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DEEP CREEK HIGHLANDS SUBDIVISION

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

DEEP CREEK HIGHLANDS SUBDIVISION

THIS DECLARATION, made this 29th day of October, 2002 by D. C. DEVELOPMENT, LLC, a Maryland limited liability company, hereinafter referred to as "Declarant."

WITNESSETH

WHEREAS, Declarant is the owner of certain property situate in Garrett County, State of Maryland, more particularly described in Schedule A, attached hereto and made a part hereof (hereinafter referred to as the "Property"); and

WHEREAS, Declarant intends to develop or cause to be developed on the Property a residential community and to provide for the preservation of the values and amenities in the community and for the uniform and orderly development thereof, and for the creation and maintenance of certain common facilities as hereinafter set forth, all of which is for the benefit of the Property and the owners thereof; and

WHEREAS, Declarant desires to subject the Property and the improvements located or to be located thereon, to the covenants, conditions and restrictions set forth herein which are for the purpose of protecting the value and desirability of the Property and the improvements thereon and are for the purpose of distributing among the owners of the improvements the cost of maintaining and operating the common areas (as hereinafter defined), and any improvements constructed thereon; and

WHEREAS, Declarant has caused or will cause a non-profit membership corporation known or to be known as "DEEP CREEK HIGHLANDS PROPERTY OWNERS ASSOCIATION, INC." (the "Association") to be formed in order to perform certain functions on behalf of the owners of lots within the Property, including, but not limited to, the enforcement of the covenants, conditions and restrictions herein set forth, and management of the common areas to be owned by the Association, and collection and disbursement of the assessments and charges' hereinafter created; and

WHEREAS, Declarant has caused or will cause a separate Declaration of Covenants

Establishing Infrastructure Facility Charges to be recorded in the Land Records of Garrett County to establish certain covenants and liens on the individual lots within the Property for the purposes of collecting from the owner(s) of the lots the cost of the construction and installation of certain infrastructure facilities; and

WHEREAS, Declarant has caused or will cause a Deep Creek Lake Mountain Resort Property Owners Master Declaration of Covenants, Conditions and Restrictions, to be established to provide for the maintenance of certain areas common to all property currently owned, to be acquired and/or maintained by Declarant including, but not limited to the Property.

NOW, THEREFORE, Declarant hereby declares that the Property shall be held sold and conveyed subject to the following easements, covenants, conditions and restrictions, which are for the purpose of protecting the value and desirability, and enhancing the attractiveness of the Property, and which shall run with the Property and shall be binding upon all parties having any right, title or interest in the Property or any part thereof, their heirs, personal representatives, successors and assigns, and shall inure to the benefit of each owner of the Property or any part thereof and their respective heirs, personal representatives successors and assigns, and the Association.

ARTICLE ONE  
Definitions

1.1 As used herein, the following words and terms are defined to mean as indicated:

1.1.1 **“Architectural Committee”** shall be composed of those three or more individuals so designated from time to time by (i) Declarant during the Development Period and (ii) by the Board of Directors after the Development Period. Those individuals appointed by the Board of Directors after the Development Period may be removed from the Architectural Committee at any time by the Board of Directors at its discretion. The initial Architectural Committee shall be I. Robert Rudy, Gary A. Daum, Karen Frazee Myers, and Steve Richards.

1.1.2 **“Association”** shall mean and refer to Deep Creek Highlands Property Owners Association, Inc., a Maryland not for profit corporation, as formed or to be formed by Declarant.

1.1.2 **“Board of Directors”** means the Board of Directors from time to time of the Association.

1.1.3 **“Common Areas”** means those lots or areas of land within the Property shown on the subdivision plats prepared by or for Declarant hereafter recorded among the Land Records of Garrett County, aforesaid, and is intended to be the entire Property, save and except for Lots. The Common Areas shall include all common open space, roads, streets and parking areas within the Property as shown on said Plats, unless the same are dedicated to the County or State

for public use. Declarant shall have the right but not the obligation to dedicate the roads within the Property to the County or State for public use. Class One and Class Two lots shall also share in the common area depicted on the plats for lake access for Waterside at Wisp along the property boundary formerly with the Pennsylvania Electric Company, now owned by the State of Maryland.

1.1.4 **"Declarant"** means D. C. Development, LLC, and its successors and assigns to which it shall convey or otherwise transfer its right, title and interest to all or any part of the Property and in so doing expressly designates the transferee as a Declarant hereunder.

1.1.5 **"Development Period"** means the period that is ten (10) years from the date this Declaration is recorded among the Land Records of Garrett County, Maryland. With respect to any Land annexed to the Property by Declarant as herein permitted, the "Development Period" shall mean the time that is ten (10) years from the time that such land is annexed to the Property by recording of an Amendment hereto among the Land Records of Garrett County.

1.1.6 **"Lot"** means a lot or parcel of ground in the Property shown as such on the subdivision plats prepared by or for Declarant and recorded or hereafter recorded among the Land Records of Garrett County and designated a "Lot." As used herein, "Lot" shall not include the Common Areas within the Property as shown on said plats.

Lots shall be designated as "Class One," "Class Two," "Class Three," "Class Four-A" or "Class Four-B" Lots, which are defined as follows: Class One Lots have as an appurtenance thereto lake access privileges and an assigned slip in the common boat docking facility, Class Two Lots shall have lake access privileges but shall not have a boat slip, Class Three Lots shall not have either a slip or lake access privileges, Class Four-A Lots shall not have either a slip or lake access privileges and shall be responsible for certain maintenance costs associated with the end-unit townhouse lots not associated with the other Lots, Class Four-B Lots shall not have either a slip or lake access privileges and shall be responsible for certain maintenance costs associated with the interior townhouse lots not associated with the other Lots. Declarant will designate a Lot as Class One, Class Two, Class Three, Class Four-A or Class Four-B at the time of conveyance of the Lot to the initial purchaser, and will assign the initial purchaser of a Class One Lot a boat slip at the time of conveyance. This slip assignment may be transferred to another Class Two or Class Three Lot within Deep Creek Highlands by the Association but only with the approval of the Lot Owners involved in the transfer.

The Declarant will provide the Association and the Garrett County Planning Commission with a master list of the lot numbers and their respective class at the time of the organizational meeting of the Association. Thereafter, the Declarant will provide the Association and the Planning Commission with a continuously updated master list until all lots have been sold and all lot classes have been assigned.

1.1.7 **"Member"** means a person or entity who holds membership in the

Association as provided in this Declaration hereafter.

1.1.8 **“Owner”** means the record owner, whether one or more persons or entities, of the fee simple title to any Lot, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

1.1.9 **“Property”** shall mean that certain property described in Schedule A attached and such additions thereto as may hereafter be brought within the jurisdiction of the Association and subjected to this Declaration as herein provided.

1.1.10 **“Structure”** means any thing or device the placement of which upon the Property (or any part thereof) may affect the appearance of the Property (or any part thereof) including, by way of illustration and not limitation, any building, trailer, garage, porch, shed, greenhouse, covered or uncovered patio, swimming pool, clothesline, radio, television or other antenna, fence, sign, curbing, paving, wall, roadway, walkway, exterior light, landscape, hedge, trees, shrubbery, planting, signboard or any temporary or permanent living quarters (including any house trailer) or any other temporary or permanent improvement made to the Property or any part thereof. “Structure” shall also mean (i) any excavation, fill, ditch, diversion dam or other thing or device which affects or alters the natural flow of surface waters from, upon or across the Property, or which affects or alters the flow of any waters in any natural or artificial stream, wash or drainage channel from, upon or across the Property, and (ii) any change in the grade of the Property (or any part thereof) of more than six (6) inches from that existing at the time of purchase by each Owner (other than Declarant).

## ARTICLE TWO

### Common Area Property Rights

2.1 Grant of Lots. Declarant shall hereafter hold, grant and convey the Lots, subject to the covenants, conditions and restrictions herein set forth, which are for the benefit of, binding upon and shall run with the land, and are for the benefit of Declarant, the Association and the Owners, their heirs, personal representatives, successors, and assigns

2.2 Grant of Common Areas. Declarant covenants that it will convey the Common Areas to the Association, except roads that are dedicated to public use, and the Association shall accept from Declarant the Common Areas, with such improvements as Declarant may construct thereon and shall hold them subject to the provisions hereof.

2.3 Owner's Easements of Enjoyment. Every Owner shall have a right and non-exclusive easement in and to the Common Areas, which easement shall be appurtenant to every Lot. In addition, every Owner shall have a right and non-exclusive easement of enjoyment in and to the common areas of Villages of Wisp Planned Residential Development (as described on Amended Plats One, Two, Three of Waterside at Wisp recorded in the Land Records of Garrett County at Book C.C.D.3, pages 35A, 35B and 35C.), except Class Three (3), Class Four-A (4-A)

and Class Four-B (4-B) lot owners shall not have any lake access privileges appurtenant thereto.

2.3.1 The Association shall have the exclusive right to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Areas;

2.3.2 The Association shall have the exclusive right to suspend the voting rights and right to use of the recreational facilities by an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations.

2.3.3 All matters pertaining to placement and usage of the common boat dock shall be subject to regulations issued by the State of Maryland Department of Natural Resources, Lake Management Office, or other appropriate authority.

2.4 Delegation of Use. Any Owner may delegate, in accordance with the Bylaws, his right of enjoyment to the Common Areas and facilities to the members of his family, his tenants, or contract purchasers who reside on a Lot.

2.5 Structures. Except as otherwise permitted by the provisions of this Declaration, no Structure shall be erected, placed or maintained on any Common Area except: (i) Structures designed exclusively for the common use or assigned use of Owners (e.g. mini storage building with a fee) and (ii) drainage, storm and utility systems. The Common Areas may be graded, planted with trees and shrubs and other plants placed and maintained thereon for the use, comfort and enjoyment of the Owners or for the establishment, retention or preservation of the natural growth or topography of the Common Areas.

2.6 Rules. The Association shall have the right to prescribe reasonable rules and regulations governing the use of the Common Areas, which rules and regulations shall be applied equally to all Owners. The Association shall have the right to suspend voting rights of an Owner in the Association for any period of not less than ten (10) days for an infraction of its published rules and regulations

2.7 Association Management. The Association may improve, develop, supervise, manage, operate, examine, inspect, care for, repair, replace, restore and maintain the Common Areas, including, by way of illustration, and not limitation, streets, roadways, sidewalks and parking areas, and all trees, shrubbery and other plants and landscaping together with any items of personal property placed or installed thereon, at the cost and expense of the Association.

2.8 Boat Slips – Class One Lots. Only Owners of Class One Lots may utilize a slip in the common boat dock facility.



2.8 Certain Public Recreation Area – Class One and Two. Only Owners of Class One or Class Two Lots may access the public recreational area of Deep Creek Lake through the common areas.

ARTICLE THREE  
Reserved Rights of Declarant

3.1 Reserved Rights of Declarant. The Association shall hold the Common Areas conveyed to it by Declarant subject to the following:

3.1.1 The reservation to Declarant of an easement over any part of the Common Areas for the purpose of ingress and egress and the installation and maintenance of public and private utilities.

3.1.2 The reservation to Declarant of an easement over any part of the Common Area for the purpose of storage of building supplies, construction equipment and other similar property on the Common Areas during the Development Period. This reserved right shall expire one (1) year after completion of construction of all improvements by Declarant on all Lots, within the section in which the Common Areas subject to such reserved easement are located.

3.1.3 The reservation to Declarant of an easement over the Common Area for the purpose of establishing trail easements within the common areas to other owners of lots in nearby subdivisions as part of a master trail system, provided Owners within Deep Creek Highlands are also granted easements for access and usage of said master trail system.

3.2 Grading. Declarant further reserves the right at or after the time of grading of any street or any part thereof for any purpose, to enter upon any abutting Lot and grade a portion of such Lot adjacent to such street, provided such grading does not materially interfere with the use or occupancy of a residence built or to be built on such Lot, but Declarant shall not be under any obligation or duty to do such grading or to maintain any slope. No right shall be conferred upon any Owner or Member by the recording of any plat relating to the development of said Property in accordance with such plat, Declarant expressly reserving unto itself the right to make such amendments to any such plat or plats as shall be advisable in its best judgment and as shall be acceptable to public authorities having the right to approval thereof.

3.3 Sales and Construction Offices. During the Development Period, Declarant may construct, maintain and operate real estate sales and construction offices, model homes, displays, signs and special lighting on any part of the Common Areas or on any Lot which Declarant has not yet conveyed.

3.4 Easement for Utilities. Declarant reserves an easement on, over and under the Common Areas for the purpose of ingress and egress and the installation and maintenance of public and private utilities to serve the Property and the Lots therein, including, but not

limited to, the right to lay, install, construct and maintain pipes, drains, mains, conduits, lines and other facilities for water, storm sewer, sanitary sewer, gas, electric, telephone, cable television, and other public or private services or utilities deemed by Declarant necessary or advisable to provide adequate service to any Lot now or hereafter laid out or established on the Property, or in the area or on the area in which the same is located, together with the right and privilege of entering upon the Common Area for such purposes and making openings and excavations thereon which openings and excavations shall be restored in a reasonable period of time.

3.5 Amendment of Plat. No right shall be conferred upon any Owner or Member by the recording of any plat relating to the development of the Property described herein to require the development of said Property in accordance with such plat. Declarant expressly reserving unto itself the right to make such amendments to any such plat or plats as shall be advisable in its best judgment. The rights reserved shall include the right to redefine the boundaries of unsold Lots, to annex additional land to the Property and to provide for new Lots not previously depicted on the plat. Declarant may not alter the boundaries of lots which have been sold.

ARTICLE FOUR  
Membership and Voting Rights

4.1 Membership. Every Owner of a Lot which is subject to assessment shall be a "Member" of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment

4.2 Voting. The Association shall have two (2) classes of voting membership:

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

4.2.2 Class B. The Class B Member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owned by Declarant. The Class B membership shall cease, subject to revival upon additional land being annexed to the Property pursuant to this Declaration, and be converted to Class A membership on the happening of the last to occur at the following events:

- (a) the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or
- (b) December 31, 2012.

ARTICLE FIVE  
Covenant for Maintenance

5.1 Creation of Lien and Personal Obligations for Assessments. The Declarant, for each Lot, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (i) annual assessments or charges, (ii) special assessments for capital improvements, and (iii) additional assessments, all such assessments to be established and collected as hereinafter provided. The annual, special and additional assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, costs and reasonable 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 fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

5.2 Purposes of Assessments. The assessment levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents of Lots within the Property and for the improvement and maintenance of the Common Areas and as is otherwise consistent with the rights and responsibilities of the Association hereunder and for the benefit of the Members.

5.3 Reserve Fund. The annual assessments shall include an amount adequate to establish a reserve fund for replacement of capital improvements in the Common Areas. A proportionate amount of each assessment payment received by the Association applicable to the reserve fund shall be received and held by the Association in trust, and shall be held separate and apart from other Association funds. Such trust funds shall be retained by the Association and used only for capital improvements and/or replacement of Common Areas facilities of the Association upon the approval of a majority of Owners. The Common Area facilities shall include, but are not limited to, an outdoor park with paved pathways and a viewing platform, an outdoor pool, an outdoor play area, two outdoor picnic pavilions, a changing room/restroom facilities building, sport court and a contained trash disposal area.

5.4 Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to a Class A Member, the maximum annual assessment shall be:

Class One Lot:	\$1,050/per Lot
Class Two Lot:	\$675/per Lot
Class Three Lot:	\$675/per Lot
Class Four-A Lot:	\$2,175/per Lot
Class Four-B Lot:	\$1,875/per Lot

Assessments of Class Four-A and Class Four-B Lots shall include costs for the maintenance of the building and grounds in and around such Lots, as apportioned based on end or interior units.

5.4.1 From and after January 1 of the year immediately following the conveyance of the first Lot to a Class A Member, the maximum annual assessment may be increased each fiscal year of the Association not more than ten percent (10%) above the annual assessment for the previous fiscal year without a vote of the membership of the Association. However, the annual assessment for Class One (1) lots may be increased in any fiscal year by more than ten percent (10%) above the annual assessment for the previous fiscal year without a vote of the membership of the Association by the actual amount of any increase in dock permit fees as imposed by the State of Maryland Department of Natural Resources, its successor or assign.

5.4.2 From and after January 1 of the year immediately following the conveyance of the first Lot to a Class A Member the maximum annual assessment may be increased above ten (10%) percent of the annual assessment for the previous fiscal year by a vote of two-thirds (2/3) of each class of Members who are voting in person or by proxy, at a meeting duly called for this purpose.

5.4.3 The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

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

5.6 Notice and Quorum for any Action Authorized under Sections 5.4 and 5.5 Written notice of any meeting called for the purpose of taking an action authorized under Sections 5.4 or 5.5 shall be sent to all Members not less than fifteen (15) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty (60%) percent of all the votes of each class of Members shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

5.7 Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots within the same Class and may be collected on a monthly basis, or other

periodic basis not more often than monthly, or less often than annually, as provided by the Board of Directors; provided, however, that notwithstanding any provision hereof to the contrary, Declarant shall not be required to pay any assessment for any Lot owned by Declarant until construction of improvements for a home on the Lot have been completed and the improvements have been occupied.

5.8 Additional Assessments. Additional assessments may be fixed against any Lot only as provided for in this Declaration. Any such assessments shall be due as provided by the Board of Directors in making any such assessment.

5.9 Surplus Receipts. Any surplus of receipts over expenses of the Association for any fiscal year shall be either applied to reduce the assessments necessary to meet the budget adopted by the Association for the next fiscal year or paid into the reserve fund of the Association, as determined by resolution of the Board of Directors.

5.10 Date of Commencement of Annual Assessments; Due Dates; Certificate of Payment of Assessments.

5.10.1 The annual assessments provided for herein shall commence as to all Lots on the first day of January, 2003. The first annual assessment shall be fixed by the Board of Directors and shall be adjusted according to the number of months remaining in the calendar year. Thereafter, the Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid.

5.10.2 If additional land is annexed to the Property as herein permitted, the annual assessments as to the Lots added to the Property by such annexation shall commence on the first day of the month following the conveyance of the first Lot within the annexed land to a Class A Member.

5.11 Effect of Nonpayment of Assessments; Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of ten (10%) percent per annum and shall be subject to a late charge of Five (\$5.00) Dollars or five (5%) percent of the assessment, whichever is greater, and the Board of Directors shall have the right to declare the entire balance of the annual assessment and accrued interest thereon to be immediately due and payable. In addition, the Owner shall be liable for all costs of collecting any such assessment, including reasonable attorney's fee and court costs. All such interest, late charges and costs of collection shall be deemed to be an additional assessment hereunder. The Association may bring an action at law against the Owner personally obligated to pay the same and/or, without waiving any other right, may foreclose the lien against the Lot. No

Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

5.12 Maryland Contract Lien Act. The Association may establish and enforce the lien for any annual, special or additional assessment created under this Article Five pursuant to the Maryland Contract Lien Act. The lien is imposed upon the Lot against which such assessment is made. The lien may be established and enforced for damages, costs of collection, late charges permitted by law, and attorney's fees provided for herein or awarded by a court for breach of any of the covenants herein.

5.13 Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any recorded first mortgage or deed of trust now or hereafter placed against a Lot. Sale or transfer of any Lot shall not affect the assessment lien. However, any contract purchaser of a Lot shall be entitled, on written request to the Association, to a statement in writing from the Association setting forth the amount of any unpaid assessments against the Owner of the Lot due the Association and such purchaser shall not be liable for, nor shall the Lot conveyed be subject to a lien for, any unpaid assessments made by the Association against the Lot in excess of the amount set forth in such statement. The sale or transfer of any Lot pursuant to foreclosure or any proceeding in lieu thereof, of a mortgage senior in priority to the assessment lien, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from any lien therefor.

5.14 Assessment of Lots Owned by Declarant. Lots owned by Declarant are exempt from all annual assessments or charges, special assessments and any additional assessments as may be levied by the Association; provided, however, that such exemption shall automatically expire with respect to any such Lot upon conveyance of such Lot by Declarant.

#### ARTICLE SIX Maintenance by Owner

The Owner of each Lot shall keep his Lot, and all improvements thereon, in good order and repair, including, but not limited to, the seeding, watering and mowing of all lawns, yards, and frontages along subdivision roads and private driveways, keeping all sidewalks neat, clean and in good repair, and free of ice and snow, the pruning and cutting of all trees and shrubbery and the painting (or other appropriate external care) of all buildings and Structures on the Lot, all in a manner and with such frequency as is consistent with good property management and maintenance. If, in the opinion of the Architectural Committee, any Owner fails to perform the duties imposed hereunder, the Association, on affirmative action of a majority of the Board of Directors, after fifteen (15) days written notice to the Owner to remedy the condition in question, and upon failure of the Owner to remedy the condition, shall have the right (but not the

obligation), through its agents and employees, to enter upon the Lot in question and to repair, maintain, repaint and restore the Lot and the improvements or Structures thereon and the cost thereof shall be a binding, personal obligation of such Owner, and as an additional assessment, upon the Lot in question.

ARTICLE SEVEN  
Architectural Review

7.1 Building Restrictions. No Structure shall be commenced, erected or maintained on any Lot nor shall the exterior appearance of any Structure on any Lot be changed or altered, nor shall the natural state of any area of any Lot be disturbed or altered after completion of construction of the improvements thereon, nor shall any work be commenced or performed which may result in a change of the exterior appearance of any such Structure, until the plans and specifications showing the nature, kind, shape, dimensions, materials, floor plans, color scheme, location, exterior plans and details, paving plans and location, landscaping details, proposed topographical changes, together with the estimated cost of said work and the Owner's proposed construction schedule, and together with a designation of the party or parties to perform the work have been submitted to and approved in writing by the Architectural Committee.

The Architectural Committee may establish criteria upon which to approve or disapprove builders, contractors and other parties performing work subject to Architectural Committee approval, and may require that all such work be performed only by approved parties.

The Architectural Committee may designate upon each Lot a specified area in which all structural improvements must be located. Under no circumstances shall the spoil (rocks, soil, etc.) from an excavation upon a Lot be dumped, placed or disposed of on an area designated as a "steep slope" (defined as a grade of 30% or more).

If the Architectural Committee fails to approve or disapprove plans and specifications in writing within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

7.2 Committee Criteria. The Architectural Committee shall consider such plans and specifications for approval upon the basis of, among other things, the harmony of external design and location in relation to surrounding Structures and topography, the nature and durability of the materials, quality of workmanship, choice of colors and materials, grade elevations and/or drainage, the ability of the party or parties designated by the Owner to complete the work proposed in accordance with the plans and specifications submitted, including, without limiting the foregoing, such factors as background, experience, skill, quality of workmanship, financial ability, etc. In reviewing the plans, the Architectural Committee may also consider factors of public health and safety, the effect the proposed work will have on the use, enjoyment and value of surrounding properties, and/or the outlook or view of other neighboring properties and the suitability-

lity of the proposed improvements or alterations with the general aesthetic values of the surrounding area.

7.3 Disapproval of Plans. In any case where the Architectural Committee shall disapprove the plans and specifications submitted hereunder, or shall approve the same only as modified or upon specified conditions, such disapproval or qualified approval shall be accompanied by a statement in writing of the grounds upon which such action was based. In any such case, the Architectural Committee shall, if requested, make reasonable efforts to assist and advise the applicant in order that an acceptable proposal can be prepared and submitted for approval. However, the final decision of the Architectural Committee is binding.

7.4 Approval of Plans. The applicant shall submit for approval two sets of plans and specifications. Upon approval by the Architectural Committee, one copy of such plans and specifications shall be retained by the Committee, and the other bearing the approval of the Committee in writing shall be returned to the applicant.

7.5 Non-Approved Structures. If any Structure shall be altered, erected, placed or maintained upon any Lot, or any new use commenced on any Lot, in violation of the provisions hereof, such Structure or new use shall be removed or discontinued, and such use shall be terminated so as to extinguish such violation. If within fifteen (15) days after notice from the Board of Directors of such violation, the Owner of the Lot upon which such violation exists shall not have taken reasonable steps towards the removal or termination of the same, the Association, through its agents and employees, shall have the right to enter upon the Lot and to take such steps as it deems necessary to extinguish such violation and the cost thereof shall be a binding, personal obligation of the Owner of the Lot, and an additional assessment upon the Lot.

7.6 Completion of Construction. Upon completion of construction of any Structure in accordance with the provisions hereof, the Architectural Committee, upon request of the applicant, shall issue a Certificate of Compliance in form suitable for recordation among the Land Records of Garrett County aforesaid, identifying such Structure and the Lot on which such Structure is placed, and stating that the Structure has been completed pursuant to the terms hereof. Preparation and recording of such Certificate shall be at the expense of the applicant. Any Certificate of Completion issued pursuant hereto shall be *prima facie* evidence of the facts therein stated, and as to any purchaser or encumbrancer in good faith, and for value, or as to any title insurer, such Certificate shall be inclusive evidence that all Structures on the Lot noted in such certificate comply with the provisions hereof.

7.7 Examination Fee. The Architectural Committee may charge and collect a reasonable fee for the examination of the plans and specifications submitted for approval. Such payment shall be made at the time such plans and specifications are submitted, provided that such charge shall not exceed the amount chargeable by the appropriate governmental authority for the application for and processing of building permits for Structures on the Lot with regard to which such plans and specifications are submitted. Such fee shall be retained by the Association, and not



by the Architectural Committee; however, the Architectural Committee may employ or consult with an expert to assist in its review of the plans and specifications. Said fee may be used to compensate said expert for services performed. The members of the Architectural Committee shall serve without compensation unless specifically approved by the Members.

7.8 Declarant Exemption. The provisions of this Article Seven shall not apply to any Structures commenced, erected or maintained by Declarant on any Lot, or within the Property.

7.9 Architectural Committee Rules. The Architectural Committee to the extent of its functions hereunder and rights specifically provided herein, may adopt and promulgate reasonable rules and regulations regarding the administration, interpretation and enforcement of the provisions of this Declaration.

7.10 Conditional Approvals. In granting any permit, authorization, or approval, as herein provided, the Architectural Committee may impose any appropriate conditions or limitations thereon as they shall deem advisable under the circumstances of each case.

ARTICLE EIGHT  
Restrictions on Lots

8.1. Uses. All Lots shall be used for single family residential purposes only, except that Declarant may use any Lot as a model home and for sales, management and/or construction offices during the Development Period. No structure of a temporary character whether a basement, tent, shack, trailer, camper, or other out-building will be placed on any Lot at any time as a permanent or temporary residence.

8.2. Subdivision. No Lot shall be subdivided

8.3. Signs. No signs, billboards, or advertising structures of any kind shall be placed or erected on any Lot unless such sign has been approved by the Architectural Committee. Signs erected by the Declarant shall not be subject to the provisions set forth herein.

8.4. Motor Vehicles. All vehicles, boats, trailers, campers, non-passenger vehicles and the like may be parked only in designated parking areas or in private driveways. No boats, recreational vehicles, unlicensed automobiles, junked vehicles, or trucks rated more than 3/4 ton, may be parked or stored within the subdivision for longer than seven days in any calendar year unless parked or stored in an enclosed garage.

8.5. Animals. No animals may be kept, maintained or bred on any Lot, except that dogs, cats or similar domestic household pets may be kept on a Lot, provided they are not kept, bred or maintained for any commercial purpose and provided further that they are kept in such a manner as to avoid becoming a nuisance to neighbors or adjoining property owners. Upon request

of any Owner, the Architectural Committee shall determine, in its sole discretion, whether a particular animal shall be considered a "similar domestic household pet" or whether it constitutes a "nuisance".

8.6. Noises and Nuisances. No nuisance shall be maintained, allowed or permitted on any part of the Property and no use thereof shall be made or permitted which may be noxious or detrimental to health or which may become an annoyance or nuisance to the neighborhood between the hours of 11:00 P.M. and 8:00 A.M. No Owner or occupant of a Lot shall make any loud or unusual noises. Musical instruments, radios, televisions and record players, phonographs and the like shall be used at all times only in such manner so as to not unreasonably disturb persons elsewhere on the Property. Because of the nuisance and noise associated with construction activities, such activities are specifically prohibited except between the hours of 7:00 A.M. and 5:00 P.M. Mondays through Saturdays, except with written permission from the Board of Directors.

8.7. Trash. No lumber, metals, bulk materials, garbage, refuse or trash shall be kept, stored or allowed to accumulate on any lot (other than in an approved Structure); no Lot shall be used or maintained as a dumping ground for any material; trash, garbage or other waste shall not be kept on any Lot except in sanitary container. All equipment and containers for the storage or disposal of such material shall be kept in a good, clean and sanitary condition; during construction of any approved Structure on a Lot, the Owner shall keep the construction site free of unsightly accumulations of rubbish and scrap materials, and construction materials, trailers, shacks and the like employed in connection with such construction shall be kept in a neat and orderly manner. To maintain the neat and orderly appearance of the community and to reduce the nuisance behavior of bears and other animals, the Association will maintain a bear-proof common trash disposal receptacle and area that is available to all members. No household garbage or trash shall be stored in the open on any Lot.

8.8. Antennas and Dishes. Exterior antennas and satellite dishes shall not be permitted on any Lot, except that DSS dishes no larger than 18 inches in diameter may be permitted with Architectural Committee approval on any Lot not provided with underground cable television service.

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

8.10. Structures. No Structure may be erected or maintained on any Lot in violation of Article Seven above, requiring approval of the Architectural Committee.

8.11 Rules. In order to assure the peaceful and orderly use and enjoyment of the property, the Board of the Association may from time to time adopt, modify and revoke in whole or in part, such reasonable rules and regulations, to apply equally to all similarly situated Lots and Members, governing the conduct of persons on or use of a Lot and the Common Areas, as the Association may deem necessary. All such rules shall be binding upon all Members of the Association, occupants and visitors to the Property. The Association may impose a fine, suspend voting or infringe upon any other rights of an Owner or other occupant for violation of the rules upon compliance with applicable law, if any and this Declaration.

8.12 Cutting Trees. It is intended that the community retain its wooded aesthetic character; accordingly, no cutting of any lot is permitted, except those trees which must be removed to allow construction of a residence or a driveway or the installation of utilities on a Lot. In order to remove any other trees from a Lot, permission must be secured from the Architectural Committee for trees larger than 4 inches in diameter. The Architectural Committee shall exercise good judgment, understanding that lot and home values are predicated upon the quality and quantity of the view from said Lot. For any trees that are removed without permission of the Architectural Committee, a penalty of up to \$1,000 per tree may be imposed by the Architectural Committee along with the requirement to replant trees of a specified specie, size, and 10-year life guarantee. For any violations of these provisions, the Architectural Committee has the authority to issue a cease-and-desist order for the continuance of construction on the lot until an agreed-upon remedy has been approved by said Architectural Committee.

8.13 Assignment of Dock Slip. The Owners of a Class One Lot may assign, for whatever consideration he may determine, to the Owner of a Class Two or Class Three Lot, the right to use of a slip in the common docking facility. Upon assignment thereof, and recordation of same among the Land Records of Garrett County, the Lot owned by the assignor shall become a Class Two or Class Three, as appropriate, Lot and the Lot owned by the assignee shall become a Class One Lot. The right to use of a slip may not be assigned to anyone other than the Owner of a Class Two or Class Three Lot, and such right must always be appurtenant to a Lot.

ARTICLE NINE  
Annexation

9.1 Additional Property. Additional residential Lots and Common Areas may be annexed to the Property in accordance with the provisions of this Article.

9.2 Annexation by Declarant. Additional land may be annexed to the Property by Declarant and made into residential Lots and Common Areas of the Property without the consent of Members within ten (10) years of the date this Declaration is recorded among the Land Records of Garrett County.

9.3 Recording. Any annexation made to the Property pursuant to this Article Nine shall be done and become effective upon recording of an amendment to this Declaration by Declarant among the Land Records of Garrett County specifying the additional land to be annexed to the property.

ARTICLE TEN  
General Provisions

10.1 Other Covenants Affecting the Property.

10.1.1 A separate Declaration of Covenants Establishing Infrastructure Facility Charges (the "Infrastructure Covenants") has or will be recorded to create a separate lien and annual assessment on individual Lots within the Property and the assessment created therein is separate and distinct from any assessment created under the provisions of Article Five. The lien established by the Infrastructure Covenants shall be superior in priority to the lien for assessments established by Article Five hereof.

10.1.2 The Owner(s) acknowledge that a Deep Creek Mountain Resort Property Owners Master Declaration of Covenants, Conditions and Restrictions, consisting of all the property owners' associations located within the Villages of Wisp Planned Residential Development (as approved by the Garrett County Planner Commission) and other property owned by Declarant, has been or will be established for the maintenance of certain areas common to the Villages of Wisp Planned Residential Development and other property owned by the Declarant, including, but not limited to a master trail system, private roadways and lakeside park.

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

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

10.4 Amendment.

10.4.1 The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended by an instrument signed by no less than seventy-five (75%) percent

of each class of Members who are entitled to vote at a meeting of Members. Any amendment must be recorded.

10.4.2 No amendment may alter or affect any rights granted hereunder to Declarant without the prior written consent of Declarant. No amendment affecting assessments, any property right, the right of any Owner to have, use or enjoy any easement or to use the Common Area, or the vested right of any party secured by a mortgage or deed of trust shall be valid or of any effect unless such amendment has been approved in writing by such party having such right or interest.

10.5 Notices. All notices required or provided for in this Declaration shall be in writing and hand delivered or sent by United States mail. If hand delivered, the notices shall be sent to the addresses shown below and shall be deemed to have been given on the date hand delivered to the party receiving the same. If United States mails are used, the notices shall be sent to the addresses shown below, certified or registered mail, return receipt requested, postage prepaid, and shall be deemed to have been given on the date deposited in the United States mails. Notice shall be addressed as follows:

To Declarant: 23789 Garrett Highway, Suite 5  
McHenry, MD 21541  
Attn.: Karen Myers

To the Association: To the Resident Agent of the Association  
at his address, as shown by the records  
of the State Department of Assessments  
and Taxation of the State of Maryland.

To Owner/Members  
as follows: To the last known address of the Owner/Member  
as shown on the records of the Association  
at the time of such mailing.

10.6 Right of Entry. Violation or breach of any provision herein contained shall give Declarant or the Association, to the extent that any of them may have a right of enforcement thereover, their respective agents, legal representatives, heirs, successors and assigns, in addition to all other remedies, the right (but not the obligation), after five (5) days notice to the Owner of the Lot, to enter upon the Lot or the land as to which such violation or breach exists, and summarily to abate and remove, at the expense of the Owner thereof, any Structure or condition that may be or exists thereon contrary to the intent and meaning of the provisions hereof; and the said parties shall not thereby be deemed guilty of any manner of trespass for such entry, abatement of removal, except that if any agent of Declarant or the Association shall be responsible for actually committing a trespass by behavior going beyond the intent of the authority conferred by this Section, in such event neither Declarant nor the Association shall be responsible for the

unauthorized acts of such agent(s). Nothing herein contained shall be deemed to affect or limit the rights of the Owners of the Lots when entitled to do so, to enforce the covenants by appropriate judicial proceedings

10.7 No Reverter or Condition Subsequent. No provision herein is intended to be, or shall be construed as, a condition subsequent or as creating a possibility of reverter.

10.8 Remedies. Damages may not be deemed adequate compensation for any breach of violation for any provision hereof, so that any person or entity entitled to enforce any provision hereof shall be entitled to relief by way of injunction as well as any other available relief either at law or in equity.

10.9 Headings. The headings or titles herein are for convenience of reference only and shall not affect the meaning or interpretation of the contents of this Declaration.

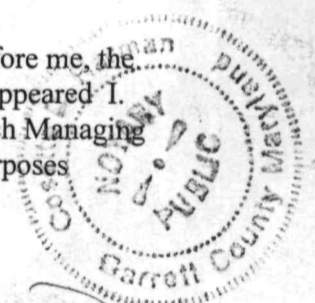
IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunder set its hand and seal the day and year first above written.

D.C. DEVELOPMENT, LLC, a Maryland  
Limited liability company

By: I. Robert Rudy  
Name: I. Robert Rudy  
Title: Managing Member

STATE OF MARYLAND, COUNTY OF GARRETT, to wit:

I HEREBY CERTIFY that on this 29th day of October, 2002, before me, the subscriber, a Notary Public in and for the State and County aforesaid, personally appeared I. ROBERT RUDY, Managing Member of D.C. Development, LLC, and that he, as such Managing Member, being authorized to do so, executed the foregoing Declaration for the purposes therein contained.



WITNESS, my hand and Notarial Seal.


Cosette L. Dawson  
NOTARY PUBLIC

My Comm. Expires: 10/27/2003

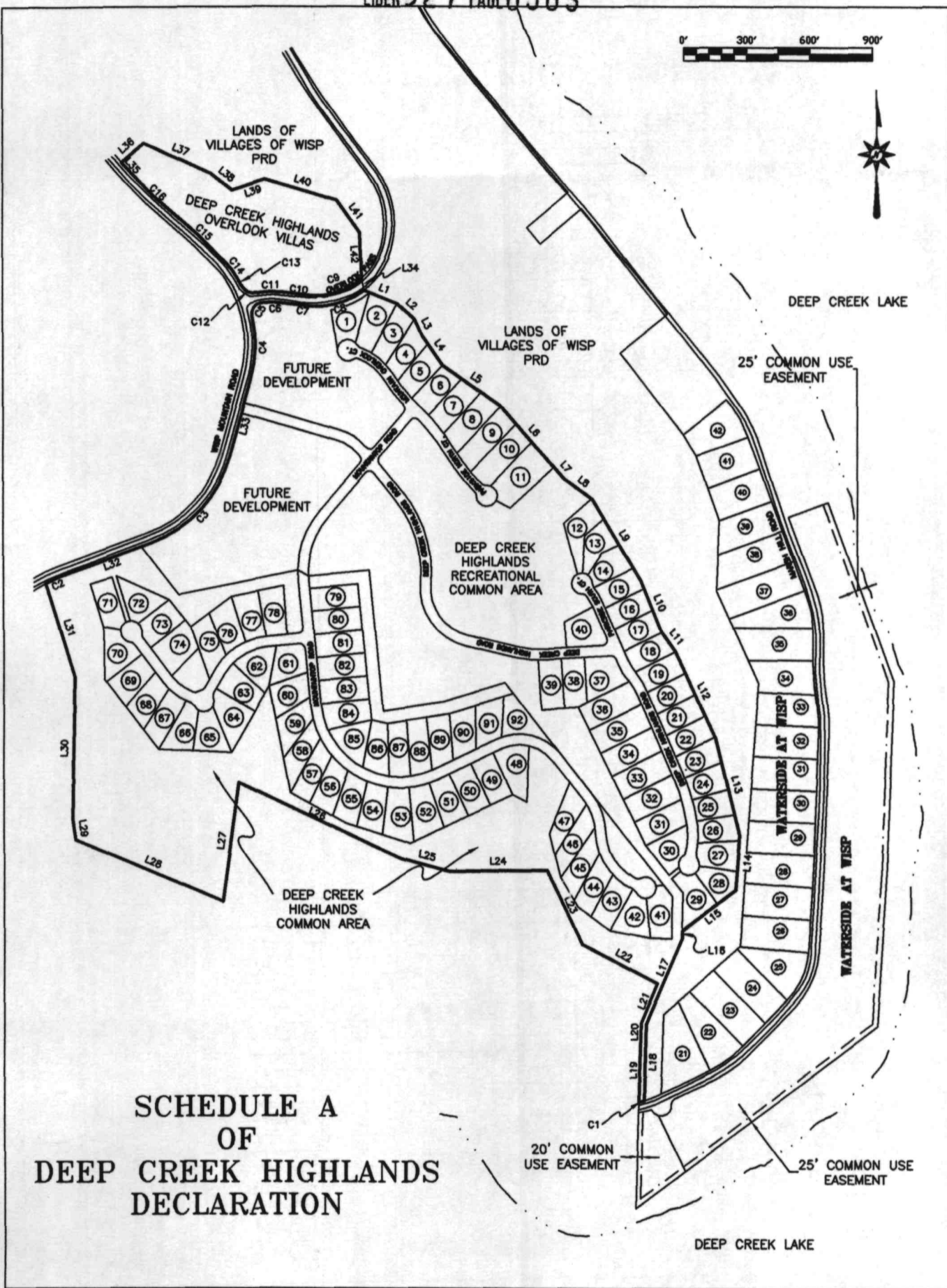
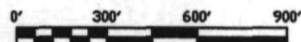
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**ATTORNEY CERTIFICATION**

I hereby certify that the foregoing Declaration of Covenants, Conditions and Restrictions was prepared by or under the supervision of an attorney admitted to the practice of law in the State of Maryland.

  
\_\_\_\_\_  
Jerald S. Cohn

BSA1 #19462 v6



**SCHEDULE A  
OF  
DEEP CREEK HIGHLANDS  
DECLARATION**



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LINE	BEARING	DISTANCE
L1	S 68°04'36" E	168.47'
L2	S 48°56'37" E	111.36'
L3	S 24°55'36" E	86.89'
L4	S 35°13'38" E	165.45'
L5	S 55°46'09" E	334.19'
L6	S 41°25'58" E	384.31'
L7	S 41°25'58" E	74.25'
L8	S 54°27'05" E	163.04'
L9	S 30°54'01" E	449.57'
L10	S 22°12'40" E	258.70'
L11	S 36°22'05" E	111.68'
L12	S 25°04'30" E	446.84'
L13	S 14°03'42" E	465.64'
L14	S 04°18'00" W	259.36'
L15	S 53°37'54" W	317.76'
L16	S 01°12'29" W	34.14'
L17	S 23°12'57" W	434.51'
L18	S 01°33'18" W	358.97'
L19	N 01°37'31" E	310.21'
L20	N 01°33'18" E	60.20'
L21	N 23°12'57" E	200.19'
L22	N 63°16'34" W	400.51'
L23	N 25°51'47" W	382.14'
L24	S 89°15'23" W	466.79'
L25	N 75°39'27" W	237.81'
L26	N 65°12'51" W	846.36'
L27	S 07°39'38" W	562.05'
L28	N 67°29'14" W	753.09'
L29	N 08°10'53" W	97.25'
L30	N 00°57'41" E	666.63'
L31	N 17°03'20" W	460.14'
L32	N 69°31'36" E	456.36'
L33	N 15°27'41" E	379.03'
L34	N 11°40'25" W	56.53'
L35	N 41°54'54" W	61.25'
L36	N 49°24'36" E	137.32'
L37	S 65°52'00" E	347.67'
L38	S 52°04'05" E	126.97'
L39	N 72°21'02" E	164.12'
L40	S 74°03'21" E	353.36'
L41	S 35°44'18" E	188.73'
L42	S 02°05'24" E	214.10'

CURVE	RADIUS	ARC LENGTH	CHORD BEARING	CHORD LENGTH
C1	285.00'	26.25'	N 76°50'55" E	26.24'
C2	582.37'	79.19'	N 65°37'53" E	79.13'
C3	602.43'	568.46'	N 42°29'39" E	547.61'
C4	606.17'	295.34'	N 01°30'12" E	292.43'
C5	50.00'	80.90'	N 33°53'55" E	72.36'
C6	319.80'	93.82'	N 88°39'23" E	93.48'
C7	4747.60'	143.19'	S 83°48'12" E	143.19'
C8	364.50'	271.45'	N 73°59'54" E	265.22'
C9	314.50'	258.72'	N 71°45'57" E	251.49'
C10	4697.60'	141.68'	S 83°48'12" E	141.68'
C11	369.80'	108.48'	N 88°39'24" E	108.10'
C12	75.21'	101.03'	S 65°47'29" E	93.60'
C13	606.17'	34.94'	S 28°59'52" E	34.94'
C14	425.00'	93.59'	S 36°57'27" E	93.40'
C15	2538.83'	336.33'	S 47°03'40" E	336.09'
C16	1796.04'	280.28'	S 46°23'08" E	279.99'