

25
E

R-86

STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED

JUL 19, 1999 08:01 AM

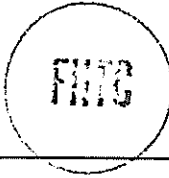
Doc No(s) 99-114891

/s/CARL T. WATANABE
ACTING
REGISTRAR OF CONVEYANCES

LAND COURT SYSTEM

Return by Mail () Pickup () To:

LAUNIUPOKO ASSOCIATES, LLC
173 Ho'ohana St., Ste. 201
Kahului, HI 96732



99030350-DW
100728

Tax Key: (2) 4-7-001-021

Total No. of Pages: 27

**Amended and Restated
Declaration of Covenants, Conditions
and Restrictions**

**For The Mahanalua Nui Subdivision
At Launiupoko**

Amended and Restated
Declaration of Covenants, Conditions and Restrictions

Table of Contents

1. RECITALS
 - 1.01. The land to which this Declaration applies
2. DEFINITIONS
 - 2.01. "Bureau"
 - 2.02. "Declarant"
 - 2.03. "Declaration"
 - 2.04. "Common Areas"
 - 2.05. "Association"
 - 2.06. A "Property"
 - 2.07. The Terms "Neighborhood" and "Mahanalua Nui"
 - 2.08. The "Owner"
 - 2.09. The "Plan"
 - 2.10. "Utility"
3. COVENANTS
 - 3.01. Permitted Uses.
 - 3.02. Vehicles.
 - 3.03. Nuisances.
 - 3.04. Drainage.
 - 3.05. Hazardous Materials.
 - 3.06. Refuse and Building Materials.
 - 3.07. Grading.
 - 3.08. Utilities.
 - 3.09. Septic.
 - 3.10. Subdivision.
 - 3.11. Lighting
 - 3.12. Architectural Controls
4. MAHANALUA NUI HOMEOWNERS ASSOCIATION, INC.
 - 4.01. Membership.
 - 4.02. Government and Control of Common Areas.
 - 4.03. Common Expenses.
 - 4.04. Rules and Regulations.
 - 4.05. Declarant's Control.
5. ROADS
 - 5.01. Use.
 - 5.02. Responsibility.
 - 5.03. Conveyance to the County.
 - 5.04. Roadway Lot B-2.
6. MAHANALUA NUI WATER SYSTEM
 - 6.01. The Water
 - 6.02. The Design
 - 6.03. Warning
 - 6.04. Costs and Assessments

Table of Contents
(Continued)

7. ADDITIONAL LOTS

7.01. Addition of Lots.

8. EASEMENTS

8.01. Easements Shown on Plan.

8.02. Encroachments.

8.03. Additional Easements

8.04. Notice Re: Agricultural Operations.

8.05. Agricultural Waiver.

8.06. Archaeological Sites.

8.07. Access Easements.

8.08. Additional Archaeological Sites.

9. TRAILS AND PARKLANDS

9.01. Creation.

9.02. Area of Private Parks.

9.03. Area of Public Parks.

10. ADMINISTRATIVE PROVISIONS

10.01. Right to Abate Violations.

10.02. Resolution of Disputes Between Owners of Properties.

10.03. Duration of Covenants.

10.04. Amendment of Covenants.

10.05. Severability.

10.06. Perpetuities.

10.07. Notice of Sale or Transfer of Title.

10.08. Records of Ownership and Notices.

EXHIBIT "A" – DESCRIPTION OF LAND

EXHIBIT "B" – ARCHITECTURAL CONTROLS

**Amended and Restated
Declaration of Covenants, Conditions and Restrictions**

This Amended & Restated Declaration of Covenants, Conditions and Restrictions is dated as of this 13th day of July, 1999, and is executed by Launiupoko Associates, LLC, a Hawaii limited liability company, the principal place of business is 173 Ho Ohana Street, Kahului, Hawaii, 96732 ("Declarant")

Declarant executed a Declaration of Covenants, Conditions and Restrictions for Mahanalua Nui Subdivision dated June 1, 1999, recorded in the State of Hawaii, Bureau of Conveyances as Document No. 99-102455. Declarant hereby restates said Declaration in its entirety and Amends it through execution of this Amended and Restated Declaration of Covenants, Conditions and Restrictions.

1. RECITALS

1.01. The land to which this Declaration applies is the land described in Exhibit A attached hereto and made a part hereof. This Declaration and each covenant will run with the land and will be binding upon and inure to the benefit of each subdivided lot within said land and all of its successive owners and occupants.

It is Declarant's intention to create a common development plan, enforceable by Declarant or any property owner within the said land, in accordance with this Declaration, The acceptance of a deed, agreement of sale, lease, or other conveyance by any person of any property or any interest in any property within the subdivision shall constitute acceptance of these covenants, regardless of whether or not said instrument is expressly made subject hereto, This Declaration shall be binding upon and enforceable against each owner, purchaser, tenant and occupant of all or any part of said land, including each Property (defined in Section 2.06 below) and against each person using any Common Area (defined in Section 2.04 below), and their respective successors in interest; and shall be deemed incorporated in each deed, lease or other instrument by which any right, title or interest in Mahanalua Nui or any Property is granted, devised or conveyed, whether or not expressly referred to therein.

2. DEFINITIONS

The following terms shall have the following meanings:

2.01. "Bureau" means the State of Hawaii Bureau of Conveyances, which is the appropriate forum for recording title or conveyance documents affecting the land.

2.02. "Declarant" means Launiupoko Associates, LLC, a Hawaii limited liability company, and its successors and assigns who shall be identified as such in an instrument executed by Declarant (or a successor or assignee of Declarant), to be recorded in the Bureau.

2.03. "Declaration" means this Amended and Restated Declaration of Covenants, Conditions and Restrictions for the Mahanalua Nui Subdivision at Launiupoko.

2.04. "Common Areas" means (i) all roadways within Mahanalua Nui which provide access between any Property and the public highway (and which are not included within the area of any Property), if and so long as such roads shall not have been dedicated to and accepted by the County of Maui; (ii) the perpetual nonexclusive easement to be held by the Association over Lot B-2 (Kai Hele Ku); (iii) the central water system (including a well, pumps, generators and other appurtenances) and all water lines and facilities which serve more than one Property and which are located within Mahanalua Nui and which are not owned by an independent public utility or other

separate entity formed for the purpose of cooperatively owning and operating such facilities; (iv) drainage control areas which the Association is required to maintain; (v) the public and private parks and the trail system; and (vi) such other assets, properties, facilities, and property rights, if any, which may in the future be designated as Common Area by Declarant or transferred to or acquired by the Association (defined below).

2.05. "Association" shall mean the Mahanalua Nui Homeowners Association, Inc., a Hawaii nonprofit corporation, as more particularly described in Article 4 below.

2.06. A "Property" means each of Lots numbered 1 through 50, inclusive, as described on the Plan (defined below), and any other lots added to this Declaration by Declarant pursuant to Section 7 below.

If any Property in the future shall be divided into two or more separate parcels, condominium units or other divisions each of which shall be capable of being owned and conveyed in fee simple as a separate and discreet unit of ownership, each such parcel, unit or division shall be deemed to be a separate "Property" for all purposes under this Declaration, from and after the effective date of such division.

2.07. The terms "Neighborhood" and " Mahanalua Nui" mean the Mahanalua Nui subdivision as described on the Plan (and any other land added by Declarant as provided herein), including but not limited to all Properties and all roads and other Common Areas (whether now or in the future designated as such) shown on the Plan.

2.08. The "Owner" of a Property means any person (including Declarant) who owns a fee simple interest in said Property, and any person to whom all rights as Owner (including voting) shall have been transferred by means of (a) a deed, (b) a lease of said Property for a period in excess of 10 years, or (c) an agreement of sale which transfers all rights of possession and occupancy; provided, however, that in each such case the transferee of said rights will not be recognized as an "Owner" by the Association (at the option of the Board of Directors of the Association) unless a written notice of transfer is filed by the transferor in the official ownership records of the Association maintained by the Board of Directors (see Section 10.08 below).

2.09. The "Plan" means collectively the subdivision plats entitled "Mahanalua Nui Subdivision Phase I" and "Mahanalua Nui Subdivision Phase II" dated December 2, 1998 and November 12, 1998 (LUCA Nos. 4.730 and 4.731), respectively (including any amendments), by Austin Tsutsumi & Associates, Inc., to which final subdivision approval was granted by the Department of Public Works and Waste Management of the County of Maui on May 27, 1999, as said plans shall be amended from time to time.

2.10. "Utility" includes electricity, telephone, cable television, and any other existing or future use normally considered a utility.

3. COVENANTS

3.01. Permitted Uses. Each Property may be used for any purposes which may be permitted by all applicable laws, rules and regulations; except that the following activities shall be prohibited:

- a. the raising or storage of pigs or roosters for any purpose, commercial or personal (unless this restriction is contrary to any prohibition on such restriction which may be enacted in the Maui County ordinances);

- b. the slaughtering, smoking or curing of animals; or
- c. any use prohibited by any other section of this Article 3.

All buildings and structures will comply with all applicable County of Maui codes and Regulations.

3.02. Vehicles. Vehicles that become inoperable while on a Property and outside of an enclosed garage must be removed from the property or placed within an enclosed garage within two weeks of becoming inoperable.

3.03. Nuisances. No noxious or offensive activity shall be carried on which may be or may become an annoyance or nuisance to any occupants of any other portion of the land encumbered by this Declaration, including but not limited to activities which cause unreasonable dust, noise or odors, or which unreasonably violate privacy or violate applicable laws. It is understood that this restriction shall not, however, apply to Declarant or its successor as developer of said land with respect to noise, dust or inconvenience caused by the construction of roads, utilities or other improvements or to the grading of, or construction of buildings on, any lot, provided that such activities are carried on with reasonable safeguards consistent with normal industry practices and standards.

3.04. Drainage. Where any drainage easement or swale traverses a Property, the Owner of said Property will refrain from dumping grass clippings or debris therein and shall keep said easement or swale free of obstructions which would reduce or interfere with its operation as a drainage facility.

3.05. Hazardous Materials. No Owner shall use, generate, store or dump any hazardous materials on any Property or in any other portion of the Neighborhood. "Hazardous materials" means those materials and substances which are identified as hazardous, toxic or otherwise regulated under applicable federal, state or local environmental laws, rules or regulations.

3.06. Refuse and Building Materials. Trash, garbage and other waste shall not be kept on any Property except in sanitary containers, stored inside the dwelling or a garage or shed and not visible from any street or other Property. No Property shall be used or maintained as a dumping ground for rubbish, trash, garbage or other waste.

All garbage and refuse shall be regularly transported by each resident to Maui County collection centers, all in accordance with such rules and regulations as the Board of Directors of the Association may adopt from time to time.

3.07. Grading. No Owner of any Property will alter the grade or topography of any Property in a manner that would materially increase or change the location or direction of the flow of drainage from the Property to any adjoining Property or to any road.

3.08. Utilities. The utility transmission lines within the subdivision constructed by Declarant will be both above ground and underground. However, each service line serving each Property will be constructed underground at the expense of the Owner of said Property.

3.09. Septic. The Association will recommend the use of "Perc Rite" pressurized drip irrigation septic system or comparable system. The Owner of each Property shall be

responsible for installing, operating, maintaining, repairing and replacing the septic system on his or her lot, which shall comply with all applicable laws, rules and regulations. Aerobic systems shall be required for all systems located within one thousand feet (1000') of a well.

3.10. Subdivision. No future subdivision of any parcel shall result in the creation of lots that average less than a total of two (2) acres in size each.

3.11. Lighting. Lighting for parcels shall not encroach upon surrounding properties and roadways. Deflectors shall be used on lights that would otherwise intrude upon surrounding areas or illuminate the night sky in a fashion that would deter from surrounding neighbors' enjoyment of the night sky. Additionally, lighting shall be subject to all applicable codes currently in existence or established in the future by the County of Maui.

3.12. Architectural Controls. The architectural controls and procedures set forth in Exhibit "B," attached hereto and made a part hereof, shall apply to all Properties.

4. MAHANALUA NUI HOMEOWNERS ASSOCIATION, INC.

4.01. Membership. The Owner(s) of each Property shall automatically be members of the Mahanalua Nui Homeowners Association, Inc., a Hawaii nonprofit corporation and said membership will be mandatory. Said membership may be transferred or encumbered only with and to the same extent as the Property to which it is appurtenant is transferred or encumbered. In the event fee title to a Property is transferred without mention of said membership, said membership shall be deemed to be automatically transferred with said Property. Also, see Section 2.08 concerning the recognition of certain other persons as "Owners."

4.02. Government and Control of Common Areas. The Association shall hold, control, manage and operate, as a common expense, all Common Areas and facilities from and after the time when ownership or use thereof shall have been transferred to the Association (or the Association acquires rights or obligations with respect thereto). The Association is authorized to exercise all reasonable management rights, powers and authority with respect thereto including, but not limited to, (a) the power to enter into contracts for, or otherwise to implement the maintenance, operation, repair, improvement, replacement and sale of such assets and facilities; (b) the power to maintain appropriate casualty and liability insurance; and (c) the power to adopt, implement and enforce reasonable rules and regulations to govern the orderly use and operation thereof. All such dominion, control and authority shall cease with respect to any road or water line or other facility, the responsibility of which shall be accepted by the County of Maui or other governmental authority or regulated public utility. NOTE: THE COUNTY OF MAUI HAS NOT AGREED TO ACCEPT ANY SUCH ROADS, LINES OR FACILITY, AND DECLARANT DOES NOT WARRANT OR REPRESENT THAT ANY SUCH ACCEPTANCE WILL OCCUR IN THE FUTURE.

4.03. Common Expenses. Each Property shall be responsible to pay a share of common expenses equal to the share assessed against each other Property (except for water use charges, which, if managed by the Association, will be assessed on an equitable basis by the Association, in addition to any basic system operating charge equally assessed against all lots). Each Property shall be subject to the obligation to pay all assessments for common expenses assessed to said Property by the Association in accordance with the Articles of Incorporation and Bylaws thereof. The Association, by its

Board of Directors, may enforce and collect each such assessment (together with all legal fees and expenses of enforcement) by legal proceedings to enforce such obligation, and may obtain against a delinquent Property an ex parte attachment or other lien which shall become effective against subsequent purchasers, mortgagees and lienholders as of the date said attachment or lien is recorded in the Bureau. Said attachment or lien, however, shall be junior and subordinate in lien priority to the lien of any mortgage or other encumbrance which shall have been in existence and duly recorded in the Bureau prior to the date the Association's notice of lien, attachment or pending litigation is recorded.

Said lien may be enforced by judicial foreclosure or power of sale in the same manner as a mortgage is enforced under Hawaii law, as amended from time to time.

4.04. Rules and Regulations. The Association acting through its Board of Directors (and in the Board of Directors' discretion) shall have the power to adopt, amend and enforce reasonable rules and regulations for (a) the reasonable and orderly use of roads and other common areas and facilities, if any. (b) the clarification, implementation and enforcement of the covenants and restrictions contained in Sections 3.01 through 3.09, including (by way of example) the establishment and collection of fines for violations) and (c) the clarification, implementation and enforcement of any other provisions of this Declaration.

4.05. Declarant's Control. Notwithstanding anything herein to the contrary, Declarant and its appointees shall act in all respects as and on behalf of the Association and its Board of Directors in all matters until the first to occur of the following: (a) the expiration of five (5) years from the date of recording of this Declaration in the Bureau; or (b) the date on which Declarant notifies the Owners of the Properties of its relinquishment of said authority. Declarant may in its discretion relinquish said authority either in full at one time or in portions or stages over time during the 5-year period. Upon the expiration or relinquishment of Declarant's control, the Association shall promptly elect a Board of Directors so as to minimize any disruption in the Association's affairs caused by the transition.

5. ROADS

5.01. Use. A nonexclusive, perpetual easement is hereby granted to the Owners and occupants of all Properties and their tenants, licensees and visitors for pedestrian and vehicular passage over the roadway lots described on the Plan and any associated easements, together with the nonexclusive right to construct, maintain, improve, operate, repair and replace lines for utility services in or over such roads, all subject to such reasonable rules and regulations as Declarant or the Association (through its Board of Directors) may establish from time to time. Note that the public may have rights of access over some or all of the roads in the neighborhood as may be required by law or the County of Maui.

5.02. Responsibility. From and after the date on which Declarant conveys each road, facility or other Common Area to the Association (or such later date as Declarant may determine in its discretion), the Association will assume all responsibilities and liabilities with respect to its use, operation, maintenance and improvement. All costs and expenses will be assessed to and paid by all Properties as common expenses as provided in Section 4.02 above and in the Bylaws of the Association.

5.03. Conveyance to the County. Declarant shall have the authority, without the consent of the Association, to convey to the County of Maui an easement to use, or legal

title to, all or any part of any road. If, after Declarant's control shall have ceased as provided in Section 4.05 and title to any road shall have been conveyed to the Association, the Association through its Board of Directors shall decide to convey to the County of Maui the title to all or any part of any road and related facilities or any other common areas and facilities, and the County agrees to accept them, Declarant (or the Association as the case may be) shall execute and deliver such deeds and other documents as shall be necessary or appropriate for the purpose of implementing said conveyance and the transfer of all responsibilities to the County. Upon said transfer becoming effective, all rights and easements established under Section 5.01 shall automatically terminate if and to the extent that the rights granted by Section 5.01 may be enjoyed after said transfer by agreement with the County or by ordinance or other grant of rights.

5.04. Roadway Lot B-2. Named Kai Hele Ku Street. The access right of way from the Mahanalua Nui Subdivision to the state Highway (Honoapiilani Highway) is a separate lot and is not part of the Mahanalua Nui Subdivision. The developer shall complete all improvements in the access right of way. The Association shall be granted a non exclusive easement over the access right of way. The Homeowners Association shall be responsible for the maintenance of this right of way subject to possible cost sharing in the future if any other lands served by the road shall be developed.

6. MAHANALUA NUI WATER SYSTEM

6.01. The Water for the Mahanalua Nui Subdivision will be provided by a private water system to be owned by the Association. Declarant shall construct all of the components of the private water system and, upon the completion of the subdivision improvements, or at such later time (within the period of Declarant's control under Section 4.05 above) as Declarant may determine in Declarant's sole discretion, turn the completed system over to (a) the Association, or (b) to a public utility formed for the purpose of providing water service on a commercial basis, or (c) to another cooperative entity which may be formed in Declarant's discretion for the purpose of owning and operating all or any part of the water system and in which the Owner will be a member. .

At Declarant's option, the water system may be connected to one or more additional wells and systems to be developed at or near the subdivision for the purpose of providing water service to other lands in the vicinity of the subdivision, and may be operated as part of a unified system. A legal structure for the ownership and operation of such combined system will be established by Declarant, consistent with applicable laws and regulations.

6.02. The Design of the water system shall be performed by a engineer, licensed in the State of Hawaii. The design of the system shall meet all the requirements of the County of Maui Department of Water Supply. The Association shall maintain and operate the water system in accordance with its design limitations, engineers' recommendations and standards, and all applicable laws, rules, and regulations (including State of Hawaii Department of Health Regulations).

6.03. Warning: By legal contract with Pioneer Mill Company, Limited, a Hawaii corporation, the maximum amount of available water to the Mahanalua Nui Subdivision is 500,000 gallons per day. This maximum allowable draw down of 500,000 gallons per day may require some limits to be placed on the consumption of water by each lot at Mahanalua Nui. Limits will not be less than 2500 gallons per day or 75,000 per month for a 2-Acre lot and 5,000 gallons per day or 150,000 gallons per month for a 4-acre lot. Higher limits may be established by Declarant or the Association for the larger lots.

6.04. Costs and Assessments. The developer and/or Homeowners Association shall operate the water system as a non-profit entity. The cost of operating the system and funding reserves to repair and replace the components of this system will be provided by assessing each lot owner the lot's fair share of the expenses, based on usage. The determination of a lot's fair share will be based on metered usage at the rates established by the Association. Although the water is free, the cost of operation is not. Therefore, the Association will establish rates and fees in order to provide the necessary revenue to operate the system, but consistently with operating as a noncommercial and nonprofit entity.

7. ADDITIONAL LOTS.

7.01. Addition of Lots. Declarant has the right to add additional lots in both the Mahanalua Nui Subdivision and outside of the Mahanalua Nui Subdivision, and may amend this Declaration unilaterally, from time to time, to add said lots to the "Properties" to which the benefits and burdens of this Declaration shall accrue in accordance with this Declaration.

8. EASEMENTS

8.01. Easements Shown on Plan. The Plan specifically describes certain Easements over, across and affecting certain Properties. Each of said Easements is hereby established for those purposes and in those locations ("Easement Areas") which are shown on the Plan. Each Easement shall be for the benefit of (a) the Property or Properties served by such Easement; (b) the Association in each case where an Easement benefits a road or other property held by the Association; (c) the public or private utility provider whose pipes or lines are installed within any such Easement; or (d) any other person or entity benefited by said Easement, as the case may be. Each Easement shall confer the right to the benefited Property, person or entity to construct, operate, maintain, repair, improve and replace such utilities, lines, pipes, equipment, structures, or drainage structures within the Easement Area as may be reasonably necessary or appropriate for the purposes for which the Easement is established as stated on the Plan.

All work within each Easement Area shall be conducted in a reasonable and orderly manner, so as to minimize any disturbance to the Owners and occupants of the encumbered Property, and all excavations will be filled in and promptly returned to even grade without unreasonable delay.

8.02. Encroachments. If upon the completion of the installation of any utility line or water line, drainage structure, or other facility which is part of the Common Areas or which will be owned by a third party utility provider, it is determined that the location of the line, structure or facility inadvertently encroaches on any land outside of the easement area as defined on the Plan, a nonexclusive, perpetual Easement shall thereafter exist for the maintenance, operation, repair, improvement and replacement of such line, structure, or facility in its location as built, provided that its location outside of the Easement Area shall not unreasonably interfere with the reasonable use and enjoyment of the encumbered Property by the Owners and occupants thereof or cause any diminution in value of the encumbered Property

8.03. Additional Easements. Declarant hereby reserves for itself and its successors in interest the right to grant and create further easements within the roads and Common Areas of Mahanalua Nui for the purpose of establishing or relocating utility lines, water lines, sewer lines, effluent lines, as well as pumps, controls, access points,

meters, poles, anchors, stays and wires or any other equipment necessary or appurtenant thereto, and for establishing any necessary drainage structures or areas.

In addition, so long as Declarant owns any portion of the land described on Exhibit "A" of this Declaration, Declarant reserves for itself, the Association, and the designees of each (which may include, without limitation, Maui County and any utility provider) access and maintenance easements upon, across, over, and under all of the Properties to the extent reasonably necessary for the purpose of replacing, repairing, and maintaining cable television systems, roads, walkways, drainage systems, irrigation systems, signage, and all utilities, including, but not limited to, water, sewers, meter boxes, telephone, gas, and electricity, and for the purpose of installing any of the foregoing on Property which it owns or within easements designated for such purposes. Notwithstanding anything to the contrary herein, this easement shall not entitle the holders to construct or install any of the foregoing systems, facilities, or utilities over, under or through any existing dwelling on a Property, and any damage to a dwelling resulting from the exercise of this easement shall promptly be repaired by, and at the expense of, the person exercising the easement. The exercise of this easement shall not unreasonably interfere with development or use of any dwelling and, except in an emergency, entry onto any dwelling shall be made only after reasonable notice to the Owner or occupant thereof.

8.04. Notice Re: Agricultural and Development Operations. All owners and occupants of Properties are hereby notified that any or all Properties may be subject to possible odor, noise, dust pollution, and other nuisances or inconveniences, which may be created by nearby agricultural activities or development activities by Declarant or its affiliates. The owners and operators of said agricultural operations and Declarant (and all officers or directors, employees or agents of Declarant) shall not have any liability or responsibility for any injury, loss or damage which may arise in connection with said operations

8.05. Agricultural Waiver. Acknowledgement of Adjacent Activities; Waiver Developer, for itself, any person or entity claiming by or through it and their respective successor and assigns, acknowledges that Mahanalua Nui is located near or adjacent to properties (the "Adjacent Properties"), including the land of Pioneer Mill Co., Limited, which are or may be used for various agricultural, industrial, development, drainage and other purposes. As such, it is expected that Mahanalua Nui will periodically be affected by noise, dust, smoke, soot, ash, odor or other adverse conditions of any kind created by or resulting from such agricultural, industrial, development, drainage and other activities. Each Owner acknowledges and agrees that neither Declarant, Pioneer Mill Co., Limited, nor its affiliates, nor the owners of the Adjacent Properties, nor any other respective successors in title or assigns shall be held liable for any nuisance, personal injury, illness or other loss, damage or claim which is caused by or related to the presence, operation and/ or development of the Adjacent Properties adjacent to or near Mahanalua Nui.

Reference is made to the Hawaii Right to Farm Act, Hawaii Revised Statutes Chapter 165, establishing certain limitations on claims against farmers based on certain nuisances from agricultural operations.

8.06. Archaeological Sites. There are thirteen significant historic Archaeological sites that have been designated for preservation by the State Historic Preservation Commission. Details of the plan are in the Mahanalua Nui Preservation Plan filed with the State DLNR. Copies are available through the office of Declarant.

The sites are grouped by location:

Sites No. 2676, 2677 and 2682- These three (3) sites are grouped together in an approximately 3-acre Archaeological preserve near the Mauka end of the property.

Sites No. 2639, 2666, 2672, 2683, and 2684 are all located in the proposed Launiupoko Streambed Park.

Sites No. 2642, 2646, 2655, 2670 and 2679 are located within the property lines of individual lot(s). See Archaeological Preservation Map attached. Note Section 8.07 (Access Easements) below.

8.07. Access Easements. Walking easements to each site are located on the attached Preservation Plan Map. Each Owner with a walking easement on their Property will have the right to move the walking easement provided it remains on their Property and provides similar adequate access to the site. Any such changes must be filed with the State Historic Preservation Division.

Access to the religious sites (uprights) will be allowed to native Hawaiians and the State Historic Preservation Division and to any bona fide researchers with the approval of the State Historic Preservation Division. Access is by appointment with the Owner, contact to be made through Declarant or the Association. Please allow reasonable prior notice (at least 48 hours).

8.08. Additional Archaeological Sites. There are three (3) sites which shall be preserved under other criteria. Sites No. 2653, 2656 and 2665 shall be preserved under rules to be set by the Association. These sites shall be surveyed and marked. Alteration or destruction of these sites is prohibited. A buffer zone of three (3) meters shall be established around all of these sites. Owners shall be able to plant and landscape within this buffer zone. Section 8.07 (Access Easements) above shall apply to these sites. Owners will be allowed to remove these sites from preservation by consent of the Association. Monitoring of the sites shall be the responsibility of the individual Owner.

9. TRAILS AND PARKLANDS.

9.01. Creation. It is the intent of Declarant to create a system of parks and trails in and around the Mahanalua Nui Subdivision. The trails are to be around the perimeter of the project and will be kept private, with limited public use allowed. The parks will be a combination of archaeological preserves, public parks, and wilderness areas. These parks and trails will be created by Declarant prior to the completion of the subdivision. The trails will be established in part on easements over some of the Properties. Said easements will be Common Areas.

9.02. Private Parks and Trail Areas. Declarant will dedicate the perimeter trail that runs around sixty percent (60%) of the project to the Association. The Association will be required to maintain the perimeter trail as a cleared trail suitable for hiking. The perimeter trail may be available for public use with the control of the Association. An archaeological preserve will be created within the mauka six (6) acres. This Preserve will be quasi-public, with visitation allowed during daylight hours, seven days a week. Also, the Association will be responsible for the maintenance at the archaeological sites.

9.03. Public Parks Areas. Declarant intends to create a wilderness area open to the public during daylight hours, seven (7) days a week, in the Launiupoko Streambed. Declarant or the Association may grant stewardship of this park to an entity, other than the Association, that will maintain the park and establish rules of operation. Declarant may grant title to the park to this entity or the Association as a Common Area, at Declarant's discretion. Use of the park shall be for the access to the historic sites located in the park and above the park in the upper valley.

10. ADMINISTRATIVE PROVISIONS.

10.01. Right to Abate Violations. If any person or entity shall violate or attempt to violate any of the covenants herein contained or any rules or regulations of the Association, the Association (acting through its Board of Directors) or any Owner of any Property may commence legal action at law or in equity against such person or entity, either to prevent or abate such violation or to recover damages caused by such violation, or both. Said damages may expressly include a judgment for all of the plaintiff's costs of suit, including reasonable attorney's fees, and any fines for noncompliance as may be adopted by the Board of Directors of the Association as part of its rules and regulations. The Board of Directors may in its absolute discretion elect (a) not to take action with respect to any violation or alleged violation, (b) to discontinue any such action once commenced, (c) to settle any dispute with respect thereto, or (d) to take any other action as the Board deems appropriate including but not limited to the establishment and enforcement of a system of fines and penalties. Reference is made to HRS Chapter 421J for certain dispute resolution procedures.

10.02. Resolution of Disputes Between Owners of Properties. If a dispute arises between Owners of Properties as to any matter relating to any term, meaning, application or enforcement of this Declaration, said Owners may, by mutual agreement, refer the matter to the Board of Directors of the Association for nonbinding arbitration. The Board of Directors may conduct proceedings to hear and consider both sides of the dispute, in accordance with reasonable procedures to be established by the Board of Directors, and may decide any such matter by majority vote of the Board members in attendance. Any decision in such matter shall be advisory only and shall not pre-empt or restrict either party's rights to pursue legal action in said matter. The Board may, in its discretion, for any reason, refuse to hear any matter referred to it under the terms of this paragraph. Reference is made to HRS Chapter 421J for certain dispute resolution procedures.

10.03. Duration of Covenants. These covenants shall be binding for a period of fifty (50) years from the date this instrument is recorded in the Bureau. Thereafter, they shall automatically be extended without any documentation or any action of any reason or the Association, for successive periods of ten (10) years each unless terminated at the end of said initial 50-year period or at the end of any such successive 10-year period by the affirmative vote or written election of Owners representing not less than 65% of all Properties in Mahanalua Nui, evidenced by an instrument reciting said vote or election, signed and sworn by the Owners of not less than three Properties, and recorded in the Bureau.

10.04. Amendment of Covenants. These covenants may be amended at any time by the affirmative vote or the written consent of the Owners of not less than 65% of all Properties in Mahanalua Nui. Said amendment shall be effective upon the filing in the Bureau of an instrument which shall (a) recite said amendment; (b) recite that the Owners of not less than 65% of all Properties in Mahanalua Nui voted for, or gave their written approval for, said amendment and (c) be signed and sworn by the Owners of not less than 3 Properties in Mahanalua Nui.

Notwithstanding the foregoing no amendment occurring within seven years from the date these covenants are recorded in the Bureau will be effective without Declarant's written consent (unless before the end of said seven years Declarant shall be dissolved, shall be declared bankrupt, or shall in its sole discretion elect to relinquish said approval right by written notice signed by Declarant and duly recorded in the Bureau).

Notwithstanding anything herein to the contrary, Declarant may from time to time amend these covenants unilaterally without the consent of any Owner or mortgagee of any Property, for any of the following purposes:

- (a) to correct any drafting or typographical error;
- (b) to comply with (i) any applicable law, rule or regulation of the State of Hawaii or the County of Maui, (ii) any requirement or condition of any governmental agency or (iii) any governmental approval, permit or order affecting the subdivision;
- (c) to comply with any requirement of the State of Hawaii or the U. S. Department of Housing and Urban Development in connection with the registration and sale of any Properties or any exemption from registration;
- (d) to qualify some or all of the Properties for financing through the Federal Home Loan Mortgage Corporation, Federal National Mortgage Association, or any similar program to facilitate the financing of Properties through any mortgage market or general financing program; or
- (e) to add Properties to the land covered by this Declaration as provided in Section 7 above.

Declarant's rights under this section 10.04 shall expire upon the first to occur of (a) the expiration of seven years from the date these covenants are recorded in the Bureau; or (b) Declarant's voluntary relinquishment of said rights by written release recorded in the Bureau.

10.05. Severability. Invalidation of any one or more of these covenants by judgment or court order shall not affect any of the other provisions hereof.

10.06. Perpetuities. If any of provision of this Declaration shall be void or voidable for violation of the Rule Against Perpetuities in effect in the State of Hawaii, said provision shall continue only until the end of such period as shall not violate the Rule Against Perpetuities, measured by the lives of the following persons on the date of this Declaration: The members of the United States Senate serving in office on date of this Declaration, and the descendants of such persons living on the date of this Declaration.

10.07. Notice of Sale or Transfer of Title. Upon the sale or transfer of title to any Property, the transferee shall promptly notify the Board of Directors of the

Association in writing of the name of each new Owner of said Property and his or her mailing address and home and business phone numbers.

10.08. Records of Ownership and Notices. Declarant and the Association shall be entitled to rely conclusively on the records of ownership of the Properties provided to the Association pursuant to Section 7.07 and 2.08 above, for all purposes, including, but not limited to, names and addresses for all communications, notices, service of process, approvals, voting and consents, it being the obligation and burden of each Owner of each Property to ensure that Declarant and the Association have ownership records which are accurate and up-to-date, Declarant and the Association may also conclusively rely, in the sole discretion of each, on the records of ownership and addresses of Owners of each Property as shown on the real property tax records of Maui County in any particular case.

This Declaration is executed the day and year first above written.

LAUNIUPOKO ASSOCIATES, LLC,
a Hawaii limited liability company

By: *Peter K. Martin*
Peter K. Martin
Its: Member

"Declarant"

STATE OF HAWAII)
) ss.
COUNTY OF MAUI)

On this 13th day of July, 1999, before me, PETER K. MARTIN personally appeared, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS for the Mahanalua Nui Subdivision at Launiupoko, and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the entity on behalf of which he acted, LAUNIUPOKO ASSOCIATES, LLC, a Hawaii limited liability company, executed the instrument.

WITNESS my hand and official seal.

Juanita Charkas
Juanita Charkas
My commission expires: --February 7, 2003

JUANITA CHARKAS
NOTARY PUBLIC
STATE OF HAWAII

EXHIBIT "A"

to Amended and Restated Covenants, Conditions & Restrictions
for the Mahanalua Nui Subdivision at Launiupoko

DESCRIPTION OF LAND

All of that certain parcel of land (being portion(s) of the land(s) described in and covered by Royal Patent Number 1358, Land Commission Award Number 82 to Thomas Phillips) situate, lying and being at Launiupoko, District of Lahaina, Island and County of Maui, State of Hawaii, more particularly described as follows:

MAHANALUA NUI SUBDIVISION

LOT "A-1"

Being a portion of R.P. 1358, L.C. Aw. 82 to Thomas Phillips.

Situated at Launiupoko, Lahaina, Island of Maui, Hawaii

Beginning at a Westerly corner of this parcel of land, being also the Southeast corner of Lot B-2 of Mahanalua Nui Subdivision, the coordinates of said point of beginning referred to Government Survey Triangulation Station "LAUNUPOKO" being 1,714.45 feet North and 2,461.47 feet West, and running by azimuths measured clockwise from true South:

- | | | | | | |
|----|------|-----|-----|--------|---|
| 1. | 183° | 05' | 50" | 286.11 | feet along remainder of R.P. 1358, L.C. Aw. 82 to Thomas Phillips, along Lots B-2 and B-1 of Mahanalua Nui Subdivision; |
| 2. | 168° | 45' | 20" | 286.22 | feet along remainder of R.P. 1358, L.C. Aw. 82 to Thomas Phillips, along Lot B-1 of Mahanalua Nui Subdivision; |
| 3. | 181° | 31' | 20" | 225.06 | feet along same; |
| 4. | 145° | 33' | 40" | 260.49 | feet along same; |
| 5. | 150° | 20' | 00" | 230.87 | feet along same; |
| 6. | 160° | 26' | 30" | 283.55 | feet along same; |
| 7. | 165° | 21' | 30" | 560.52 | feet along same; |

EXHIBIT "A"

to Amended and Restated Covenants, Conditions & Restrictions
for the Mahanalua Nui Subdivision at Launiupoko

(Continued)

8.	154°	26'	10"	470.28	feet along same;
9.	176°	33'	20"	54.46	feet along same;
10.	220°	22'	10"	202.59	feet along same;
11.	237°	02'	50"	225.88	feet along same;
12.	250°	05'	50"	292.82	feet along same;
13.	224°	13'	10"	96.65	feet along same;
14.	193°	23'	40"	74.96	feet along same;
15.	227°	09'	30"	96.62	feet along same;
16.	242°	45'	40"	157.03	feet along same;
17.	259°	32'	50"	220.86	feet along same;
18.	236°	42'	50"	548.07	feet along same;
19.	198°	48'	20"	135.04	feet along same;
20.	169°	04'	10"	176.50	feet along same;
21.	165°	20'	00"	373.96	feet along same;
22.	153°	02'	30"	305.40	feet along same;

Thence, along same on a curve to the right, with a radius of 327.50 feet, the chord
azimuth and distance being:

23.	211°	28'	45"	558.11	feet;
24.	269°	55'	00"	620.48	feet along same;

EXHIBIT "A"

to Amended and Restated Covenants, Conditions & Restrictions
for the Mahanalua Nui Subdivision at Launiupoko

(Continued)

25.	289°	14'	10"	208.03	feet along same;
26.	254°	40'	10"	104.75	feet along same;
27.	309°	23'	40"	239.62	feet along same;
28.	353°	20'	40"	271.43	feet along same;
29.	26°	14'	00"	129.75	feet along same;
30.	13°	03'	20'	185.91	feet along same;
31.	353°	04'	20"	155.26	feet along same;
32.	10°	22'	20"	464.61	feet along same;
33.	332°	26'	20"	69.95	feet along same;
34.	358°	01'	10"	128.73	feet along same;
35.	19°	46'	40"	158.74	feet along same;
36.	339°	59'	50"	306.15	feet along same;
37.	301°	48'	30"	99.12	feet along same;
38.	270°	45'	40"	272.18	feet along same;
39.	317°	21'	20"	217.29	feet along same;
40.	279°	58'	10"	242.22	feet along same;
41.	232°	47'	40"	304.84	feet along same;
42.	256°	52'	20"	451.13	feet along same;
43.	241°	52'	00"	404.57	feet along same;

EXHIBIT "A"

to Amended and Restated Covenants, Conditions & Restrictions
for the Mahanalua Nui Subdivision at Launiupoko

(Continued)

44.	303°	49'	30"	203.46	feet along same;
45.	7°	28'	10"	167.46	feet along same;
46.	37°	55'	20"	337.47	feet along same;
47.	56°	52'	30"	186.15	feet along same;
48.	32°	59'	40"	611.15	feet along same;
49.	14°	46'	30"	556.18	feet along same;
50.	353°	58'	20"	385.39	feet along same;
51.	322°	30'	10"	89.44	feet along same;
52.	279°	08'	40"	107.13	feet along same;

Thence, along same on a curve to the right, with a radius of 53.50 feet, the chord azimuth and distance being:

53.	315°	49'	45"	63.92'	feet;
54.	352°	30'	50"	126.08	feet along same;
55.	284°	10'	10"	62.96	feet along same;
56.	185°	22'	10"	270.17	feet along same;
57.	148°	19'	50"	144.78	feet along same;
58.	225°	52'	00"	121.12	feet along same;
59.	299°	12'	00"	65.20	feet along same;
60.	272°	08'	10"	52.20	feet along same;

EXHIBIT "A"

to Amended and Restated Covenants, Conditions & Restrictions
for the Mahanalua Nui Subdivision at Launiupoko

(Continued)

61.	283°	00'	50"	64.93	feet along same;
62.	14°	10'	20"	104.16	feet along same;
63.	332°	38'	40"	405.55	feet along same;
64.	250°	43'	20"	380.50	feet along same;
65.	309°	12'	30"	296.08	feet along same;
66.	340°	45'	20"	120.58	feet along same;
67.	331°	19'	40"	165.67	feet along same;
68.	11°	18'	10"	119.28	feet along same;
69.	27°	59'	30"	80.99	feet along same;
70.	13°	30'	00"	179.41	feet along same;
71.	349°	46'	50"	72.67	feet along same;
72.	277°	33'	50"	78.00	feet along same;

Thence, along same on a curve to the right, with a radius of 94.00 feet, the chord azimuth and distance being:

73.	346°	18'	25"	175.21	feet;
74.	55°	03'	00"	352.77	feet along same;
75.	38°	41'	40"	670.00	feet along same;

Thence, along same on a curve to the right, with a radius of 100.00 feet, the chord azimuth and distance being:

EXHIBIT "A"

to Amended and Restated Covenants, Conditions & Restrictions
for the Mahanalua Nui Subdivision at Launiupoko

(Continued)

76.	77°	40'	40"	125.82	feet,
77.	116°	39'	40"	333.87	feet along same;
78.	107°	57'	10"	363.67	feet along same;
79.	117°	41'	30"	755.24	feet along same;
80.	98°	59'	20"	206.23	feet along same;
81.	102°	42'	50"	354.90	feet along same;
82.	122°	00'	30"	112.82	feet along same;
83.	95°	22'	20"	169.34	feet along same;
84.	62°	17'	20"	362.59	feet along same;
85.	16°	59'	00"	49.56	feet along same;
86.	323°	40'	40"	157.22	feet along same;
87.	284°	27'	30"	243.50	feet along same;
88.	297°	37'	30"	117.18	feet along same;
89.	325°	24'	20"	180.03	feet along same;
90.	359°	41'	20"	50.10	feet along same;

Thence, along same on a curve to the right, with a radius of 68.00 feet, the chord azimuth
and distance being:

91.	43°	24'	40"	94.00	feet,
92.	87°	08'	00"	109.54	feet along same;

EXHIBIT "A"

to Amended and Restated Covenants, Conditions & Restrictions
for the Mahanalua Nui Subdivision at Launiupoko

(Continued)

93.	72°	09'	10"	193.19	feet along same;
94.	44°	04'	20"	104.09	feet along same;
95.	51°	37'	40"	85.62	feet along same;
96.	75°	27'	00"	113.80	feet along same;
97.	48°	31'	00"	224.13	feet along same;
98.	32°	17'	00"	81.58	feet along same;
99.	48°	07'	20"	53.04	feet along same;
100.	64°	34'	40"	112.64	feet along same;
101.	56°	54'	20"	28.76	feet along same;
102.	51°	25'	20"	10.45	feet along same;
103.	10°	04'	20"	8.87	feet along same;
104.	352°	24'	50"	26.27	feet along same;
105.	316°	52'	40"	32.13	feet along same;
106.	308°	03'	50"	89.91	feet along same;

Thence, along same on a curve to the left, with a radius of 93.00 feet, the chord azimuth and distance being:

107.	293°	23'	45"	47.10	feet;
108.	278°	43'	40"	180.97	feet along same;

EXHIBIT "A"

to Amended and Restated Covenants, Conditions & Restrictions
for the Mahanalua Nui Subdivision at Launiupoko

(Continued)

Thence, along same on a curve to the right, with a radius of 164.50 feet, the chord
azimuth and distance being:

109.	296°	08'	40"	98.48	feet;
110.	313°	33'	40"	146.52	feet along same;
111.	329°	22'	30"	16.04	feet along same;
112.	341°	02'	10"	184.83	feet along same;
113.	335°	30'	30"	158.06	feet along same;
114.	343°	51'	00"	155.45	feet along same;

Thence, along same on a curve to the right, with a radius of 105.50 feet, the chord
azimuth and distance being:

115.	31°	44'	55"	156.55	feet;
116.	79°	38'	50"	100.00	feet along same;
117.	79°	13'	50"	448.71	feet along same;
118.	38°	22'	40"	157.56	feet along same;

Thence, along same on a curve to the right, with a radius of 266.50 feet, the chord
azimuth and distance being:

119.	92°	39'	10"	431.80	feet;
120.	146°	35'	40"	215.12	feet along same;

EXHIBIT "A"

to Amended and Restated Covenants, Conditions & Restrictions
for the Mahanalua Nui Subdivision at Launiupoko

(Continued)

- | | | | | | |
|------|------|-----|-----|--------|------------------|
| 121. | 156° | 26' | 30" | 328.10 | feet along same; |
| 122. | 155° | 21' | 10" | 336.07 | feet along same; |
| 123. | 169° | 29' | 50" | 483.65 | feet along same; |

Thence, along same on a curve to the right, with a radius of 126.00 feet, the chord
azimuth and distance being:

- | | | | | | |
|------|------|-----|-----|--------|---|
| 124. | 204° | 21' | 25" | 144.04 | feet; |
| 125. | 239° | 13' | 00" | 196.94 | feet along same; |
| 126. | 182° | 07' | 40" | 761.27 | feet along same; |
| 127. | 165° | 07' | 00" | 176.11 | feet along same; |
| 128. | 183° | 05' | 50" | 121.91 | feet along same to the point of beginning and
containing an area of 433.219 acres, more or less. |

Being all of the land conveyed by the following:

DEED

Grantor:	PIONEER MILL COMPANY, LIMITED, a Hawaii corporation
Grantee:	LAUNTUPOKO ASSOCIATES, LLC, a Hawaii limited liability company
Dated:	November 28, 1997
Document No.	97-166434

EXHIBIT "B"

to Amended and Restated Covenants, Conditions & Restrictions for the Mahanalua Nui Subdivision at Launiupoko

ARCHITECTURAL CONTROLS

1. Purpose. The purpose of the architectural controls set forth in this Exhibit "B" is not to regulate all details of an owner's construction and landscaping activity, but instead is to give Declarant the means to attempt, in its discretion, to avoid strange, jarring or inappropriate structures being initially developed within Mahanalua Nui which may be out of harmony with Mahanalua Nui as a whole. It is understood that Declarant's judgment in these matters may not be perfect or even consistent, and that some degree of taste and subjectivity will necessarily be involved. However, it is hoped that all concerned will cooperate in this process with the mutual objective of protecting property values and the general appearance of the neighborhood. The power to exercise these controls is reserved to Declarant and may be exercised at Declarant's option only. Declarant shall have no legal obligation to exercise the architectural controls and shall have no liability to any buyer or owner if Declarant shall elect not to exercise said controls as to some or all of the Properties or if Declarant exercises said controls in whole or in part in a manner which a buyer or owner of any Property feels is inappropriate, inconsistent or otherwise objectionable.

2. Restriction and Scope. No structure which is or will be visible from a road or from any other Property may be constructed without the prior written approval of the Architectural Design Committee.

3. Composition of the Architectural Design Committee. Declarant may appoint to the Architectural Design Committee one (1) staff person, and one (1) professional (either an architect or an engineer). The duration of the Committee may be for ten (10) years, or longer or shorter at the discretion of Declarant.

Declarant may transfer control of the Architectural Design Committee to the Mahanalua Nui Homeowners Association. At no time shall a lot owner, other than Declarant, be a member of the Committee.

4. Standards, Procedures and Submittals to the Architectural Design Committee. All applications for approval of the Architectural Design Committee shall be accompanied by plans, specifications and other supporting material which shall be detailed and complete to the point which would, in the Architectural Design Committee's reasonable judgment, enable it to adequately understand and evaluate the location and appearance of the planned work.

Prior to commencement of construction, an applicant must submit to the Architectural Design Committee complete working construction drawings stamped by an architect licensed to practice in the state of Hawaii. These construction drawings shall include, as a minimum:

1. Four (4) copies of all plans for any new building submitted to the Committee for approval, which shall include, without limitation, the following:

(a) Plot Plan showing location of all existing and proposed improvements, utilities, service areas, fences and walls, accessory buildings, lighting plans, paved areas, driveways, parking areas, walkways, Property lines, and landscaped areas.

(b) Grading Plan showing existing and proposed topographic elevations.

(c) Building Plans to include:

- i. one 1/4" scale floor plan,
- ii. four 1/8" scale exterior elevations,
- iii. two 1/8" scale cross-section elevations; and
- iv. one 1/8" scale site plan.

(d) Other Items as required by the Committee from time to time upon review of each individual project.

The Architectural Design Committee may in its discretion adopt reasonable rules and regulations to govern its procedures and requirements as it may deem appropriate from time to time.

Any application for approval shall be deemed automatically approved by the Architectural Design Committee if the Committee shall fail to approve or disapprove it in writing within twenty (20) days after the applicant has submitted to the Committee the completed application and all supporting plans and other materials in accordance with the preceding paragraphs.

If no suit or other proceeding shall have been commenced in a Hawaii court of competent jurisdiction within one (1) year after the visible commencement of construction of any structure, such construction shall be deemed automatically to have complied with all of the provisions of this Exhibit "B" and the Design Standards, notwithstanding any actual failure of any person to comply strictly with all of the requirements and procedures of this Exhibit "B."

5. Responsibility. The members of the Architectural Design Committee shall not be personally liable, and the Architectural Design Committee itself and Declarant shall not be liable, for any of their or its acts or omissions in connection with the performance of (or failure to perform) any duties hereunder so long as such actions or omissions are in good faith.

6. Design Guidelines. The following are encouraged and will be favorably reviewed:

1. Buildings that set into the existing grade, requiring a minimum of site work.
2. Buildings that have a rural, farm, plantation or polynesian feeling.
3. Large covered decks or verandas.
4. Roof lines incorporating hips, split pitch, dormers, pitch of 4:12 or steeper, and other interesting features.

5. The elimination of any elevations which feature large, one- or two-story wall sections with no relief.

6. Colors which are neither jarring nor garish.

7. Landscaping to compliment the buildings.

The following are not encouraged:

1. Excessive site work.

2. Roofs with a single gable feature.

3. Large, unbroken exterior wall massing.

4. Main houses of under 1200 square feet.

The following will not be approved:

1. The use of reflective or gloss finishes.

2. Overly bright, jarring or garish colors.

7. No Protection of Views. No Property shall have any vested rights or easements for the protection of any view from said Property and Declarant and the Architectural Review Committee make no warranties or representations of any kind to the buyer, owner or occupant of any Property concerning the extent, attractiveness or protection of any view over any Property or Common Area from any other Property or Common Area.

8. Fees. The Architectural Review Committee shall have the right to require payment of a reasonable fee for review of proposed Plans. Until and unless adjusted by the Committee by resolution, such review fee shall be Four Hundred Dollars (\$400) for an initial application, and Two Hundred Dollars (\$200) for each additional application concerning the same improvements.