

**PRESUMPCOT POINT AT CLEAVES FARM
DECLARATION OF PROTECTIVE COVENANTS**

This DECLARATION, made this 28th day of February, 2006 by Presumpscot Partners, LLC of Freeport, Maine 04032, hereinafter called the "Declarant".

WITNESSETH:

WHEREAS: Declarant is the owner of the real property described in Clause I of this Declaration, and is the owner of the lots described in Paragraph A herein, and is desirous of subjecting the real property described in Clause I to the restrictions, covenants, reservations, easements, liens and charges hereinafter set forth, each and all of which is for the benefit of said property and for each lot owner thereof, and shall inure to the benefit of and pass with said property, and each and every parcel thereof, and shall apply to and bind the heirs, successors and assigns of all owners thereof;

NOW THEREFORE, Said Declarant hereby declares that the real property described in and referred to in Clause I hereof is, and shall be, held, transferred, sold, and conveyed subject to the conditions, restrictions, covenants, reservations, easements, liens and charges hereinafter set forth.

DEFINITION OF TERMS

Building Site shall mean any numbered Building Site shown on a Subdivision Plan entitled "Presumpscot Point at Cleaves Farm" recorded in the Cumberland County Registry of Deeds in Plan Book 206, Page 128.

Plan shall mean a Subdivision Plan entitled "Presumpscot Point at Cleaves Farm" dated, and recorded in the Cumberland County Registry of Deeds in Plan Book 206, Page 128. This Plan is subject to all restrictions and conditions included in the municipal approval from the Town of Falmouth, as appear of record.

Association shall mean the Presumpscot Point Homeowners Association.

Developer shall mean Presumpscot Partners, LLC.

CLAUSE I

Property Subject to this Declaration

The real property which is, or and shall be, held, conveyed, transferred or sold subject to the conditions, restrictions, covenants, reservations, easements, liens and charges set forth in the various clauses and subparagraphs of this Declaration is located in Falmouth, Maine, and is more particularly bounded and described upon the Plan as only those numbered lots appearing on a plan entitled "Presumpscot Point at Cleaves Farm", as approved by The Planning Board of The Town Of Falmouth dated FEBRUARY 7, 2006

CLAUSE II

General Purposes of Conditions

The real property described in Clause I hereof is subject to the covenants, restrictions, conditions, reservations, liens and charges hereby declared to insure the best use and the most appropriate development and improvement of each Building Site thereof; to protect the owners of Building Sites against such improper use of surrounding Building Sites as will depreciate the value of their property; to preserve, so far as practicable, the natural beauty of said property; to encourage and secure the erection of attractive homes thereon, with appropriate locations thereof on Building Sites; to prevent haphazard and inharmonious improvement of Building Sites; to secure and maintain proper setbacks from streets, and adequate free spaces between structures; and in general to provide adequately for a high type and quality of improvement in said property, and thereby to enhance the values of investments made by purchasers of Building Sites therein.

- A. All Building Sites in the tract shall be used for residential purposes and no Building Site may be divided. Owners of Building Sites shall not further divide, or cause to be further divided, the real property described in Clause I. Nor shall any Building Site be used as access to the Presumpscot River by anyone other than the owner(s) of the Building Site, their family, tenant(s), guest(s) or invitees. Nor shall any Building Site be overburdened or used for any commercial activity, or to enhance or support any commercial activity, whether or not for profit. No structure shall be erected, altered, placed or permitted to remain on any Building Site other than one detached single-family dwelling of not less than 1 ½ stories in height that meets or exceeds eighteen hundred (1800) square feet of usable living area excluding basements, garages, decks and patios, one (1) private garage attached to the single-family dwelling or detached from said dwelling, for not more than three (3) cars, in ground pool, pool house, and outbuildings incidental and accessory to residential use of the premises, all of which shall be subject to the reasonable approval of the Architectural Review Committee. Driveways on each Building Site must be of a paved surface. No structure shall exceed an average height from grade of more than thirty-five (35) feet. All structures shall comply with all applicable state and municipal building codes.
- B. The Architectural Review Committee will review all site plans, construction drawings and architectural blue prints prior to commencement of any construction to determine compliance with the requirements of the Protective Covenants, and such other rules and regulations as may be established by the Architectural Review Committee and confirmed by a vote of the Board of Directors. The Architectural Review Committee shall be composed of members appointed by the Presumpscot Partners, LLC (The Developer) until eight of the fifteen lots have been sold. Thereafter, they will be

members of the Presumpscot Point Homeowners Association (PPHA) as appointed by and under the direction of the PPHA Directors. During the sale of the first eight lots, the members of the Architectural Review Committee shall be Leo F. Blair, Chad S. Blair and Matt P. Wogan.

- C. Construction, including any site work or tree removal must not be commenced on any Building Site until the Architectural Review Committee issues a letter of approval of the plan for such building and the location thereof. Following the conveyance of the eighth lot said Committee shall consist of not less than three (3) nor more than five (5) members of the association chosen by the Board of Directors. Said Committee shall approve any building plan which in its reasonable discretion (1) reflects an architectural design and is constructed of materials that are unobtrusive in form and color in relation to the natural setting (2) specifies a suitable location for building within the Building Site (3) include the installation of the "E-One" sewage system as described on the recorded subdivision plan, the service and maintenance of which will be the individual homeowners responsibility and (4) otherwise conforms to the provisions of these covenants or such other specifications and procedures as the Architectural Review Committee shall determine are necessary to promote high quality construction All such specifications and procedures shall be subject to the approval of the Board of Directors.
- D. All construction shall commence within twelve (12) months of the date approval is issued by the Architectural Review Committee. The Architectural Review Committee shall issue notice of approval via first class mail sent to the Building Site owner at the address on record with the Secretary of the Association. All construction must be completed not more than twenty-four (24) months from the date it is commenced. Commencement of construction shall be defined as the date on which site work has begun on the subject property. All construction must conform to the plans as approved by the Architectural Review Committee. No substantive changes to a plan shall be permitted without prior written approval of the Architectural Review Committee.
- E. Natural existing cover shall be maintained on each Building Site. Cutting and clearing sufficient to reasonably provide for access, safety, home construction, outdoor living, landscaping and view is permitted, subject to state and local zoning regulations. Clear cutting of Building Sites is prohibited. Building Site owners shall have the right to remove or plant trees and shrubs at their reasonable discretion. However, all fences must be approved by the Architectural Review Committee prior to installation.
- F. No commercial activity of any kind, nor any noxious or offensive trade or activity shall be conducted in any structure or on any Building Site, nor shall anything be done which may be or become an annoyance or nuisance to the neighborhood. Notwithstanding the provisions of this paragraph, nothing shall prohibit the existence of a home office within a dwelling, provided said office is for the exclusive use of the

residents thereof, and that it does not create any additional vehicular or pedestrian traffic to or from the premises or otherwise interfere with the quiet enjoyment of any other resident.

- G. No Building Site shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary, closed containers. All containers or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition. Any propane or other fuel tank servicing the site shall be screened from view from the road and the abutting property by plantings or fencing as approved by the Architectural Review Board.
- H. No sign of any kind shall be displayed to the public view by the owner, owner's agent, mechanic, contractor or supplier on any Building Site, except one sign of not more than six (6) square feet in an area designating the occupant(s) of the Building Site and/or the name of the property. Notwithstanding this provision temporary for sale" signs of not greater than (6) six square feet may be erected. "No Trespassing" and "No Hunting" signs may be displayed on any Building Site provided they are not visible from the roadway or any abutting home. Said signs shall be black letters on a white background and no greater than ten inches by ten inches (10" x 10") in size. Nothing in the foregoing shall limit the right of the Association, acting through the Board of Directors, to erect and display signs on the roadways within the subdivision.
- I. Cutting of vegetation in common areas shall only be permitted as allowed by all applicable approvals.
- J. Any lighting causing unreasonable glare to neighboring property is prohibited. The determination of unreasonableness shall be the sole judgement of the Architectural Review Committee.
- K. No trailer, shack, or any structure of a temporary character shall be erected on a Building Site, except tents pitched and standing for no longer than three (3) consecutive days and intended for use, and so be used, as shelter for minor children camping overnight. The keeping of a mobile or movable home, either with or without wheels, on any parcel of property covered by these covenants is prohibited unless they are garaged and out of view.
- L. No animals or poultry of any kind, other than house pets, shall be kept or maintained on any Building Site. No more than (3) three dogs and (3) cats, except for litters up to (12) twelve weeks old.
- M. The Board of Directors is empowered to establish and impose such reasonable fines as it deems necessary and appropriate to enforce these covenants. The Board is further empowered to order the modification or removal of any structure or other improvement to a Building Site which is found to be in violation of these covenants, or the specifications and procedures as may be established by the Architectural

Review Committee and approved by the Board of Directors. Any and all costs incurred by the Association in defending or enforcing these covenants, including legal and professional fees, shall be paid by the Building Site owner(s) found to be in violation of these covenants. Any unpaid fines or costs shall be a continuing lien against the Building Site until paid in full, and shall bear interest at a rate of twelve (12) percent per annum.

- N. The owner of each Building Site shall automatically become a member of the Association; shall be permitted to participate in the operation of the Association in accordance with the By-Laws of the Association; shall be obligated to pay assessments which may be levied by vote of the members of the Association pursuant to said By-Laws; and shall be bound by the rules and regulations promulgated by the Association regarding the use of the common areas owned by the Association on the Plan. The Association shall own and be responsible for the maintenance of the roadways servicing the Building Sites and shall assess the owner of each Building Site. The obligation to pay road maintenance costs shall be a covenant running with the land, and binding upon the owners of the lots and their heirs, successors and assigns. All assessments for road maintenance costs shall be due and payable on the first day of August of each year. The Association shall be provided with sufficient funds by the developer to meet its anticipated expenses for one year after the date on which the management of the Association is to be turned over to the owners of the dwellings, lots, units or buildings to be served.
- O. These covenants are to run with the land and shall be binding on all parties and all persons claiming under them until December 31, 2015 at which time said covenants shall be automatically extended for successive periods of ten (10) years unless by vote of a majority of the then owners of the Building Sites covered by these covenants it is agreed to change said covenants in whole or in part.
- P. If any one or more of these covenants, or any part thereof, shall be invalid or unenforceable, such invalidity or unenforceability shall not affect the remaining provisions hereof, which shall remain in full force and effect.
- Q. The assessments authorized hereunder and pursuant to the By-Laws of the Association shall be a charge on the land and shall be a continuing lien upon the Building Site against which such assessment is made. If the assessment is not paid within thirty (30) days after the date when due under the provisions of said By-Laws, then said assessment shall become delinquent and shall, together with interest at the rate of twelve percent (12%) per annum, costs of collection and reasonable attorneys' fees, become a continuing lien on the Building Site, and the buildings and improvements thereon. Said lien shall bind the Building Site, buildings and improvements until discharged by the association. The personal obligation of the owner to pay such assessment shall pass to his successors or assigns in title and shall be expressly assumed by them.

R. 1. Upon request by the Town of Falmouth's Code Enforcement Officer, or Town Engineer, the Association shall produce for inspection and copying at the Falmouth Town Hall, or permit the inspection and copying of its own office of, any or all its corporate, financial, operating, inspection, and maintenance records, reports, contracts, budgets and other papers, for the purpose of determining its performance of any compliance with the requirements of this Declaration and Appendix 8 of the Falmouth Subdivision Ordinance.

2. The Code Enforcement Officer, the Plumbing Inspector, or his authorized representative, or the Town Engineer, and other duly authorized employees of the Town bearing proper credentials or identification, shall be permitted to enter at all reasonable times, upon all real or personal property necessary to the operation of the private common use improvements, for inspection, observation, measurement, sampling, and testing related to the operation, maintenance, and repair of the private common use improvements.

3. In the event that the Declarant, Association or any owner of any Building Site is found to be in violation of any provision of this Declaration established under Appendix 8 of the Falmouth Subdivision Ordinance, such violation shall be deemed a violation of said Appendix 8 and in addition to the remedies available to other interested persons, the Town of Falmouth shall have all powers of enforcement with respect to such violation as it has with respect to violations of said Appendix 8.

S. The Restricted Buffer Area shown on the Plan(hereinafter the "Restricted Buffer Area") is and shall forever be held, transferred, sold, conveyed, occupied and maintained subject to the conditions and restrictions set forth herein. The Restrictions set forth in Section S.1 shall run with the Restricted Buffer Area and shall be binding on all parties having any right, title or interest in and to the Restricted Buffer Area, or any portion thereof, and their heirs, personal representatives, successors, and assigns. Any present or future owner or occupant of the Restricted Buffer Area or any portion thereof, by the acceptance of a deed of conveyance of all or part of the Restricted Buffer Area or an instrument conveying any interest therein, whether or not the deed or instrument shall so express, shall be deemed to have accepted the Restricted Buffer Area subject to said Restrictions and shall agree to be bound by, to comply with and to be subject to each and every one of said Restrictions hereinafter set forth.

1. Restrictions on Restricted Buffer Area. Unless the owner of the Restricted Buffer Area, or any successors or assigns, obtains the prior written approval of the Maine Department of Environmental Protection (hereinafter the "MDEP"), the Restricted Buffer Area must remain undeveloped in perpetuity. To maintain the ability of the Restricted Buffer Area to filter and absorb stormwater, and to maintain compliance with the Site Location of Development Act and the permit issued thereunder to the Declarant, the use of the Restricted Buffer Area is hereinafter limited as follows.

a. No soil, loam, peat, sand, gravel, concrete, rock or other mineral substance, refuse, trash, vehicle bodies or parts, rubbish, debris, junk waste, pollutants or other

fill material will be placed, stored or dumped on the Restricted Buffer Area, nor shall the topography of the area be altered or manipulated in any way;

b. No trees may be cut or sprayed with biocides except for the normal maintenance of dead, windblown or damaged trees and for pruning of tree branches below a height of 12 feet provided two thirds of the tree's canopy is maintained;

c. No undergrowth, ground cover vegetation, leaf litter, organic duff layer or mineral soil may be disturbed except that one winding path, that is no wider than six feet and that does not provide a downhill channel for runoff, is allowed through the area;

d. No building, sign, fence, utility pole, or other temporary or permanent structure may be constructed, placed or permitted to remain on the Restricted Buffer Area;

e. No trucks, cars, dirt bikes, ATVs, bulldozers, backhoes, or other motorized vehicles or mechanical equipment may be permitted on the Restricted Buffer Area;

f. Any level spreader directing flow to the Restricted Buffer Area must be regularly inspected and adequately maintained to preserve the function of the level spreader.

Any activity on or use of the Restricted Buffer Area inconsistent with the purpose of these Restrictions is prohibited. Any future alterations or changes in use of the Restricted Buffer Area must receive prior approval in writing from the MDEP. The MDEP may approve such alterations and changes in use if such alterations and uses do not impede the stormwater control and treatment capability of the Restricted Buffer Area or if adequate and appropriate alternative means of stormwater control and treatment are provided.

2. Enforcement. The MDEP may enforce any of the Restrictions set forth in Section S.1 above.


3. Binding Effect. The restrictions set forth herein shall be binding on any present or future owner of the Restricted Buffer Area. If the Restricted Buffer Area is at any time owned by more than one owner, each owner shall be bound by the foregoing restrictions to the extent that any of the Restricted Buffer Area is included within such owner's property.

4. Amendment. Any provision contained in Section S may be amended or revoked only by the recording of a written instrument or instruments specifying the amendment or the revocation signed by the owner or owners of the Restricted Buffer Area and by the MDEP.

- 5. Effective Provisions of Declaration. Each provision of this Section S, and any agreement, promise, covenant and undertaking to comply with each provision of this Section S, shall be deemed a land use restriction running with the land as a burden and upon the title to the Restricted Buffer Area.
- T. Presumpscot Point at Cleaves Farm is subject to Maine Department of Environmental Protection Storm Water Permit L-22721-NJ-A-N. No changes may be made to Presumpscot Point at Cleaves Farm, or the Plan, without the approval of the Maine Department of Environmental Protection.
- U. This Declaration shall be governed by and interpreted in accordance with the laws of the State of Maine.

IN WITNESS WHEREOF, the said Presumpscot Partners, LLC has caused this instrument to be signed on this 28th day of February, 2006 by Matthew P. Wogan, its duly authorized manager .

PRESUMPCOT PARTNERS, LLC



Witness


By: 

Matt P. Wogan - Manager

Received
Recorded Register of Deeds
Feb 28, 2006 11:31:23A
Cumberland County
John B O'Brien

STATE OF MAINE
Cumberland, ss.

Personally appeared the above named **Matthew P. Wogan, Manager of Preumpscot Partners, LLC**, this 28th day of February, 2006 and acknowledged the foregoing instrument to be his free act and deed in said capacity and the free act and deed of Presumpscot Partners, LLC.



ROBERT L KIMBALL
ATTORNEY-AT-LAW