetation and to perform routine maintenance, landscaping, horticultural activities and upkeep, consistent with the purposes of this Conservation Easement; and

5.2 The right, on any part of the Property, to cut dying, dead and downed trees to protect persons or property from the hazards of falling trees or branches or wildfire, provided such activity is consistent with the Conservation Easement and does not impair the Affected Areas.

5.3 The right to construct or to permit others to construct residential dwellings on any vacant lots within Cool Springs, including vacant lots on the Property, in accordance with Grantor's development plan for Cool Springs and in compliance with all applicable laws, ordinances, and codes, provide such activity does not impair the Affected Areas.

6. **PROHIBITED USES AND PRACTICES.** Grantor expressly agrees and states that the following uses and practices, though not an exhaustive or complete list, are specifically prohibited under the terms of the Conservation Easement and are, per se, defaults under the terms of the Conservation Easement:

6.1 Any actual or planned modification of the topography of the Property through the placement thereon of soil, land fill, dredging spoils, or other material that impairs the Affected Areas, except for those uses permitted under this Conservation Easement;

6.2 All development activities that involve alteration or destruction of the Affected Areas, including but not limited to filling of the wetlands area with any material (including without limitation soil, rock, yard waste, solid waste, construction and demolition debris or rubbish), excavating, damming, grading, draining, discing, trimming or removing natural vegetation or blocking the wetland's light source, creating turbidity and siltation in the wetlands, channeling, altering inflows and exchange, releasing of contaminants, construction and other direct or indirect disruptions.

6.3 Any dumping of solid or hazardous waste and releases of contaminants into the Affected Areas;

6.4 Any public and private use of the Affected Areas that involve alteration, destruction or degradation of their natural functions, including but not limited to farming, ranching, plowing, seeding, cultivating and harvesting food, fiber or forest products.

7. **DEFAULT AND REMEDIES.**

7.1 If a dispute arises between the parties with respect to this Conservation Easement, Grantor and Grantee agree to use non-binding arbitration to attempt to resolve the

dispute. Grantor agrees not to proceed with any proposed use or activity pending resolution of the dispute. The arbitrator shall be mutually approved. The arbitration shall be conducted in accordance with the rules of the American Arbitration Association. Nothing herein shall be interpreted to prevent Grantee to resort to judicial proceedings for injunctive relief or otherwise to prevent imminent harm to the Affected Areas or to enjoin a violation pursuant to this Conservation Easement.

- 7.2 If Grantee determines that Grantor is in default of the terms of the Conservation Easement or that a default is threatened, Grantee shall give written notice to Grantor of such default and demand corrective action sufficient to cure the default and, where the default involves injury to the Property resulting from any activity inconsistent with the purpose of this Conservation Easement, to restore the portion of the Property so injured. If Grantor fails to cure the default within thirty (30) days after receipt of such notice, or under circumstances where the default cannot reasonably be cured with a thirty (30) day period, fails to begin curing such default within the thirty (30) day period, or fails to continue diligently to cure such default until finally cured, then Grantee may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Conservation Easement, to enjoin the default by temporary or permanent injunction, to recover any damages to which it may be entitled for default of the terms of this Conservation Easement or injury to any protected uses or Conservation Values, including damages for any loss thereof, and to require the restoration of the Property to the condition that existed prior to any such injury. If upon receipt of notice from Grantee, Grantor fails to cease the activity which caused the default, Grantee may bring immediate action at law to enjoin the default by temporary or permanent injunction.
- 7.3 Enforcement of the terms of this Conservation Easement shall be at the discretion of each party, and any forbearance by a party to exercise its rights under this Conservation Easement in the event of any breach of any term of this Conservation Easement shall not be construed to be a waiver of such term or of any subsequent breach of the same or any other term of this Conservation Easement or of any such party's rights under this Conservation Easement. No delay or omission by a party in the exercise of any right or remedy upon any breach shall impair such right or remedy or be construed as a waiver.
- 7.4 Nothing contained in this Conservation Easement shall be construed to entitle Grantee to bring any action against Grantor for any injury to or change in the Property resulting from causes beyond Grantor's control, including, without limitation, acts of trespassers, fire, flood, storm, drought, pests, earth movement, and major vegetative disease, or from any prudent action taken by Grantor under emergency conditions to prevent, abate or mitigate significant injury to the Property resulting from such causes. Notwithstanding the foregoing, nothing herein shall preclude Grantor's and Grantee's rights to pursue any third party for damages to the Property from vandalism, trespass or any other violation of the terms of this Conservation Easement.

7.5 In connection with any action to enforce the terms of this Conservation Easement, the prevailing party shall be entitled to award of attorneys' fees in accordance with Kentucky law. If Grantee is the prevailing party, then all reasonable costs incurred by Grantee in enforcing the terms of this Conservation Easement against Grantor, including, without limitation, costs and expenses of suit and reasonable attorneys' fees, and any costs of restoration necessitated by Grantor's violation of the terms of this Conservation Easement shall be borne by Grantor.

7.6 The terms of this Conservation Easement shall not be enforced by any person who is not a party to this agreement or a party's successors and assigns. The parties to the agreement do not intend to cause or allow any person to claim to be a third party beneficiary who has any right to enforce or interpret any terms of this agreement.

8. **SUBSEQUENT TRANSFERS.** Prior to any transfer, sale, grant, conveyance, gift, deed, divestiture, lease hypothecation, quitclaim, mortgage or other assignment of any or all of its interest in the Property (collectively, "transfer"), Grantor shall provide written notice of the transfer to Grantee at least thirty (30) days before the transfer. Such notice shall contain the name and most recent address known to Grantor of the person or entity who is the subject of the transfer in order for Grantee to conduct its obligations and activities with the transferee. Grantor agrees to incorporate the terms of this Conservation Easement by reference in any deed or other legal instrument by which Grantor conducts a transfer, including, without limitation, a leasehold interest.

9. **NOTICE.** Any notice, demand, consent, approval, or communication that either party desires or is required to give to the other shall be in writing and delivered by first class mail, postage pre-paid, certified mail, return receipt requested, addressed as follows:

To Grantor: Zaring Homes, Inc.
11300 Cornell Park Drive, Suite 500
Cincinnati, Ohio 45242
Attention: _____

To Grantee: Cool Springs Homeowners' Association
11300 Cornell Park Drive, Suite 500
Cincinnati, Ohio 45242
Attention: President

or to such other address as either party from time to time shall designate by written notice to the other.

10. **GENERAL PROVISIONS.**

10.1 **Controlling Law.** The interpretation and performance of this Conservation Easement shall be governed by the laws of the State of Kentucky.

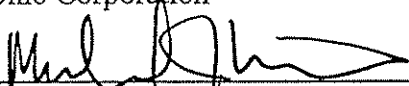
- 10.2 **Liberal Construction.** Any general rule of construction to the contrary notwithstanding, this Conservation Easement shall be liberally construed in favor of the grant to effect the purpose of this Conservation Easement and the policy and purpose of K.R.S. Title 32, Chapter 382, Section 382.800, et seq. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purpose of this Conservation Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.
- 10.3 **Severability.** If any provision of this Conservation Easement, or the application thereof to any person or circumstance, is found to be invalid, the remainder of the provisions of this Conservation Easement, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby.
- 10.4 **Entire Agreement.** This instrument sets for the entire agreement of the parties with respect to the Conservation Easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Conservation Easement, all of which are merged herein.
- 10.5 **Amendment.** If circumstances arise under which an amendment to or modification of this Conservation Easement would be appropriate, Grantor and Grantee may by mutual written agreement jointly amend this Conservation Easement. Any such amendment shall be consistent with the purpose of this Conservation Easement, shall not affect its perpetual duration, and shall not permit any impairment of the significant conservation and ecological values of the Affected Areas of the Property. Any such amendment shall be filed in the official records of Boone County, Kentucky after all required signatures have been affixed thereto. Nothing in this paragraph shall require Grantor or Grantee to agree to any amendment or to consult or negotiate regarding any amendment.
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- 10.7 **No Forfeiture.** Nothing contained herein will result in a forfeiture or reversion of Grantor's title in any respect.
- 10.8 **Successors.** The covenants, terms, conditions, and restrictions of this Conservation Easement shall be binding upon, and inure to the benefit of, the parties, hereto and their respective personal representatives, heirs, successors, and assigns and shall continue as a servitude running in perpetuity with the Property. The terms "Grantor" and "Grantee," wherever used herein, and any pronouns used in place thereof, shall include, respectively, the above-named Grantor and its successors, assigns, and the above-named Grantee and its successors and assigns.

- 10.9 **Termination of Rights and Obligations.** A party's rights and obligations under this Conservation Easement terminate upon transfer of the party's interest in the Conservation Easement or Property, except that liability for acts or omissions occurring prior to transfer shall survive transfer.
- 10.10 **Captions.** The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.
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IN WITNESS WHEREOF Grantors and Grantee have set their hands on the day and year first above written.

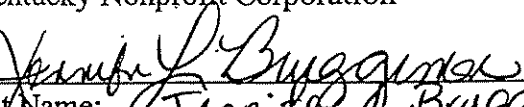
GRANTOR:

ZARING HOMES, INC.,
an Ohio Corporation

By: 
Print Name: MICHAEL J WILLIS
Title: VICE PRESIDENT, A&D

GRANTEE:

COOL SPRINGS HOMEOWNERS'
ASSOCIATION, INC.,
a Kentucky Nonprofit Corporation

By: 
Print Name: Jennifer D. Bruggeman
Title: Board President

[continued on next page]

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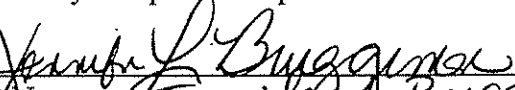
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Print Name: MICHAEL J WILLIS
Title: VICE PRESIDENT, A&D

GRANTEE:

COOL SPRINGS HOMEOWNERS'
ASSOCIATION, INC.,
a Kentucky Nonprofit Corporation

By: 
Print Name: Jennifer A. Bruggeman
Title: Board President

[continued on next page]

STATE OF Ohio

COUNTY OF Hamilton

THE FOREGOING INSTRUMENT was acknowledged before me this 16th day of June, 2000, by Michael J. Willis, the VP, A&P of Zaring Homes, Inc., an Ohio corporation, on behalf on the corporation.



PAMELA J. KERSEY
Notary Public, State of Ohio
My Commission Expires May 5, 2003

Pamela J. Kersey
Notary Public

My Commission Expires: May 5, 2003

STATE OF Ohio

COUNTY OF Hamilton

THE FOREGOING INSTRUMENT was acknowledged before me this 11th day of June, 2000, by Jennifer Brusseman, the Board President of Cool Springs Homeowners' Association, Inc., a Kentucky ~~nonprofit~~ corporation, on behalf of the corporation.



PAMELA J. KERSEY
Notary Public, State of Ohio
My Commission Expires May 5, 2003

Pamela J. Kersey
Notary Public

My Commission Expires: May 5, 2003


Prepared by:

Kellye J. Bowers, Esq.
Frost & Jacobs LLP
2500 PNC Center
201 East Fifth Street
Cincinnati, Ohio 45202


762822.02

SUBORDINATION ACKNOWLEDGEMENT

The "Property" referred to in the foregoing Conservation Easement is encumbered by Mortgage in favor of Don and Donna Conrad from Grantor as recorded in Mortgage Book 1712, Page 208 of the Boone County Clerk's records at Burlington, Kentucky (the "Mortgage"). By joining in the execution of the foregoing Conservation Easement, the undersigned consents thereto and subordinates their rights in the Property pursuant to the Mortgage to the rights of Grantee, its successors and assigns, solely to enforce the conservation purposes of this Conservation Easement in perpetuity.



DON CONRAD



DONNA CONRAD

[continued on next page]

STATE OF Kentucky
COUNTY OF Kenton

The foregoing instrument was acknowledged before me this 3rd day of May, 2000, by Don Conrad and Donna Conrad, husband and wife.

Deborah A. Simpson
Notary Public
My Commission Expires: 8-8-03
Ky State at Large

Prepared by:
Kellye J. Bowers
Kellye J. Bowers, Esq.
Frost & Jacobs LLP
2500 PNC Center
201 East Fifth Street
Cincinnati, Ohio 45202

EXHIBIT A

Legal Description
Cool Springs Subdivision
Lots 1-5, 105-117, 53, 54

Situate in the State of Kentucky, County of Boone, Cool Springs Subdivision and being more described as follows:

Section 2, Plat #543A, Group 4017 Recorded November 10, 1999.
Lots 53, 54, 115-117 inclusive

Section 4, Plat # 569A, Group 4068 Recorded March 2, 2000.
Lots 1-5 inclusive

Section 5, Plat # 577B, Group 4085 Recorded March 29, 2000.
Lots 105-114 inclusive

BOOK EA59

PAGE 622

DOCUMENT NO: 17151
RECORDED ON: JUNE 29, 2000 04:02:32PM
TOTAL FEES: \$30.00
GROUP : 4017
COUNTY CLERK: MARILYN K ROUSE
COUNTY: BOONE
DEPUTY CLERK: RENA' PING

BOOK EA59 PAGES 611 - 622

CONSERVATION EASEMENT

THIS CONSERVATION EASEMENT is made this 16th day of June, 2000, by **ZARING HOMES, INC.**, an Ohio corporation ("Grantor"), having an address at 11300 Cornell Park Drive, Suite 500, Cincinnati, Ohio 45242, in favor of **COOL SPRINGS HOMEOWNERS' ASSOCIATION, INC.** ("Grantee"), having an address at 11300 Cornell Park Drive, Suite 500, Cincinnati, Ohio 45242.

RECITALS:

WHEREAS, Grantor is the owner and developer of certain real property in the Cool Springs subdivision located in Boone County, Kentucky ("Cool Springs");

WHEREAS, Grantor's development of Cool Springs from 156 acres of open pasture habitat into a residential subdivision with both single and multiple-family units will require filling of .2 acres of jurisdictional wetlands and constructing over 660 feet of intermittent stream ("Project");

WHEREAS, wetlands are defined as natural resources that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions;

WHEREAS, any discharge or placement of dredged or "fill" materials from a point source into any surface water is prohibited by law unless a permit is issued by the U.S. Army Corps of Engineers (the "Corps") under Section 404 of the Clean Water Act (33 U.S.C. § 1344);

WHEREAS, in connection with the Project, the Corps has issued Permit No. 199801407 to Grantor, which requires Grantor, as a special condition of the Permit, to comply with the conditions specified by the Natural Resources and Environmental Protection Cabinet of the Commonwealth of Kentucky in its Water Quality Certification #1999-0032-1 (the "Certification");

WHEREAS, the Certification requires that Grantor and future owners will not fill, disturb or impact .9 acres of jurisdictional wetlands and 3,470 linear feet of intermittent stream (the "Affected Areas") located on certain lots within Cool Springs, as more particularly described on attached Exhibit A (the "Property");

WHEREAS, the Certification requires the Grantor to place the Affected Areas under permanent conservation easement;

WHEREAS, the exact location of the Affected Areas in Cool Springs is depicted on the plats for the Property, as recorded in the Boone County Clerk's records at Burlington, Kentucky, which plats are referenced in attached Exhibit A;

Ying - Assistant Manager
Zan Acquisitions Manager
11300 Cornell Park Dr.
Suite Ohio 45242

RETURN TO:

WHEREAS, Grantor and Grantee acknowledge that the Affected Areas currently exist in a relatively undisturbed, natural state, have ecological values, and provide natural habitat for native plants and wildlife;

WHEREAS, Grantor, as the owner and developer of Cool Springs, owns the affirmative rights to identify, preserve and protect, in perpetuity, the Affected Areas, and their significant natural and ecological features;

WHEREAS, Grantor intends that the Affected Areas be preserved, enhanced and maintained by allowing only those land uses that do not significantly impair or interfere with these areas;

WHEREAS, Grantor desires to transfer such rights to identify, preserve, and protect, in perpetuity, the Affected Areas and their significant natural and ecological features, to Grantee;

WHEREAS, Grantor and Grantee share the mutual goal of cooperation in an effort to foster private land uses that are compatible with the conservation of significant ecological values; and

WHEREAS, Grantee has recognized the importance of retaining and protecting natural areas and using conservation easements to acquire interests in real property, Grantee hereby agrees to protect the Affected Areas, as provided for by the enactment of K.R.S. Title 32, Chapter 382, Section 382.800, et. seq.;

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, and in exchange of the mutual covenants, terms, conditions and restrictions contained herein, and pursuant to the laws of the State of Kentucky, and in particular K.R.S. §§382.800 to 382.860, the parties hereto agree as follows:

AGREEMENTS

1. **RECITALS.** The parties hereto acknowledge and agree that the Recitals stated above are true and accurate as of the date hereof.
2. **PURPOSE.** The parties agree that it is the purpose of Conservation Easement: (i) to assure that the Affected Areas will be preserved forever in their predominantly scenic, undeveloped and natural condition; (ii) to prevent any use of the Property that will significantly impair or interfere with the ecosystem of Affected Areas; (iii) to conserve the habitat of the Affected Areas for wildlife; (iv) to protect the unique native plants and animals currently known or later identified adapted for life in the Affected Areas; (v) to conserve the vegetative communities of the Affected Areas; and (vi) to promote the conservation purposes stated in K.R.S. § 382.800 (1).
3. **GRANT OF EASEMENT.** In consideration of the sum of TEN DOLLARS AND 00/100 CENTS (\$10.00), and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, Grantor hereby voluntarily

grants, conveys, transfers and sells to Grantee a conservation easement, in perpetuity, the terms and conditions of which are stated herein, over and across the Affected Areas of the Property, which Conservation Easement shall run with the land and shall bind the Grantor and Grantee in perpetuity, subject to the terms and conditions contained herein.

4. **RIGHTS OF GRANTEE.** Grantor hereby grants and conveys the following rights to Grantee, which rights shall be in addition to, and not in limitation of, any other rights and remedies available to Grantee, provided further that any right of Grantee to enter onto the Property shall not require the payment of any fee, charge, cost or other consideration to Grantor:

- 4.1 To identify, preserve, protect and monitor, in perpetuity, the Affected Areas;
- 4.2 To prevent Grantor or third persons from conducting any activity on or use of the Property that is prohibited or inconsistent with the Conservation Easement;
- 4.3 To enter upon the Property (but not residence interiors), for four (4) visits per year for a period of seven (7) days per visit, for the purpose of monitoring the terms of this Conservation Easement; provided that, such entry shall be upon seven (7) days prior written notice to Grantor, and Grantee shall not in any case unreasonably interfere with Grantor's use and quiet enjoyment of the Property;
- 4.4 Upon thirty (30) days prior written notice to Grantor, and subject to Grantor's approval, which shall be in Grantor's reasonable discretion, to enter on the Property (but not residence interiors) to engage in ecological studies, research and special projects provided that, Grantee shall not in any case unreasonably interfere with Grantor's use and quiet enjoyment of the Property; and
- 4.5 To enter upon the Property (but not residence interiors) at any time under emergency circumstances, provided Grantee shall give Grantor such notice as may be practical under the circumstances, to prevent an imminent default of the terms of this Conservation Easement or, in Grantee's sole discretion, to prevent damage or destruction of the Affected Areas.

5. **PERMITTED USES AND PRACTICES.** Subject to the terms and conditions of this Conservation Easement, Grantor reserves to itself, and its successors and assigns, all rights accruing from the ownership of the Property, including the right to engage in or permit or invite others to engage in all uses of the Property that: (i) are not expressly prohibited by this Conservation Easement; and (ii) are not inconsistent with the terms, conditions, intent and purpose of this Conservation Easement. Grantor hereby expressly reserves the following specific rights in connection with Grantor's uses of the Property. Grantee acknowledges that the following rights relating to the uses and practices on the Property are not an exhaustive recital of uses and practices that shall be deemed consistent with this Conservation Easement, and the uses and practices shall not be precluded, prevented or unreasonably limited by this Conservation Easement.

- 5.1 The right to continue all manner of existing residential use and enjoyment of the buildings and grounds of the Property, including but not limited to: (i) the

maintenance of existing driveways and paths; (ii) the maintenance of existing utility lines; and (iii) immediately around any permitted buildings/residences on the Property, the right to cut, remove and clear grass or other vegetation and to perform routine maintenance, landscaping, horticultural activities and upkeep, consistent with the purposes of this Conservation Easement; and

5.2 The right, on any part of the Property, to cut dying, dead and downed trees to protect persons or property from the hazards of falling trees or branches or wildfire, provided such activity is consistent with the Conservation Easement and does not impair the Affected Areas.

5.3 The right to construct or to permit others to construct residential dwellings on any vacant lots within Cool Springs, including vacant lots on the Property, in accordance with Grantor's development plan for Cool Springs and in compliance with all applicable laws, ordinances, and codes, provide such activity does not impair the Affected Areas.

6. **PROHIBITED USES AND PRACTICES.** Grantor expressly agrees and states that the following uses and practices, though not an exhaustive or complete list, are specifically prohibited under the terms of the Conservation Easement and are, per se, defaults under the terms of the Conservation Easement:

6.1 Any actual or planned modification of the topography of the Property through the placement thereon of soil, land fill, dredging spoils, or other material that impairs the Affected Areas, except for those uses permitted under this Conservation Easement;

6.2 All development activities that involve alteration or destruction of the Affected Areas, including but not limited to filling of the wetlands area with any material (including without limitation soil, rock, yard waste, solid waste, construction and demolition debris or rubbish), excavating, damming, grading, draining, discing, trimming or removing natural vegetation or blocking the wetland's light source, creating turbidity and siltation in the wetlands, channeling, altering inflows and exchange, releasing of contaminants, construction and other direct or indirect disruptions.

6.3 Any dumping of solid or hazardous waste and releases of contaminants into the Affected Areas;

6.4 Any public and private use of the Affected Areas that involve alteration, destruction or degradation of their natural functions, including but not limited to farming, ranching, plowing, seeding, cultivating and harvesting food, fiber or forest products.

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- 10.11 **No Subordination.** Upon recordation in the records of the Boone County, Kentucky, this Conservation Easement shall be deemed superior to all after acquired property interests in the Property. Grantee shall have no obligation to subordinate its rights and interests in this Conservation Easement to any party.

IN WITNESS WHEREOF Grantors and Grantee have set their hands on the day and year first above written.

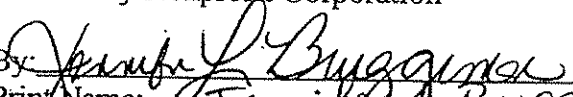
GRANTOR:

ZARING HOMES, INC.,
an Ohio Corporation

By: 
Print Name: MICHAEL J WILLIS
Title: VICE PRESIDENT, A&D

GRANTEE:

COOL SPRINGS HOMEOWNERS'
ASSOCIATION, INC.,
a Kentucky Nonprofit Corporation

By: 
Print Name: Jennifer D. Bruggeman
Title: Board President

[continued on next page]

STATE OF Ohio

COUNTY OF Hamilton

THE FOREGOING INSTRUMENT was acknowledged before me this 16th day of June, 2000, by Michael J. Willis, the VP, A&D of Zaring Homes, Inc., an Ohio corporation, on behalf on the corporation.



PAMELA J. KERSEY
Notary Public, State of Ohio
My Commission Expires May 5, 2003

Pamela J. Kersey
Notary Public

My Commission Expires: May 5, 2003

STATE OF Ohio

COUNTY OF Hamilton

THE FOREGOING INSTRUMENT was acknowledged before me this 16th day of June, 2000, by Jennifer Bruggeman, the Board President of Cool Springs Homeowners' Association, Inc., a Kentucky ~~nonprofit~~ corporation, on behalf of the corporation.



PAMELA J. KERSEY
Notary Public, State of Ohio
My Commission Expires May 5, 2003

Pamela J. Kersey
Notary Public

My Commission Expires: May 5, 2003


Prepared by:

Kellye J. Bowers, Esq.
Frost & Jacobs LLP
2500 PNC Center
201 East Fifth Street
Cincinnati, Ohio 45202


762822.02

SUBORDINATION ACKNOWLEDGEMENT

The "Property" referred to in the foregoing Conservation Easement is encumbered by Mortgage in favor of Don and Donna Conrad from Grantor as recorded in Mortgage Book 1712, Page 208 of the Boone County Clerk's records at Burlington, Kentucky (the "Mortgage"). By joining in the execution of the foregoing Conservation Easement, the undersigned consents thereto and subordinates their rights in the Property pursuant to the Mortgage to the rights of Grantee, its successors and assigns, solely to enforce the conservation purposes of this Conservation Easement in perpetuity.



DON CONRAD



DONNA CONRAD

[continued on next page]

STATE OF Kentucky
COUNTY OF Kenton

The foregoing instrument was acknowledged before me this 3rd day of MAY, 2000, by Don Conrad and Donna Conrad, husband and wife.

Deborah A. Simpson

Notary Public
My Commission Expires: 8-8-03

Ky State at Large

Prepared by:

Kellye J. Bowers

Kellye J. Bowers, Esq.
Frost & Jacobs LLP
2500 PNC Center
201 East Fifth Street
Cincinnati, Ohio 45202

EXHIBIT A

Legal Description
Cool Springs Subdivision
Lots 1-5, 105-117, 53, 54

Situate in the State of Kentucky, County of Boone, Cool Springs Subdivision and being more described as follows:

Section 2, Plat #543A, Group 4017 Recorded November 10, 1999.
Lots 53, 54, 115-117 inclusive

Section 4, Plat # 569A, Group 4068 Recorded March 2, 2000.
Lots 1-5 inclusive

Section 5, Plat # 577B, Group 4085 Recorded March 29, 2000.
Lots 105-114 inclusive

BOOK EA59

PAGE 622

DOCUMENT NO: 17151
RECORDED ON: JUNE 29, 2000 04:02:32PM
TOTAL FEES: \$38.00
GROUP : 4017
COUNTY CLERK: MARILYN K ROUSE
COUNTY: BOONE
DEPUTY CLERK: RENA PING

BOOK EA59 PAGES 611 - 622