

Tax Parcel Nos.:
10-034.30-108 through 171,
10-034.40-166 through 284,
10-040.10-305 & 306,
10-040.20-166 through 199

Prepared by and return to: John E. Tracey, Esq.
Young Conaway Stargatt & Taylor, LLP
P.O. Box 391
Wilmington, DE 19899-0391

DECLARATION OF RESTRICTIONS

THIS DECLARATION, made this 13th day of December, 2002, by Linden Hill Corporation, a Delaware corporation (hereinafter referred to as the “Declarant”).

WITNESSETH:

WHEREAS, Declarant is the Owner of all those certain lots, pieces, or parcels of land, situate in New Castle Hundred, New Castle County, State of Delaware comprising approximately 103.2739+/- acres of land (the “Property”), and now being known as the Mallard Pointe Subdivision, as shown on that certain Record Resubdivision Plan for Mallard Pointe, prepared by Ramesh C. Batta Associates, PA (“Batta”), as recorded in the office of the Recorder of Deeds in and for New Castle County, State of Delaware (“the Recorder’s Office”) in Instrument No. 200206200059647, as it may be amended from time to time, (the “Plan”) and as formerly known as the Burnham Farm Subdivision, as shown on that certain Record Major Subdivision Plan prepared by Batta, dated February 11, 1998, recorded in the Recorder’s Office, in Microfilm No. 13927, being a residential subdivision of two hundred thirteen (213) lots (individually referred to as a “Lot” or collectively as “Lots”); and

WHEREAS, Declarant desires to develop on the Property a residential subdivision for the benefit of said subdivision and which subdivision shall consist of a variety of single-family detached dwelling units; and

WHEREAS, Declarant desires to provide for the orderly preservation of property values of the individual Lots in said subdivision and, to that end, desires to subject the Property to the covenants and restrictions hereinafter set forth, each and all of which is and are for the benefit of the said Property and each owner thereof.

NOW, THEREFORE, the Declarant does hereby covenant and declare that it shall hold and stand seized of the Property subject to the following covenants and restrictions, which shall be covenants running with the land and which shall be binding upon the Declarant, its successors and assigns:

ARTICLE I

For purposes of the Declaration, the Declarant shall have the sole and exclusive right to determine when Lot lines and/or street lines shall be “front” or “side” lines.

ARTICLE II

CHANGES IN THE DECLARATION

These covenants and restrictions may be changed, altered, modified or extinguished in whole or in part, at any time, by an instrument in writing signed by the record owners of two-thirds (2/3) of the Lots, which shall be recorded in the Office of the Recorder of Deeds in and for New Castle County, State of Delaware, excepting, however, that the Declarant, so long as it is the Owner of at least ten percent (10%) of the dwelling units, shall have the absolute right to amend this Declaration from time to time without the joinder of any other owners by executing and recording an amendment in the Office aforesaid.

ARTICLE III
ENFORCEMENT

Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain the violation or to recover damages; and failure to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter or a waiver to enforce the other restrictions contained herein. In the event Declarant incurs any expenses, including attorneys' fees, in connection with its efforts to enforce the terms hereof, the Lot Owner in violation of these covenants shall also be obligated to reimburse Declarant for all such expenses. Action of enforcement may be brought by the Declarant, any record owner of a Lot, or any civic or neighborhood association established for the purposes of enforcing this Declaration. Failure to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter or a waiver to enforce the other covenants or restrictions contained herein. Declarant reserves the right to assign its power to modify or enforce these covenants and restrictions by any appropriate instrument in writing, recorded in the Office of the Recorder of Deeds in and for New Castle County, State of Delaware.

ARTICLE IV
SEVERABILITY

Invalidation of any one of these covenants or restrictions or any portion thereof by judgment or court shall in no way affect any other provisions herein, which shall remain in full force and effect.

ARTICLE V

GENERAL USE RESTRICTIONS

Section 1. Private Residences. Each Lot in the Property shall be used for private residential purposes only and no buildings of any kind, except private dwelling units shall be erected or maintained on any Lot. No lot, or building erected thereupon, shall be used for commercial purposes, including the use of any lot or dwelling for home daycare services for a fee.

Section 2. Trailer, Mobile Homes, Etc. No temporary structure, including trailers and mobile homes, shall be permitted or maintained upon any Lot.

Section 3. Animals and Pets. Other than usual household pets, no animals of any kind, including, but not limited to, horses, cows, goats, hogs, pigs, rabbits, poultry, pigeons, or similar animals, shall be kept or maintained on any part or portion of the Lots. Breeding of domestic animals of any kind on any portion or part of any Lot or Lots or in any building or structure thereon, is expressly prohibited. Outbuildings, such as dog houses or similar structures shall be constructed of wood, of high-quality and craftsmanship, be no more than four (4) feet in height, and have a floor area no greater than twelve (12) square feet. In any event no such outbuildings shall be erected or maintained upon and Lot before the required approvals have been obtained in accordance with Section 17 and Section 21, herein.

Section 4. Vegetable Gardens. No vegetable gardens shall be kept or maintained on the front yards or side yards of any Lots.

Section 5. Television and Radio Antennas & Exterior Mechanical Devices, Etc.

No television antennas, radio antennas, television or radio receiving or transmitting devices, solar energy panels or any other exterior mechanical devices shall be installed, constructed, placed or maintained on any Lot, except that the same may be installed, constructed, placed and/or maintained if it is confined within the interior of the dwelling until; provided, however, that one satellite dish, no larger than eight inches (18”) in diameter and no taller than four feet (4’) in height, may be erected or mounted on the rear of the dwelling or in the rear yard of the Lot. Exterior Christmas lights and/or ornaments shall be permitted beginning a week prior to Thanksgiving Day, provided that such lights are removed no later than twenty-one days (January 15th) following Christmas Day.

Section 6. Trash Receptacles. Trash receptacles shall be kept in clean, sanitary and enclosed areas, hidden from view, excepting that they may be placed temporarily at street/curb side on the regular day of collection or after 5:00 pm on the day immediately prior to the day of collection if required by the collection agency.

Section 7. Prohibited Vehicles. No trucks, buses, travel trailers, utility trailers, commercial vans, tractors, campers or vehicles immobilized for any reasons, shall be kept or maintained on any street, Lot or driveway, except that pick-up trucks up to and including three-quarter (3/4) ton and enclosed vans up to 10,000 pounds G.V.W. shall be permitted, provided they do not exceed a height of seven (7) feet. No vehicles or trailers of any kind shall be kept or maintained on any street within the subdivision for more than twenty-four

(24) consecutive hours or for more than thirty-six (36) hours in any forty-eight (48) hour period.

Section 8. Signs. No signs of any nature whatsoever shall be erected, placed or maintained on any Lot except for address plates and nameplates and except that a single real estate “For Sale” sign may be so placed and maintained, but must be removed within five (5) days after a contract for sale and purchase for the Lot has been signed by all parties thereto.

Section 9. Fences. No erecting or non-enclosing fences or barrier (hereinafter the “fence”) shall be erected on any Lot closer to the front street line than the rear-most wall of the principal building on said Lot except that fences which are dividing lines between two single family Lots may extend along side Lot lines. No fences shall be of a height of more than five (5) feet and all such fences shall be of a “split rail” design and constructed only of wood left in its natural color. Green wire mesh may be applied to the inside perimeter of the split rail fence. No such fences shall be constructed or maintained upon the Lots until the plans for the same have been approved by Declarant, in accordance with the provisions of Section 21 herein.

Section 10. Swimming Pools. No swimming pools, above ground or in ground, shall be placed, built or erected on any Lot until plans for the same have been approved by Declarant in accordance with the provisions of Section 21 herein, except that children’s wading pools of typical dimensions for such pools and not exceeding two (2) feet in height shall be permitted without requiring any such review and approval.

Section 11. Trees, Shrubs and Landscaping. Any and all trees, shrubs and/or landscaping planted or provided by the Declarant, its successors or assigns, must remain undisturbed for a period of ten (10) years, except for ordinary maintenance, feeding and disease control.

Section 12. Lawn Mowing. The owner of each Lot shall be responsible for the maintenance of grass and weeds thereon and shall mow said Lot at least once during each of the months from March through November of each year. In the case of the failure of the owner to maintain his or her Lot in accordance with this paragraph, the Declarant may mow the grass and clean the Lot and the owners of the Lot shall be responsible for reimbursing the Declarant for the reasonable costs incurred.

Section 13. Yards. No statues, sculptures, painted trees, bird baths, ornaments, or replicas of animals or other like objects may be affixed to or placed in the front or along the side of any Lot or building.

Section 14. Clothes Lines. No outside clothes lines or clothes-line posts shall be erected or maintained on any Lot.

Section 15. Barbeque Grills. No gas, charcoal or other form of barbeque grill shall be used on any lot unless the same is used in a location on the lot that is not visible from the street on which the house faces.

Section 16. Right-of-Ways. No structures or equipment, of any nature, except for standard mailboxes, shall be constructed or installed within the right-of-ways of the Subdivision's streets.

Section 17. Outbuildings. No outbuildings, sheds, garages, enclosed outdoor storage facilities, or other similar structures shall be erected, placed or maintained on any Lot within the Property unless such structures are (i) constructed of a material other than metal; (ii) are located only in the rear yard of any Lot; (iii) do not exceed the aggregate size of one hundred eighty (180) square feet on each Lot; (iv) do not exceed a height of ten (10) feet above ground level; (v) are built in accordance with plans, specifications and illustrations approved by Declarant or its successors or assigns pursuant to Section 21 of this Declaration of Restrictions; and (vi) if such structures are outbuildings for animals or pets, such as dog houses and similar structures, such structures must also comply with the requirements of Section 3 of this Declaration of Restrictions.

Section 18. Basketball Goals. No basketball goals shall be erected, placed or maintained on any Lot at any time, except for a maximum of one (1) permanently installed goal located in the rear yard of each Lot.

Section 19. Boats and Boat Trailers. Boats and boat trailers may only be stored or located on any Lot subject to the approval of Declarant, its successors or assigns, in accordance with the requirements of Section 21 of this Declaration of Restrictions, provided

that no boat or boat trailer shall exceed twenty-four (24) feet in length and that storage of the boat and/or boat trailer shall not be visible from the street on which the house faces.

Section 20. Easements. Easements and right-of-ways are hereby reserved on, over, under and along all of the Lots in the Property, for poles, wires, conduits and pipes for lighting, heating, gas, electricity, telephone and any other public or quasi-public utility service purpose, for drainage, and for sewers and pipes of various kinds, all of which shall be confined, as practicable, ten (10) feet from the front and rear property lines of each Lot and seven (7) feet from the side lines of each Lot, together with the right of access thereto for the purpose of further construction and/or repair. A twenty (20) feet wide easement, ten (10) feet on each side of the centerline, of pipe, structure, line or scale, shall be created, wherever possible, where a sanitary sewer and/or storm sewer exists. No building or other permanent structure shall be erected or maintained on any part of any area herein reserved as an easement and/or right-of-way.

Section 21. Review of Plans. Notwithstanding anything contained herein to the contrary, no outbuildings, buildings, structures of a temporary or permanent nature, swimming pools, boats, boat trailers, fences or other construction or improvements shall be constructed, erected or placed upon any Lot, nor shall any exterior addition to or change in grade or drainage, be made until the plans and specifications, with illustrations, showing the nature, kind, shape, color, height, materials and proposed location of same, shall have been submitted to and approved in writing by the Declarant or its successors or assigns. The Declarant, its successors or assigns, in connection with the review of said plans,

specifications, illustrations, shall have the right to approve or disapprove any such matters which, in its sole opinion, are not suitable or desirable to the community. In passing upon such plans and specifications, Declarant or its successors or assign, shall consider, in addition to any specific restrictions previously listed in these Declaration of Restrictions, the following factors:

- a. The quality, aesthetic suitability, nature, kind and shape of the proposed building or structure;
- b. The color, height and materials of which it is to be constructed;
- c. The specific site upon which it is proposed to be constructed or erected;
- d. The harmony of the proposed change, alteration, addition, building or structure with structures on neighboring properties and the outlook and view from the neighboring properties; and
- e. The effect on the reasonable passage of light and air to the neighboring properties.

In considering whether a boat or boat trailer is appropriate to be located on a Lot, the Declarant, or its successors or assigns, shall consider the visual impact to the neighboring properties and whether the community has permitted other boats and boat trailers to be maintained on Lots.

ARTICLE VI

INTERPRETATION

This Declaration shall bind all Lots in the Property owned by Declarant of the date on which this Declaration is recorded and all other Lots in the Property as to which thereof have joined in this Declaration by separate writing.

Notwithstanding anything contained in this Declaration, its provisions shall not be applied or construed as to prohibit or impede Declarant, or its successors in title to vacant Lots, from construction buildings or selling dwelling houses, maintaining an office or offices (including trailers) for construction and/or sales, storing construction materials and equipment; or generally carrying on its business as to the development of the Property.

IN WITNESS WHEREOF, the said _____, President of Linden Hill Corporation, has caused his hand and seal to hereunto set the day and year first above written.

SEALED AND DELIVERED
IN THE PRESENCE OF:

LINDEN HILL CORPORATION,
a Delaware corporation

Witness

By: _____
Lawrence A. Zeccola, Sr., President

STATE OF DELAWARE)
) SS.
NEW CASTLE COUNTY)

BE IT REMEMBERED, that on this 13th day of December, 2002, personally came before me, the Subscriber, a Notary Public for the State and County aforesaid,

Lawrence A. Zeccola, Sr., party to this Declaration, known to me personally to be such, and acknowledged this Declaration to be his act and deed of said corporation as duly authorized by its Board of Directors.

GIVEN under my Hand and Seal of Office, the day and year aforesaid.

Notary Public

Print Name:

Date Commission Expires: