

Jay C. Stephenson
Clerk of Superior Court Cobb Cty. Ga.

After recording, please return to:
Mindy C. Waitsman
Dorough & Dorough, LLC
Two Decatur TownCenter, Suite 520
125 Clairemont Avenue
Decatur, Georgia 30030

CROSS REFERENCE: Deed Book: 12295
Page: 452
Deed Book: 13340
Page: 3367

26-00

**SECOND AMENDMENT TO DECLARATION OF PROTECTIVE COVENANTS
FOR PACES POINT**

THIS SECOND AMENDMENT (hereinafter referred to as "Second Amendment") is made this 4th day of October, 2001 by **PACES POINT NEIGHBORHOOD ASSOCIATION, INC.**, a Georgia nonprofit corporation (hereinafter referred to as "Association") and **JOHN WIELAND HOMES AND NEIGHBORHOODS, INC.**, a Georgia corporation (hereinafter referred to as "Declarant").

WITNESSETH

WHEREAS, Declarant executed that certain Declaration of Protective Covenants for Paces Point, which was recorded on March 15, 1999 in Deed Book 12295, Page 452, *et seq.*, Cobb County, Georgia records,

WHEREAS, the Original Declaration has been amended by a First Amendment recorded on March 15, 2001, in Deed Book 13340, Page 3367 *et seq.* Cobb County, Georgia records (hereinafter as supplemented and/or amended from time to time, the "Declaration"); and

WHEREAS, the Association is a non-profit corporation organized under the Georgia Nonprofit Code to be the Association named in the Declaration to have the power and authority set forth therein; and

WHEREAS, pursuant to Article XII, Section 4 of the Declaration may be amended upon the affirmative vote or written consent, or any combination thereof, of Owners of at least two-thirds (2/3) of the Units (other than Units of Declarant so long as the consent of Declarant is required) and the consent of Declarant (so long as the Declarant owns any property for

development and/or sale in the Community or has the right unilaterally to annex additional property to the Community);

WHEREAS, attached hereto as Exhibit "A" and incorporated herein by reference is the sworn statement of the President of the Association, which sworn statement states unequivocally that the consent of the required members of the Association holding at least two-thirds (2/3) of the total Association vote was lawfully obtained; and

WHEREAS, the Association and the Owners and the Declarant desire to amend the Declaration as set forth herein to add Article VI, Section 30 entitled, "Leasing" and intend for this Second Amendment to be prospective only; and

WHEREAS, this Second Amendment does not alter, modify, change, or rescind any right, title, interest or privilege held by any mortgage holder of any Unit; provided, however, in the event a court of competent jurisdiction determines that this Second Amendment does alter, modify, or change or rescind any right, title, interest or privilege held by any such mortgage holder without such mortgage holders consent in writing to this Second Amendment, than this Second Amendment shall not be binding on the mortgage holder so involved, unless such mortgage holder consents to this Second Amendment; and if such consent is not forthcoming, then the provisions of the original Declaration prior to this Second Amendment shall control with respect to the affected mortgage holder; and

NOW THEREFORE, the undersigned hereby adopt this Second Amendment to the Declaration of Protective Covenants for Paces Point, hereby declaring that all the property now or hereafter subject to the Declaration shall be held, conveyed, encumbered, used, occupied and improved subject of the Declaration, amended as follows:

1.

The Declaration is hereby amended by adding Article VI, Section 30 entitled "Leasing" as follows:

30. LEASING.

In order to protect the equity of the individual Unit Owners, to carry out the purpose for which the Association was formed by preserving the character of the Association as a homogenous residential community of predominantly owner-occupied homes and by preventing the Association from assuming the character of a renter-occupied apartment complex, and to comply with the eligibility requirements for financing in the secondary mortgage market insofar as such criteria provide that the project be substantially owner-occupied, leasing of Units shall be governed by the restrictions imposed by this Paragraph. Except as provided herein, the leasing of Units shall be prohibited.

(a) Definitions.

(i) Leasing shall mean the regular occupancy of a Unit by any person other than the Owner, for which the Owner receives any consideration or benefit including, but not limited to, a fee, service, gratuity or emolument. For purposes hereof, occupancy by a roommate of an Owner Occupant shall not constitute leasing.

(ii) Open Leasing Status shall authorize a Unit to be leased at any time. Each Unit which is being leased on the date that this Amendment to the Declaration is recorded in the Cobb County, Georgia records shall have Open Leasing Status until such time as the existing lease is terminated, at which time the Unit shall automatically be converted to Restricted Leasing Status. For purposes of this subparagraph only, a lease shall continue, regardless of extensions or renewals, for so long as the existing lessee remains as lessee. The lease shall terminate at such time as the existing lessee ceases to be lessee. Unless so converted to Restricted Leasing Status, the Unit shall be in Open Leasing Status until such time as title is conveyed to any person or entity other than the person or entity holding record title on the date that this Amendment to the Declaration is recorded in the Cobb County, Georgia records, after which conveyance the Unit shall automatically be converted to Restricted Leasing Status regardless of the continued occupancy by the same lessee. Open Leasing Status may also be conferred upon a Unit as provided in subparagraph (b) below.

(iii) Restricted Leasing Status shall subject a Unit to the restrictions on leasing contained in subparagraph (b) below. All Units which are not being leased on the date that this Amendment to the Declaration is recorded in the Cobb County, Georgia records shall be in Restricted Leasing Status unless converted to Open Leasing Status as provided in subparagraph (b) below.

(b) General. No Owner of a Unit in Restricted Leasing Status may lease his or her Unit if ten (10%) percent or more of the Units in the Association are in Open Leasing Status, except as provided in subparagraph (c) below for cases of undue hardship. Any Owner of a Unit in Restricted Leasing Status may apply in writing to the Board of Directors for conversion to Open Leasing Status in accordance with rules and regulations promulgated by the Board of Directors. Upon receipt of such written application, the Unit shall be placed at the end of a waiting list for conversion to Open Leasing Status. At such times as less than ten (10%) percent of the Units are in Open Leasing Status, the Board shall notify the Owner of the Unit at the top of the waiting list of its conversion to Open Leasing Status, and such Owner shall have ninety (90) days within which to lease the Unit or it shall automatically revert to Restricted Leasing Status. Any Unit in Open Leasing Status shall automatically be converted to Restricted Leasing Status if the Unit is not subject to an approved lease for ninety (90) or more consecutive days.

(c) Undue Hardship. Notwithstanding the provisions of subparagraph (b) above, the Board of Directors shall be empowered to allow reasonable leasing of a Unit upon application in accordance with this Paragraph to avoid undue hardship, including, but not limited to the following situations: (1) a Unit Owner must relocate his or her residence outside the Atlanta metropolitan area and cannot, within six (6) months from the date that the Unit was placed on the market, sell the Unit except at a price below the current appraised market value, after having made reasonable efforts to do so; (2) the Owner dies and the Unit is being administered by his or her estate; and (3) the Owner takes a leave of absence or temporarily relocates and intends to

return to reside in the Unit, in which case the Unit Owner must reapply every year for renewal of the hardship exception. Those Owners who have complied with this subparagraph (c), have demonstrated that the inability to lease their Unit would result in undue hardship, and have obtained the requisite written approval of the Board may lease their Units for such duration as the Board reasonably determines is necessary to prevent undue hardship.

Any Owner who believes that he or she must lease his or her Unit to avoid undue hardship shall submit a written application to the Board setting forth the circumstances necessitating the leasing, a copy of the proposed lease, and such other information as the Board may reasonably require. Leasing in the case of undue hardship shall be permitted only upon the Board's written approval of the Owner's application. When an application is approved, the Owner shall provide the Board with the name and phone number of the lessee and the Owner's address other than at the Association and other such information as the Board may reasonably require within ten (10) days after a lease has been signed by both parties.

The Board shall have the power to make and enforce reasonable rules and regulations and to fine, in accordance with the Declaration and Bylaws, in order to enforce the provisions of this subparagraph. Any transaction which does not comply with this Paragraph shall be voidable at the option of the Board of Directors.

(d) Leasing Provisions. Such leasing as is permitted by this Paragraph shall be governed by the following provisions:

(i) General. Units may be leased only in their entirety; no fraction or portion may be leased without prior written Board approval. All leases shall be in writing in a form approved by the Board prior to the effective date of the lease. The Board shall maintain in its files and, upon request, shall provide to any Owner a form which is deemed acceptable. There shall be no subleasing or assignment of leases unless approved in writing by the Board. All leases must be for an initial term of at least one (1) year, except with written Board approval, which shall not be unreasonably withheld in cases of undue hardship. Within ten (10) days after executing a lease agreement for the lease of a Unit, the Owner shall provide the Board with a copy of the lease and the name of the lessee and all other people occupying the Unit. The Owner must provide the lessee copies of the Declaration, Bylaws, and the rules and regulations and the lease form shall provide that the Owner has made available to the lessee copies of the Declaration, Bylaws, and the rules and regulations. Nothing herein shall be construed as giving the Association the right to approve or disapprove a proposed lessee; the Board's approval or disapproval shall be limited to the form of the proposed lease.

(ii) Notice. At least seven (7) days prior to entering into the lease of a Unit, the Owner shall provide the Board with a copy of the proposed lease agreement. The Board shall approve or disapprove the form of said lease. In the event a lease is disapproved, the Board shall notify the Owner of the requisite action to be taken in order to bring the lease in compliance with the Declaration and any rules and regulations adopted pursuant thereto.

(iii) Liability for Assessments, Use of Common Elements, and Compliance with Declaration, Bylaws, and Rules and Regulations. Each Owner covenants and agrees that any

lease of a Unit shall contain the following language and agrees that if such language is not expressly contained therein, then such language shall be incorporated into the lease by existence of this covenant, and the lessee, by occupancy of the Unit, agrees to the applicability of this covenant and incorporation of the following language into the lease:

(A) Compliance with Declaration, Bylaws, and Rules and Regulations.

Lessee shall abide and comply with all provisions of the Declaration, Bylaws, and rules and regulations adopted pursuant thereto and shall control the conduct of all other Occupants and guests of the leased Unit in order to ensure such compliance. Owner agrees to cause all Occupants of his or her Unit to comply with the Declaration, Bylaws, and the rules and regulations adopted pursuant thereto and is responsible for all violations caused by such Occupants, notwithstanding the fact that such Occupants of the Unit are fully liable and may be sanctioned for any violation of the Declaration, Bylaws, and rules and regulations adopted pursuant thereto. In the event that the lessee or a person living with the lessee violates the Declaration, Bylaws, or a rule or regulation for which a fine is imposed, notice of the violation shall be given to the Owner and the lessee, and such fine may be assessed against the lessee in accordance with Article V, Section 2 of the Bylaws. If the fine is not paid by the lessee within the time period set by the Board of Directors, the Owner shall pay the fine upon notice from the Association of the lessee's failure to pay the fine. Unpaid fines shall constitute a lien against the property.

Any violation of the Declaration, Bylaws, or rules and regulations adopted pursuant thereto by the lessee, any Occupant, or any guest of the lessee, is deemed to be a default under the terms of the lease and authorizes the Owner to terminate the lease without liability and to evict the lessee in accordance with Georgia law. The Owner hereby delegates and assigns to the Association, acting through the Board, the power and authority of enforcement against the lessee for breaches resulting from the violation of the Declaration, Bylaws, and the rules and regulations adopted pursuant thereto, including the power and authority to evict the lessee as attorney-in-fact on behalf of and for the benefit of the Owner, in accordance with the terms hereof. In the event the Association proceeds to evict the lessee, any costs, including attorney's fees and court costs, associated with the eviction shall be an assessment and lien against the Unit and the Owner thereof, such being deemed hereby as an expense which benefits the leased Unit and the Owner thereof.

(B) Use of Common Elements. The Owner transfers and assigns to the lessee, for the term of the lease, any and all rights and privileges that the Owner has to use the Common Elements of the Association, including, but not limited to, the use of any and all recreational facilities and other amenities.

(C) Liability for Assessments. When a Unit Owner who is leasing his or her Unit fails to pay any annual or special assessment or any other charge for a period of more than thirty (30) days after it is due and payable, then the delinquent Owner hereby consents to the assignment of any rent received from the lessee during the period of delinquency, and, upon request by the Board of Directors, lessee shall pay to the Association all unpaid annual and special assessments and other charges payable during and prior to the term of the lease and any

other period of occupancy by lessee. However, lessee need not make such payments to the Association in excess of, or prior to the due dates for, monthly rental payments unpaid at the time of the Board's request. All such payments made by lessee shall reduce, by the same amount, lessee's obligation to make monthly rental payments to lessor. If lessee fails to comply with the Board's request to pay assessments or other charges, lessee shall pay to the Association all amounts authorized under the Declaration as if lessee were an Owner. The above provision shall not be construed to release the Owner from any obligation, including the obligation for assessments, for which he or she would otherwise be responsible.

(e) Applicability of this Paragraph. Leases existing on the date which this Amendment to the Declaration is recorded in the Cobb County, Georgia records shall not be subject to the terms of this Paragraph; such leases may continue in accordance with the terms of the Original Declaration. However, except as provided in subparagraph (a)(ii) of this Paragraph, any assignment, extension, renewal, or modification of any lease agreement, including, but not limited to, changes in the terms or duration of occupancy, shall be considered a termination of the old lease and commencement of a new lease which must comply with this Paragraph. Any Owner of a Unit which is leased on the effective date of this Amendment to the Declaration shall place on file with the Board of Directors a copy of the lease agreement in effect within thirty (30) days of the date on which this Amendment to the Declaration is recorded in the Cobb County, Georgia records. This Paragraph shall not apply to any leasing transaction entered into by the Declarant, the Association or the holder of any first Mortgage on a Unit who becomes the Owner of a Unit through foreclosure or any other means pursuant to the satisfaction of the indebtedness secured by such Mortgage.

2.

Unless otherwise defined herein, the words used in this Second Amendment shall have the same meaning as set forth in the Declaration.

4.

This Second Amendment shall be effective only upon being recorded in the records of the Clerk of Superior Court of Cobb County, Georgia and shall be enforceable against current Owners of a Unit subject to the Declaration.

5.

Except as herein modified, the Declaration shall remain in full force and effect.

[SIGNATURES BEGIN ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Association and Declarant have caused this Second Amendment to be executed under seal the day and year first above written.

ASSOCIATION: PACES POINT NEIGHBORHOOD ASSOCIATION, INC., a Georgia corporation

By: [Signature]
Bob Anastasio, President

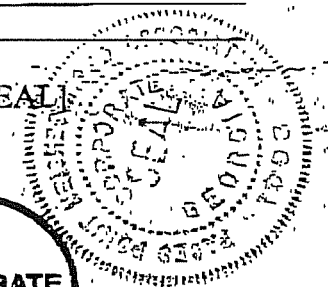
Attest: [Signature]
Name: G. Scott Gibson
Title: Secretary

Signed, sealed and delivered in the presence of

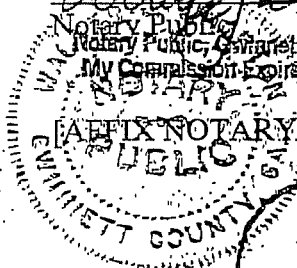
[Signature]
Witness

[Signature]
Notary Public,
Notary Public, Chatham County, Georgia
My Commission Expires April 1, 2002

[AFFIX CORPORATE SEAL]



[AFFIX NOTARY SEAL]



[SIGNATURES CONTINUE ON NEXT PAGE]

DECLARANT:

JOHN WIELAND HOMES AND NEIGHBORHOODS, INC., a Georgia corporation

By: *Dan Fields*
Dan Fields, ~~Assistant Secretary~~
Vice President
[AFFIX CORPORATE SEAL]

Signed, sealed and delivered
in the presence of

Eileen J. Rivera
Witness

Andrea Lofstrand
Notary Public

[AFFIX NOTARY SEAL]

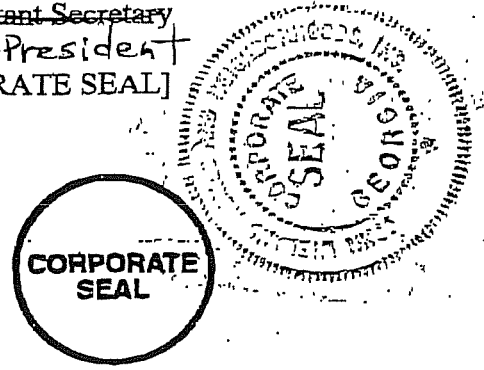


EXHIBIT "A"

Sworn Statement Of President Of
Paces Point Neighborhood Association, Inc.

STATE OF GEORGIA

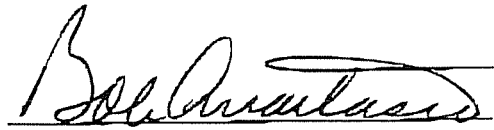
COUNTY OF COBB

Re: Paces Point

Personally appeared before me, the undersigned deponent who, being duly sworn, deposed and said on oath that:

1. Deponent is the President of Paces Point Neighborhood Association, Inc.
2. Deponent is duly qualified and authorized to make this Affidavit and knows the facts contained herein of his own personal knowledge.
3. The foregoing Second Amendment to Declaration of Protective Covenants for Paces Point, was approved by the required vote of Owners of at least of two-thirds (2/3) of the Units as provided by law and the Declaration.
4. Deponent makes this Affidavit pursuant to Official Code of Georgia Annotated Section 44-2-20.

This the 4th day of OCT., 2001.


Bob Anastasio, President

Signed, sealed and delivered
in the presence of

