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Tax Parcel No. Per Attached Exhibit A

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**FIRST AMENDMENT TO  
DECLARATION OF COVENANTS, RESTRICTIONS, EASEMENTS  
AND ESTABLISHMENT OF HOMEOWNERS ASSOCIATION  
FOR WICKSFIELD  
IN DUCK CREEK HUNDRED, KENT COUNTY DELAWARE**

THIS FIRST AMENDMENT is made this 6 Day of November 2007, and modifies the Declaration of Covenants, Restrictions, Easements and Establishment of Homeowners Association for Wicksfield, in Duck Creek Hundred, Kent County, Delaware, dated April 7, 2004 and recorded in the Office of the Recorder of Deeds in and for Kent County in Deed Book 610, Page 71 ("the Declaration").

WHEREAS, as set forth in the Declaration, Robert P. Wicks was the original Declarant in connection with the subdivision known as "Wicksfield" in Duck Creek Hundred, Kent County, Delaware (hereinafter sometimes referred to as "the Property" or "the Subdivision"); and

WHEREAS, the said Robert P. Wicks transferred title to all of the lots in Wicksfield to "Wicksfield LLC" by Deeds as recorded in the Recorder of Deeds for Kent County, Delaware at Deed Book 618, Page 237 and Deed Book 651, Page 115; and

WHEREAS, the said Wicksfield, LLC transferred title to all of the lots in Wicksfield to Pulte Home Corporation (hereinafter sometimes referred to as "Builder" or "Declarant") by Deed dated October 7, 2004 and recorded in the Office of the Recorder of Deeds in and for Kent County Delaware in Deed Book 658, Page 32; and

WHEREAS, Pulte Home Corporation is and continues to be the owner of more than 75% of the Lots in Wicksfield and is the successor in interest to the Declarant's rights and obligations under the Declaration; and

WHEREAS, pursuant to Section 8.3 of the Declaration, Pulte continues to have the right to amend the Declaration, without the joinder of any other Lot Owners and desires to amend said Declaration of Restrictions and Easements;

NOW THEREFORE, the Declaraton is hereby amended as follows:

- I. Article VI, Restrictive Covenants, including sections 6.1 through 6.10, by deleting it in its entirety and substituting therefore a new Article VI as follows:

**“ARTICLE VI**

**RESTRICTIVE COVENANTS AND  
ARCHITECTURAL REVIEW COMMITTEE**

**RESTRICTIVE COVENANTS:**

**6.1. USE OF LOTS.**

(a) Unless otherwise hereinafter expressly provided, all Lots shall be used solely for private, single-family residential purposes only and no dwelling of any kind whatsoever shall be erected, altered or maintained thereon except one private dwelling house for the sole and exclusive use of the Owner or occupant of the Lot. Except as expressly provided elsewhere in this Declaration, no industry, business, trade or profession of any kind, whether or not for profit, including, without limitation, retail or wholesale shops, other kinds of stores, factories, saloons, beauty parlors, doctors office or other office, professional or otherwise, hospital, asylum or institution of like or similar nature, or charitable institution shall be conducted, maintained or permitted on any part of the Property without the prior written consent of the Board of Directors. None of the Lots shall be used at any time for apartments or other types of multiple housing units. Garages may not be converted to additional living space.

(b) No buildings or other improvements shall be constructed, placed or maintained on any Lot except detached, single family residential dwelling houses together with customary appurtenant structures, including but not limited to, garage, greenhouse, shed, and play structures, subject to the following restriction: No more than one (1) appurtenant structure which shall require the obtaining of a Building Permit for the construction thereof, may be placed or maintained on any Lot. No appurtenant structure which requires the obtaining of a Building Permit for the construction thereof, shall exceed one hundred twenty (120) gross square feet in overall size of the structure as calculated from a horizontal plan view of the entire structure, nor shall such structure exceed an overall height of fifteen (15) feet at any point thereof. Every garage, shed or other storage facility constructed, placed or maintained on a Lot shall be used exclusively by the owners or occupants of the Lot on which it is located. Any such structure shall be of the same color and material as the exterior of the dwelling and shall be sized proportionately to be in keeping with the size of the house. No metal shed or other appurtenant structure of any kind shall be located on any Lot.

(c) Any provision of this Declaration to the contrary notwithstanding, the Declarant and any Builder, with the consent of the Declarant, shall have the right to use their respective Lots and any improvements thereon, as sales, rental and/or management offices, as model homes, and for the installation of one or more construction and/or sales trailers, and for the storage of construction materials and equipment. Any Builder constructing improvements within the Common Area shall have the right to store construction materials and equipment in such Common Area. The Declarant and any Builder, with the consent of the Declarant, shall also have the right to erect upon their respective Lots and upon the Common Area, such advertising and directional signs, flagpoles and other improvements and equipment as may be reasonable for the development, marketing and management of the Lots.

## 6.2 **BUSINESS USE**

Unless otherwise herein expressly provided, no trade, business or profession, except customary home occupations clearly incidental to the residential use of the dwelling on a Lot and subject to compliance with and approval of all governmental agencies having jurisdiction thereof, shall be regularly conducted or pursued on any Lot or within or without any structure on any Lot.

(1) **Family Day Care**. Notwithstanding anything herein to the contrary, "Family Day Care Homes" are permitted upon the Lots, subject to the following requirements:

(i) The Owner or "Day Care Provider" (the adult who has primary responsibility for the operation of a Family Day Care Home), operating the Family Day Care Home shall be registered with and have a license issued by the appropriate state agencies. The Owner shall provide a copy of the license to the Board of Directors prior to establishing and operating the Family Day Care Home and upon each renewal thereof.

(ii) The Owner or Day Care Provider shall obtain liability insurance and may not operate the Family Day Care Home without the liability insurance described herein, and shall present proof of insurance to the Board of Directors before establishing and operating the Family Day Care Home and upon any renewal of the policy.

(iii) The Owner or Day Care Provider shall pay, on a prorata basis with other Family Day Care Homes then in operation in Wicksfield, any increase in the Association's insurance costs attributable solely to the establishment and operation of the Family Day Care Home, and upon presentation of a statement from the Board setting forth the increased insurance costs and requesting payment of same. The increased insurance costs shall be considered an assessment against the Lot, and may be collected in the same manner as collection of Annual Assessments as set forth in this Declaration.

(2) **Home Based Businesses.**

(a) Notwithstanding any provision of this Declaration to the contrary, any other Home Based Business which are permitted upon the Lots as customary home occupations clearly incidental to the residential use of the dwelling, shall be subject to the following requirements:

(i) Owners shall notify the Association before opening a Home-Based Business.

(ii) Home-Based Businesses and their clients/customers and agents are expressly prohibited in any Common Area.

(iii) Such additional requirements as may be specified by the Board of Directors of the Association, to the extent permitted by applicable law.

(b) For purposes of this Declaration, a Home Based Business@ shall mean a business that:

(i) Is consistent with the residential character of the dwelling unit;

(ii) Is subordinate to the use of the dwelling unit for residential purposes and requires no external modifications that detract from the residential appearance of the dwelling unit;

(iii) Uses no equipment or process that creates noise, vibration, glare, fumes, odors, or electrical or electronic interference detectable by neighbors or that causes an increase of common expenses that can be solely and directly attributable to a no-impact home-based business; and

(iv) Does not involve use, storage, or disposal of any grouping or classification of materials that the United States Secretary of Transportation or the State of Delaware or any local governing body designates as a hazardous material.

6.3. **SWIMMING POOLS; HOT TUBS.**

Swimming pools and hot tubs shall be permitted in rear yards or side yards only. Swimming pools shall be completely "in ground" and fenced in accordance with this Declaration and all applicable laws. Hot tubs shall be screened from view. Construction and maintenance shall be in accordance with all applicable laws. Construction plans and specifications for built-in swimming pools and hot tubs shall be approved in advance by the Architectural Review Committee. No above-ground or

decked swimming pool of any kind shall be permitted on any Lot. Notwithstanding the foregoing, portable children's pools constructed of plastic material may be maintained on any Lot during the months of May through September of each year.

**6.4. DRIVEWAYS.**

All driveways shall be maintained in good condition and in accordance with all applicable laws. Driveways shall be paved and or repaved with the same material as the original construction unless another material is approved in advance by the Architectural Review Committee. Gravel surfaces are prohibited. Every driveway shall provide positive drainage away from the dwelling and garage.

**6.5. TEMPORARY STRUCTURES.**

No temporary structure, trailer, garage, tent or other similar facility shall be used at any time for residential purposes. Nothing herein shall prohibit the placement on any Lot of temporary construction trailers, sheds, portable toilets or similar items during construction, repair of, or addition to, any improvements on such Lot.

**6.6 CLOTHESLINES; FLAGPOLES.**

No temporary or permanent exterior clothes dryer, clothes pole or similar equipment shall be maintained on any Lot whether or not it forms a part of any Structure or is detachable therefrom and no drying or airing of any clothing shall be permitted outdoors. Freestanding flagpoles, other than in connection with the initial sale or marketing of Lots, are prohibited. One (1) appropriately-sized flagpole may be mounted on the front of a dwelling.

**6.7. LIGHTING AND WIRING; ANTENNA.**

(a) Exterior lighting on Lots shall be directed downward and shielded to minimize the casting of light from such fixture onto neighboring Lots. All wiring on any Lot shall be underground.

(b) Except as specifically permitted by applicable governmental regulations, no exterior antennas of any type, including, but not limited to, satellite dishes for reception or transmission, exterior television antenna, radio antenna, radio tower, or microwave receiver, may be erected or maintained on any Lot; provided, however, that a single satellite dish not in excess of two (2) feet in diameter is permitted on a Lot. The Board of Directors may impose reasonable rules and regulations regarding the location and screening of any such satellite dish, subject to applicable governmental regulations. Antennas situated entirely within a dwelling and not visible from the exterior of the dwelling, are permitted.

**6.8**                    **TRAFFIC VIEW.**

No Structure, landscaping, shrubbery or any other obstruction shall be placed on any Lot so as to block the clear view of traffic on any streets.

**6.9**                    **YARDS.**

(a) Except as otherwise expressly permitted herein, the front and side yards of each Lot shall be kept only as a lawn for ornamental or decorative planting of grass, trees, shrubbery, and flowers. Lawn statues and similar ornaments are expressly prohibited in front and side yards. No equipment or machinery, including without limitation, equipment or machinery for use in connection with the maintenance of a dwelling, such as lawnmowers, wheelbarrows and similar devices, shall be stored in the front or side yard of any Lot.

(b) Each Lot owner shall prevent the development of any unclean, unsanitary or unsightly or unkept conditions of the buildings or grounds of his or her lot and shall not permit the accumulation of growth, logs, fallen trees, liter, building materials or other trash upon such Lot. Grass shall be mowed periodically on each Lot so that the height of the grass does not exceed four (4) inches at any time. No Lot shall be used or maintained as a dumping ground for rubbish, garbage or trash. All rubbish, garbage or other wastes shall be kept in sanitary containers and shall be removed from the premises at least twice per month.

(c) No above ground tanks of any kind whatsoever are permitted. All tanks must be underground or inside the dwelling or outbuilding and installed and maintained in such a manner as to avoid seepage or damage to the environment.

**6.10**                    **FENCES.**

Fences and other similar enclosures may be built on any Lot in rear or side yards only, and only with the prior written approval of the Architectural Review Committee; provided, however, such fences as may be installed and/or constructed by the Declarant or any Builder simultaneously with the initial construction of a dwelling on a Lot shall not require Architectural Review Committee approval. Any fence or other similar enclosure shall not extend forward of the rear foundation wall or exceed forty-eight (48) inches in height, unless a greater height is required by law, and shall not impede surface drainage or interfere with any utilities. No "chain link" or other wire or metal construction fence shall be placed, erected or maintained on any Lot at any time. All fences shall be constructed of white vinyl material. In addition to or in lieu of the fencing described above, the Architectural Review Committee may designate one or more fence designs as the "standard designs" and may require that all fences conform to these standards. All fencing shall (except for permitted privacy fences) be of such open design that it does not obstruct the view of the dwelling from any adjacent Lot or

roadway, and shall comply with the height, setback and other requirements of applicable law. Chain link and chicken wire fencing is expressly prohibited, however, vinyl coated green wire mesh fencing shall be permitted along the interior of an approved fence. All gates must open inward onto a Lot and shall not open onto another Lot or the Common Area. The foregoing shall not prohibit the growth of an ornamental hedge fence, which shall be kept neatly trimmed, and shall not exceed three (3) feet in height in front yards, or side yards of corner lots.

**6.11. NUISANCES.**

No noxious, offensive or illegal activity shall be carried on upon any Lot, nor shall anything be placed upon a Lot which may become an annoyance or nuisance to the neighborhood or any adjoining Owners. Without limiting the generality of the foregoing, no speaker, horn, whistle, siren, bell, amplifier or other sound device, except such properly maintained and operated devices as may be used exclusively for security purposes, shall be installed upon or audible from the exterior of any Structure. No snowmobiles, go-carts, motorbikes, trail bikes, loud-engine recreational vehicles or skateboard ramps shall be run or operated upon any Lot, the Common Area or any roadways serving the Property.

**6.12. ANIMALS.**

No animals of any kind, including pigeons, livestock, poultry, or other non-domestic or exotic animals, shall be raised, bred or kept on any Lot, except that dogs, cats or any common household pets, not to exceed three (3) in the aggregate, may be kept, provided they are not kept, bred or maintained for any commercial purpose, and provided they do not become a nuisance to the neighborhood or to any other Owners. Animals must be restrained with a leash at all times and cannot be chained or left to roam unattended on the Property or any Lot (other than within a fenced Lot). No exterior pens, kennels or houses shall be utilized for any household pets, all of which shall be boarded inside the home of the owner. Pets shall be registered, licensed and inoculated as required by law. Owners shall be responsible for the immediate clean-up and removal of their pet's waste on any of the Property including their own Lot. Puppies and kittens in excess of the numbers set forth above may be kept until they reach the age of twelve (12) weeks. The Board of Directors or, upon resolution of the Board of Directors, the Architectural Review Committee, shall have the authority, after hearing, to determine whether a particular pet is a nuisance or a source of annoyance to other Members, and such determination shall be conclusive.

**6.13. VEHICLES.**

(a) No commercial vehicles, mobile home, bus, house car, motor home, camper, trailer, airplane, boat, unlicensed motor vehicle, snowmobile or other specialized

recreational vehicle, recreational vehicles, limousines, hearses, ambulances, multi-purpose passenger vehicles designed to carry ten (10) or more persons, tractors, or any inoperative vehicle shall be placed, used, operated, maintained or stored on any Lot or any other part of the Community, nor parked on any street within the Community, except for such time as is necessary to load or unload same, or pickup or discharge passengers therefrom. Nothing herein shall prohibit the storage of any boat or similar vehicle not exceeding twenty four feet in length provided, however, that any such storage is completely within a garage. The repair or extraordinary maintenance of vehicles is not permitted anywhere on the Property.

(b) For the purposes hereof, a vehicle shall be deemed inoperable unless it is licensed, contains all parts and equipment, including properly inflated tires, and is in such good condition and repair as may be necessary to drive the vehicle on a public roadway.

(c) The foregoing restriction shall not prohibit temporary parking for washing and polishing of vehicles or for a visiting motor home or house trailer, which shall be permitted to remain for no more than two (2) weeks in any six (6) month period. No carports shall be permitted to be constructed on any Lot.

(d) No commercial vehicles shall remain parked on any street or Lot longer than is necessary to perform the business function of such vehicle in the area. Notwithstanding the foregoing, the Declarant, any Builder and their respective agents and designees, may maintain trailers and commercial vehicles on the Property in connection with the development, sale, marketing and management of the Property. These restrictions are intended to apply to that portion of the Property which may hereafter be dedicated as public streets or roads.

#### **6.14. SUBDIVISION.**

No Lot shall be divided or subdivided and no portion of any Lot shall be transferred or conveyed for any purpose; provided, however, this shall not prohibit transfers of parts of Lots between adjoining Lot Owners where the transfer is not for the purpose of creating a new building Lot. The provisions of this subsection shall not apply to the Declarant and shall not be construed to prohibit the granting of any easement or right-of-way to any person for any purpose.

#### **6.15. SIGNS.**

(a) Except for entrance signs, directional signs, signs for traffic control or safety, community "theme areas," or "For Sale" or "For Rent" signs (not larger than six (6) square feet), no signs or advertising devices shall be erected, posted or displayed upon, in or about any Lot or Structure without the approval of the Architectural Review Committee. The provisions and limitations of this subsection shall not apply to any signs used by Declarant or any Builder (which signage shall be approved in advance by Declarant) in connection with the construction, development, sale or marketing of the



Property, nor to any Mortgagee of any Lot which comes into possession of the Lot by reason of any proceeding, arrangement, assignment or deed in lieu of foreclosure.

(b) Notwithstanding the prohibitions on signage contained in clause (a) above, an Owner may post or display on its Lot (but not in any Common Area), one or more signs on behalf of a candidate for public office or a slate of candidates for public office, or a sign that advertises the support or defeat of any question submitted to the voters for a period of time not to exceed thirty (30) days before and seven (7) days after the primary election, general election or vote on the proposition, or such longer or shorter period as may be specified by applicable Federal, State or local law. The Board of Directors may adopt any other restriction with respect to such signage consistent with applicable Federal, State or local law.

**6.16. LEASE AGREEMENTS.**

No Owner may lease such Owner's Lot or the improvements thereon for motel, hotel or transient purposes. All leases shall be in writing, and shall state that the lease agreement shall be subject to this Declaration and that the tenant shall be directly liable to the Association, and shall be subject to enforcement actions hereunder and pursuant to such Lease (although the Association shall have no obligation to bring any such enforcement action), for any breach or violation by the tenant of the provisions of this Declaration. Copies of all leases shall be provided to the Board of Directors. The minimum term of all leases shall be one (1) year. Owners who do not reside on their Lot shall provide current addresses and phone numbers to the Association.

**6.17. TRASH AND OTHER MATERIALS.**

No lumber, metals, bulk materials, refuse or trash shall be kept, stored or allowed to accumulate on any Lot, except (i) building material during the course of construction of any approved Structure, and (ii) firewood, in rear yards only, which shall be cut and neatly stored at least twelve (12) inches away from any wooden Structure. No burning of trash shall be permitted on any Lot or the Common Area. Trash shall be disposed of in metal or plastic containers covered by a lid and shall be maintained in a sanitary condition. If trash or other refuse is to be disposed of by being picked up and carried away on a regular basis, closed or covered containers only may be placed in the open on the night before or the day that a pick-up is to be made at such place on the Lot as to provide access to persons making such pick-up. The foregoing provisions regarding trash disposal shall not apply to the disposal of recyclables in accordance with local governmental regulations. At all other times trash and recycling containers shall be stored so as to minimize visibility from the roadway or the other Lots or Common Area.

**6.18. NON-INTERFERENCE WITH UTILITIES AND OTHER EASEMENTS.**

No Structure, fence, planting or other improvement shall be placed or permitted to remain upon any Lot which may damage or interfere with any easement for the installation or maintenance of utilities, or in any private or public access easement, utility easement, forest conservation easement, flood plain easement or buffer area (except as noted on the Plats or permitted by applicable authorities), or which may unreasonably change, obstruct or retard direction or flow of any drainage channels. Fences may be constructed in easement areas only with the advance written consent of the County.

**6.19. TREE REMOVAL**

The prior approval of the Architectural Review Committee shall be required for the removal of any live trees four inch (4") caliper or larger; provided, however, no live trees may be removed from any forest conservation easement or buffer area designated on the Plats except in accordance with any recorded easement, applicable laws, the terms of any site development or subdivision plat approval, or of any other permit or approval in connection with the development of the Property. All existing or planted forest, woodland and trees shall be retained in accordance with the final development plans on file with the County. Dead trees or scrub trees (weed type trees with a trunk less than one inch (1") in diameter) may be removed without Architectural Review Committee approval from any Lot, except within any forest conservation easement area, which shall be governed by the terms of the applicable deed of easement, forest conservation plan, and applicable laws, rules and regulations.

**6.20. PLAY EQUIPMENT**

All outdoor play equipment shall consist of cedar, redwood or pressure-treated wood materials, or hi-grade plastic materials, shall be situated in rear yards only, and shall be placed in order to minimize their visibility from neighboring Lots. The Architectural Review Committee may, in its sole and absolute discretion, consider other materials for play equipment. Children's play and similar equipment shall not be allowed to remain overnight within any front yard of any Lot or at any time within the Common Area. No play equipment, including, without limitation, basketball backboards, basketball hoops and other equipment associated with either adult or juvenile recreation, shall be attached in any manner to the front or sides of any dwelling. Basketball backboards may be affixed to permanent or semi-permanent free-standing poles with the following stipulations: (i) poles must be located at least fifteen (15) feet from the front lot line, (ii) poles must be painted a solid earth tone, and (iii) no court markings may be painted, drawn or otherwise affixed to the playing surface.

**6.20. GRADING; DRAINAGE.**

No Lots shall be used or maintained so as to cause excessive erosion of soil or sediment. During the grading and construction of any improvements upon any Lot, adequate arrangements shall be made to insure that no erosion of soil or sediment shall take place. Drainage from roof areas shall be channeled to downspouts and appropriately discharged. After the completion of the construction thereon of a residential dwelling and the establishment of grades for the flow of surface water, the grading of any Lot shall not be changed or modified so as to impede, redirect, accelerate or otherwise change or modified the flow of surface water to, over or from the Lot.

**6.22. DECKS AND PORCHES; STORM DOORS.**

Decks, patios and screened porches may be built on any Lot only with the approval of the Architectural Review Committee and upon obtaining a valid building permit. Decks and porches shall not extend forward of the rear foundation wall into any front or side yard, shall not impede surface drainage and shall comply in all respects with the height, setback and other requirements of the appropriate authorities. Decks and porches shall be decorative in character and shall be constructed of pressure-treated lumber or long life-cedar, redwood, Trex or other similar material. Decks and porches may be painted or stained to match the color of the dwelling. Patios shall be constructed of the same materials as decks or porches, or of slate, stone or concrete, or such other materials as may be specified or approved by the Architectural Review Committee. Storm doors (or screen doors) shall be full view and anodized aluminum and shall be painted the same color as either the door or the trim of the house, or of such other materials and/or colors as may be specified by the Architectural Review Committee.

**6.23. AUCTIONS, FLEA MARKETS, YARD SALES.**

Other than auctions held in conjunction with foreclosure and/or tax sales, no auctions will be permitted without the prior written consent of the Architectural Review Committee. Flea markets or yard sales not exceeding two (2) per year for not more than two (2) days in duration are permitted in the front or side yard of any Lot. All other such events are prohibited unless it is part of a coordinated event approved by the Architectural Review Committee.

**6.24. UTILITIES.**

All exterior mechanical and electrical equipment other than heat pumps and utility meters must be housed or screened from view from streets, home entries and neighboring Lots. No window unit air conditioners shall be permitted. No stove pipe type of chimney or flue may protrude from any dwelling or outbuilding unless the same be enclosed in masonry materials which are in conformity with the exterior of said building. Direct vents from a gas fireplace shall be installed so as to match the color and texture of the dwelling.

**6.25. NON-TIDAL WETLANDS, BUFFER AREAS AND FOREST CONSERVATION AREAS.**

Any portion of the Common Area or Lots designated and shown on the Plats as floodplains, wetlands, critical areas, steep slopes, buffer areas, preservation areas, forest conservation easement or retention areas, or other similar areas, shall remain in a natural, undisturbed state and shall not be cleared, developed, or improvements erected thereupon, by the Declarant, any Builder, the Association, any Owner or any other person, except as permitted by any recorded easements or other restrictions, and applicable law, and approved by the Association and the County. The removal of hazardous trees, limbs, branches or trunks is allowed. The forest conservation, forested and nonforested water resource protection areas, flood plains and other protected areas shown on the Plats are also subject to the terms and provisions of recorded easement agreements, which preclude any disturbance or installation of any structure within specific areas.

**6.26. COMPLIANCE WITH FEDERAL FAIR HOUSING ACT.**

In order to comply with the requirements of the Federal Fair Housing Act (as heretofore and hereafter amended):

(i) The Architectural Review Committee or the Board of Directors of the Association shall, to the extent permitted by law, make reasonable accommodations in the rules and regulations of the Association (including those set forth in this Article and those adopted pursuant to the bylaws of the Association), to the extent such accommodations are required under the Federal Fair Housing Act or otherwise appropriate to afford persons with disabilities an equal opportunity to use and enjoy the dwelling located upon any Lot, which accommodations may include waivers and modifications of such rules and regulations only for a particular person with a disability or for a particular category of persons with disabilities. The Architectural Review Committee or the Board of Directors need not follow the procedural requirements of this Article or the by-laws in making such waivers and modifications, and such waivers and modifications need not be approved by the membership of the Association.

(ii) No rule or regulation of the Association shall be interpreted or enforced in such a way as to make unavailable or deny a dwelling to any person, or to discriminate against any person in the provision of services or facilities in connection with the sale or rental of a dwelling to such person, because of the familial status of such person, as the term "familial status" is defined under the Federal Fair Housing Act.

**6.26. COMPLIANCE WITH LAWS.**

The provisions of this Article shall not be taken as permitting any action or thing prohibited by applicable zoning laws, or the laws, rules or regulations of any governmental authority. No building, appurtenant structure or other improvement shall

be constructed, placed or maintained on any Lot nearer to any front, side or rear property line than is permissible, with, if required, variance sought and granted, under the zoning Code of Kent County, Delaware as enacted and in force on the date when this Declaration of Restrictions is recorded Nothing herein shall prevent an Owner from securing a variance under the Zoning Code of Kent County, Delaware and construction pursuant to a grant thereof shall comply with the provisions of this Declaration.

**6.27. WAIVERS.**

The Architectural Review Committee may, in the exercise of its reasonable discretion, upon submission of a written request therefor by the Owner of a Lot, and to the extent not prohibited by law, waive any one or more of the provisions of this Article or any portion thereof with respect to any Lot. The granting of a waiver with respect to any Lot shall not require the granting of a waiver with respect to any other Lot.

**6.29 ARCHITECTURAL REVIEW COMMITTEE.**

(a) Each Owner, by accepting a deed or other instrument conveying any interest in any portion of Wicksfield, acknowledges that as the developer of Wicksfield and as an Owner of portions of Wicksfield, Declarant has a substantial interest in ensuring that the improvements within Wicksfield enhance Declarant's reputation and do not impair the Builders' ability to market, sell, or lease its property. Therefore, each Owner agrees that no activity within the scope of this Article as described in Section 6.37 and elsewhere in this declaration ("Work") shall be commenced on such Owner's Lot unless and until Declarant or its designee has given its prior written approval for such Work, which approval may be granted or withheld in the Declarant's or its designee's sole discretion.

In reviewing and acting upon any request for approval, Declarant or its designee shall be acting solely in Declarant's interest and shall owe no duty to any other Person. Declarant's rights reserved under this Article shall continue so long as Declarant owns any portion of Wicksfield, unless earlier terminated in a written instrument executed and Recorded by Declarant. Declarant may, in its sole discretion, designate one or more Persons from time to time to act on its behalf in reviewing applications hereunder.

(b) The Declarant may appoint an Architectural Review Committee (the "ARC"), which shall have all the rights, powers and duties granted to it pursuant to this Declaration. In the absence of the appointment of an Architectural Review Committee, the Declarant shall have and shall exercise the rights, powers and duties of the members of the Architectural Review Committee.

(c) The Architectural Review Committee, once appointed by Declarant or created subsequently by the Board of Directors of the Homeowner's Association, shall consist of not less than three (3) nor more than seven (7) persons or entities (provided however that at all times the number of members of the ARC shall be an odd number), which members shall be appointed from time to time, need not be Members of the Association, and may be replaced at any time for any reason with other individuals selected by the Declarant or

the Board. The members of the Architectural Review Committee appointed from time to time by the Declarant shall serve until the last Lot within the Property is conveyed to an Owner other than Declarant or any Builder, and thereafter until his or her successor shall be duly appointed. At any time after the last Lot within the Property is conveyed to an Owner other than the Declarant or any Builder, a majority of the Board of Directors of the Association shall have the power, by a duly executed instrument filed among the minutes of the Association, to appoint new members to the Architectural Review Committee, provided the Architectural Review Committee shall at all times be comprised of a minimum of three (3) persons. In the event of the death or resignation of any member of the Architectural Review Committee during the terms of the members appointed by the Declarant, the Declarant shall have the sole right to appoint a successor by designating the name and address of such successor in a document filed among the minutes of the Association. The Declarant may relinquish to the Board of Directors of the Association its rights to designate any successor member of the Architectural Review Committee, in the sole discretion of Declarant.

(d) Unless and until such time as Declarant delegates or assigns all or a portion of its reserved rights to the ARC or Declarant's rights under this Article terminate, the Association shall have no jurisdiction over architectural matters.

#### **6.30. ARCHITECTURAL REVIEW.**

(a) No structure or thing shall be placed, erected, or installed upon any Lot and no excavation, building, fence, deck, patio, wall, sign, road, driveway, alley, hardscape, landscape, outbuildings, swimming pools, spas, hot tubs, or any other structure or improvement shall be commenced, constructed, placed upon or maintained on the Property or any Lot by any person other than the Developer Declarant or their successors and assigns, nor shall any change, addition to, or alteration be made which affects the outward appearance of the Property or Lot or which might affect the use, operation, maintenance, or integrity or the utility of common Facilities, or any Open Space or improvements, including, without limitation, exterior façade, roof replacement, color change or change of grade or drainage, until the plans and specifications (prepared by a licensed builder, architect, or engineer if required by the ARC under guidelines adopted by it from time to time) showing the nature, kind, shape, dimensions, grades, elevations, materials, color scheme and location of the same shall have been submitted to and approved in writing by the ARC. Such approval must be in writing and the approval shall remain conditioned upon the strict adherence to the plans as submitted and approved and any other terms and conditions set forth in the approval, including but not limited to commencement and completion deadlines that the ARC may require. In reviewing the plans and specifications, the ARC shall consider, among other things: guidelines adopted and amended from time to time by the ARC, pursuant to this Article; the harmony of the proposed change, alteration, addition, building, structure or improvement with structures and improvements on neighboring properties and the outlook and view from the neighboring properties; the effect on the reasonable passage of light and air to the neighboring properties; the compliance with other restrictions contained herein and whether the plans and specifications will adversely affect the use, operation, accessibility,

operation, maintenance or integrity of any Property, Lot, Utility Facilities or Open Space. The ARC may, with the Association's consent, retain consultants to assist it in reviewing any plans and specifications, the cost of which may be assessed against the applicant. No approval given to an individual Owner shall be construed as an approval of any other similar improvement on any other Lot without first complying with this approval process unless such improvements have been pre-approved by the ARC for the Property.

(b) Any Owner may remodel, paint or redecorate the interior of such Owner's Lot without approval. However, modification to the interior of screened porches, patios, and similar portions of a Lot visible from outside the structure shall be subject to approval.

### **6.31 FEES.**

The ARC may establish and charge reasonable fees for review of applications hereunder and may require such fees to be paid in full prior to review of any application. Such fees may include the reasonable costs incurred in having any application reviewed by architects, engineers or other professionals. Declarant and the Association may employ architects, engineers, or other persons as deemed necessary to perform the review. The Board may include the compensation of such persons in the Association's annual operating budget as a Common Expense.

### **6.32 GUIDELINES AND PROCEDURES**

(a) Architectural Guidelines. Declarant may prepare the initial Architectural Guidelines. The Architectural Guidelines are intended to provide guidance to Owners and Builders regarding matters of particular concern to the ARC in considering applications hereunder. The Architectural Guidelines are not the exclusive basis for decisions of the ARC and compliance with the Architectural Guidelines does not guarantee approval of any application.

Declarant shall have sole and full authority to amend the Architectural Guidelines as long as it owns any portion of Wicksfield, notwithstanding a delegation or assignment of reviewing authority to the ARC, unless Declarant also delegates the power to amend to the ARC. Upon termination, delegation or assignment of Declarant's right to amend, the ARC shall have the authority to amend the Architectural Guidelines with the consent of the Board. Any amendments to the Architectural Guidelines shall be prospective only and shall not apply to require modification to or removal of structures previously approved once the approved construction or modification has commenced. There shall be no limitation on the scope of amendments to the Architectural Guidelines, and such amendments may remove requirements previously imposed or otherwise make the Architectural Guidelines less restrictive.

The ARC shall make the Architectural Guidelines available to Owners and Builders who seek to engage in development or construction within Wicksfield. In Declarant's discretion, such Architectural Guidelines may be Recorded, in which event the Recorded version, as it may unilaterally be amended from time to time, shall control in the event of any dispute as to which version of the Architectural Guidelines was in effect at any particular time.

(b) Procedures. Except as otherwise specifically provided in the Architectural Guidelines, no Work shall commence on any portion of Wicksfield until an application for approval has been submitted to and approved by the ARC. Such application shall include plans and specifications ("Plans") showing site layout, structural design, exterior elevations, exterior materials and colors, landscaping, drainage, exterior lighting, irrigation and other features of proposed construction, as applicable. The Architectural Guidelines and the ARC may require the submission of such additional information as may be reasonably necessary to consider any application.

In reviewing each submission, the ARC may consider any factors it deems relevant, including, without limitation, harmony of external design with surrounding structures and environment. Decisions may be based on purely aesthetic considerations. Each Owner acknowledges that determinations as to such matters are purely subjective and opinions may vary as to the desirability and or attractiveness of particular improvements.

The ARC shall make a determination on each application within 60 days after receipt of a completed application and all required information. The ARC may (i) approve the application, with or without conditions; (ii) approve a portion of the application and disapprove other portions; or (iii) disapprove the application.

In the event that the ARC fails to respond in a timely manner, approval shall be deemed to have been given. However, no approval, whether expressly granted or deemed granted pursuant to the foregoing, shall be inconsistent with the Architectural Guidelines unless a variance has been granted pursuant to Section 6.41. Notice shall be deemed to have been given at the time the envelope containing the response is deposited with the U.S. Postal Service. Personal delivery of such written notice shall, however, be sufficient and shall be deemed to have been given at the time of delivery to the applicant.

If construction does not commence on a project for which Plans have been approved within one year after the date of approval, such approval shall be deemed withdrawn and it shall be necessary for the Owner to reapply for approval before commencing the proposed Work. Once construction is commenced, it shall be diligently pursued to completion. All Work shall be completed within one year of commencement unless otherwise specified in the notice of approval or unless the ARC grants an extension



in writing, which it shall not be obligated to do. If approved Work is not completed with the required time, it shall be considered nonconforming and shall be subject to enforcement action by the Association, Declarant or any aggrieved Owner.

### **6.33 NO WAIVER OF FURTHER APPROVALS**

Each Owner acknowledges that the persons reviewing applications under this Article will change from time to time and that opinions on aesthetic matters, as well as interpretation and application of the Architectural Guidelines, may vary accordingly. In addition, each Owner acknowledges that it may not always be possible to identify objectionable features of proposed Work until the Work is completed, in which case it may be unreasonable to require changes to the improvements involved, but the ARC may refuse to approve similar proposals in the future. Approval of applications or Plans for any Work done or proposed, or in connection with any other matter requiring approval, shall not be deemed to constitute a waiver of the right to withhold approval as to any similar applications, Plans, or other matters subsequently submitted for approval.

### **6.34 VARIANCES**

The ARC may authorize variances from compliance with any of its guidelines and procedures when circumstances such as topography, natural obstructions, hardship or aesthetic or environmental considerations require, but only in accordance with duly adopted rules and regulations. No variance shall (a) be effective unless in writing; (b) be contrary to this Declaration; or (c) estop the ARC from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing shall not be considered a hardship warranting a variance.

### **6.35 APPEALS**

Requests for ARC approval that have been rejected hereunder may be appealed by the applicant in writing and upon the receipt of same, the ARC shall schedule a special meeting with the applicant's appeal, which Meeting shall be held within two (2) weeks after receipt of appeal. The decision upon review shall be communicated in writing to the applicant within thirty (30) days after the review meeting, and the failure of the ARC to give written notice of such decision within said thirty (30) days shall be construed as a rescission of the initial rejection.

### **6.36 LIMITATION OF LIABILITY**

The standards and procedures established by this Article are intended as a mechanism for maintaining and enhancing the overall aesthetics of Wicksfield;

they do not create any duty to any Person. Review and approval of any application pursuant to this Article is made on the basis of aesthetic considerations only and the ARC shall not bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes and other governmental requirements, nor for ensuring that all dwellings are of comparable quality, value or size or of similar design.

The ARC shall have sole and full authority to determine matters of aesthetic judgment and the determination of the ARC as to such matters shall be final and shall not be subject to judicial review so long as exercised in accordance with the procedures set forth in this Article.

Declarant, the Association, the Board, any committee, or any member of any of the foregoing, shall not be held liable for soil conditions; drainage or other general site work; any defects in plans revised or approved hereunder; any loss or damage arising out of the action, inaction, integrity, financial condition, or quality of work of any contractor or its subcontractors, employees, or agents, whether or not such contractor has been approved or featured by Declarant to construct homes or other structures in Wicksfield; or any injury, damages, or loss arising out of the manner or quality of approved construction on or modifications to any Lot. In all matters, the Board, the ARC, and the members of each shall be defended and indemnified by the Association.

#### **6.37 CERTIFICATE OF COMPLIANCE**

Any Owner may request that the ARC issue a certificate of architectural compliance certifying that there are no known violations of this Article or the Architectural Guidelines. The ARC shall either grant or deny such request within thirty (30) days after receipt of a written request and may charge a reasonable administrative fee for issuing such certificates. Issuance of such a certificate shall estop the Association from taking enforcement the Association from taking enforcement action with respect to any condition as to which the Association had notice as of the date of such certificate.

2. All other provisions of the Declaration shall remain in full force and effect.



EXHIBIT A

Wicksfield, as shown in Plot Book 71, Page 78, Kent County Recorder of Deeds:

Lot No.	Map No.
1	1-00-01804-01-0100-00001
2	1-00-01804-01-0200-00001
3	1-00-01804-01-0300-00001
4	1-00-01804-01-0400-00001
5	1-00-01804-01-0500-00001
6	1-00-01804-01-0600-00001
7	1-00-01804-01-0700-00001
8	1-00-01804-01-0800-00001
9	1-00-01804-01-0900-00001
10	1-00-01804-01-1000-00001
11	1-00-01804-01-1100-00001
12	1-00-01804-01-1200-00001
13	1-00-01804-01-1300-00001
14	1-00-01804-01-1400-00001
15	1-00-01804-01-1500-00001
16	1-00-01804-01-1600-00001
17	1-00-01804-01-1700-00001
18	1-00-01804-01-1800-00001
19	1-00-01804-01-1900-00001
20	1-00-01804-01-2000-00001
21	1-00-01804-01-2100-00001
22	1-00-01804-01-2200-00001
23	1-00-01804-01-2300-00001
24	1-00-01804-01-2400-00001
25	1-00-01804-01-2500-00001
26	1-00-01804-01-2600-00001
27	1-00-01804-01-2700-00001
28	1-00-01804-01-2800-00001
29	1-00-01804-01-2900-00001
30	1-00-01804-01-3000-00001

31	1-00-01804-01-3100-00001
32	1-00-01804-01-3200-00001
33	1-00-01804-01-3300-00001
34	1-00-01804-01-3400-00001
35	1-00-01804-01-3500-00001
36	1-00-01804-01-3600-00001
37	1-00-01804-01-3700-00001
38	1-00-01804-01-3800-00001
39	1-00-01804-01-3900-00001
40	1-00-01804-01-4000-00001
41	1-00-01804-01-4100-00001
42	1-00-01804-01-4200-00001
43	1-00-01804-01-4300-00001
44	1-00-01804-01-4400-00001
45	1-00-01804-01-4500-00001
46	1-00-01804-01-4600-00001
47	1-00-01804-01-4700-00001
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49	1-00-01804-01-4900-00001
50	1-00-01804-01-5000-00001
51	1-00-01804-01-5100-00001
52	1-00-01804-01-5200-00001
53	1-00-01804-01-5300-00001
54	1-00-01804-01-5400-00001
55	1-00-01804-01-5500-00001
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57	1-00-01804-01-5700-00001
58	1-00-01804-01-5800-00001
59	1-00-01804-01-5900-00001
60	1-00-01804-01-6000-00001
61	1-00-01804-01-6100-00001
62	1-00-01804-01-6200-00001
63	1-00-01804-01-6300-00001
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65	1-00-01804-01-6500-00001
66	1-00-01804-01-6600-00001
67	1-00-01804-01-6700-00001
68	1-00-01804-01-6800-00001
69	1-00-01804-01-6900-00001
70	1-00-01804-01-7000-00001

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108 1-00-01804-02-1500-00001  
109 1-00-01804-02-1600-00001  
110 1-00-01804-02-1700-00001

111	1-00-01804-02-1800-00001
112	1-00-01804-02-1900-00001
113	1-00-01804-02-2000-00001
114	1-00-01804-02-2100-00001
115	1-00-01804-02-2200-00001
116	1-00-01804-02-2300-00001
117	1-00-01804-02-2400-00001
118	1-00-01804-02-2500-00001
119	1-00-01804-02-2600-00001
120	1-00-01804-02-2700-00001
121	1-00-01804-02-2800-00001
122	1-00-01804-02-2900-00001
123	1-00-01804-02-3000-00001
124	1-00-01804-02-3100-00001
125	1-00-01804-02-3200-00001
126	1-00-01804-02-3300-00001
127	1-00-01804-02-3400-00001
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130	1-00-01804-02-3700-00001
131	1-00-01804-02-3800-00001
132	1-00-01804-02-3900-00001
133	1-00-01804-02-4000-00001
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152	1-00-01804-02-5900-00001
153	1-00-01804-02-6000-00001
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157	1-00-01804-02-6400-00001
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159	1-00-01804-02-6600-00001
160	1-00-01804-02-6700-00001
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162	1-00-01804-02-6900-00001
163	1-00-01804-02-7000-00001
164	1-00-01804-02-7100-00001
165	1-00-01804-02-7200-00001
166	1-00-01804-02-7300-00001
167	1-00-01804-02-7400-00001
168	1-00-01804-02-7500-00001
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171	1-00-01804-02-7800-00001
172	1-00-01804-02-7900-00001
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191	1-00-01804-03-0400-00001
192	1-00-01804-03-0500-00001
193	1-00-01804-03-0600-00001
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196	1-00-01804-03-0900-00001
197	1-00-01804-03-1000-00001
198	1-00-01804-03-1100-00001
199	1-00-01804-03-1200-00001
200	1-00-01804-03-1300-00001
201	1-00-01804-03-1400-00001
202	1-00-01804-03-1500-00001
Open Space (3.7 Acres)	1-00-01804-03-1600-00001
STM. Man (1.0 Acres)	1-00-01804-01-9400-00001
Open Space	1-00-01804-01-9500-00001
Open Space	1-00-01804-01-9800-00001
Open Space	1-00-01804-02-9500-00001
Land Area	1-00-01804-01-9600-00001
Land Area	1-00-01804-02-9600-00001
Open Space	1-00-01804-01-9700-00001
Storm Water Manage (2.2 Acres)	1-00-01804-02-9700-00001
Open Space	1-00-01804-02-9800-00001
Open Space (27.3 Acres)	1-00-01804-02-9900-00001
Open Space	1-00-01804-01-9900-00001