

Prepared by and returned to:

Becker & Poliakoff, P.A.  
David G. Muller, Esquire  
4001 Tamiami Trail North, Suite 410  
Naples, FL 34103

## NOTICE OF PRESERVATION OF COVENANTS AND RESTRICTIONS UNDER MARKETABLE RECORD TITLE ACT

Pursuant to Chapter 712, Florida Statutes, the undersigned Claimant files this Notice and in support thereof states:

1. The name of the entity filing this Notice is **Water Oaks Association, Inc.** (the "Association"), a Florida corporation, not for profit, whose mailing address is **98 Wyndemere Way, Naples, Florida 34105**. The Articles of Incorporation were originally filed in the office of the Secretary of State on the 31st day of December 1985. The Association has been organized for the purpose of operating and administering the community known as **Water Oaks**, pursuant to the Declaration of Covenants, Restrictions and Easements for **Water Oaks**, which were filed of record on March 6, 1986, at O.R. Book 1182, Page 1231 *et seq.*, of the Public Records of Collier County, Florida, and which have been amended from time to time.

2. The Association has sent a Statement of Marketable Title Action in the form set forth in Section 712.06(1)(b), Florida Statutes, to all members of the Association and attaches hereto an Affidavit executed by a member of the Board of Directors of the Association affirming that the Board of Directors caused the Statement of Marketable Title Action to be mailed to all members of the Association and further attaches the Statement of Marketable Title Action which was mailed to all members of the Association as **composite Exhibit A**.

3. The lands affected by this Notice are depicted and legally described as follows:

- See **Exhibit B-1**.

The lands are also depicted in the following:

- Plat Book 14, Pages 21-22, of the Public Records of Collier County  
See **Exhibit B-2**.
- Plat Book 20, Pages 49-50, of the Public Records of Collier County  
See **Exhibit B-3**.

Page 1 of 2

4. The real property interest claimed under this Notice is the right to preserve for thirty (30) years from the date of this filing those certain covenants, restrictions and agreements described below:

(a) Declaration of Covenants, Restrictions and Easements for Water Oaks recorded on March 6, 1986, at O.R. Book 1182, Page 1231 *et seq.*, of the Public Records of Collier County, Florida, as amended from time to time in accordance with the terms, provisions and conditions thereof.

WITNESSES (TWO)

WATER OAKS ASSOCIATION, INC.

Carol H. Berglund  
Witness Signature

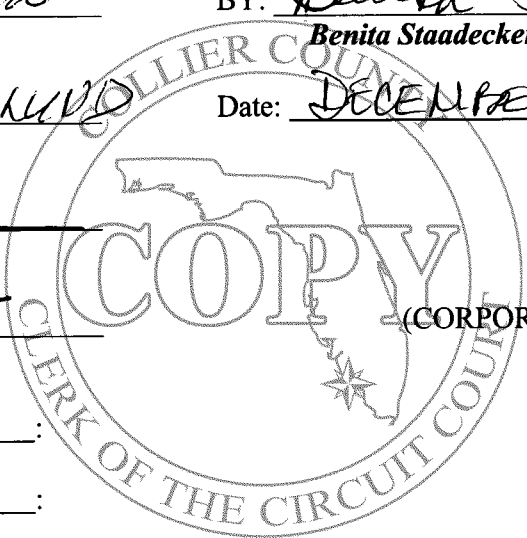
BY: Benita Staadecker  
Benita Staadecker, President

CAROL H. BERGLUND  
Printed Name

Date: DECEMBER 16, 2016

Susan Sawyer  
Witness Signature

Susan Sawyer  
Printed Name

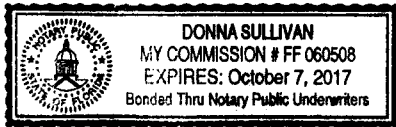


(CORPORATE SEAL)

STATE OF FL:

COUNTY OF Collier:

Sworn to (or affirmed) and subscribed before me this 16<sup>th</sup> day of December 2015, by Benita Staadecker, as President of Water Oaks Association Inc., a Florida Corporation. She is personally known to me or who has produced \_\_\_\_\_ (type of identification) as identification.



Donna Sullivan  
Notary Public

Printed Name: Donna Sullivan

My commission expires: 10/7/17

**AFFIDAVIT OF MAILING OF NOTICE TO ASSOCIATION MEMBERS  
AND MAILING OF STATEMENT OF MARKETABLE TITLE ACTION  
TO ASSOCIATION MEMBERS**

I, the undersigned, President for Water Oaks Association Inc. ("Association") whose name appears at the bottom of this affidavit do hereby swear and affirm that the Notice of Special Meeting of Board of Directors for Preservation of Covenants and Restrictions Under Marketable Record Title Act held December 16, 2015, at 8:15 A.M., at Wyndemere Homeowners Association Office, 98 Wyndemere Way, Naples, Florida, a copy of which is attached hereto, was mailed (or hand-delivered) to each Association Member on December 7, 2015 at the address last furnished to the Association, as such address appears on the books of the Association. The Statement of Marketable Title Action, which was considered and approved at the Special Meeting of the Board of Directors, was included in the above-referenced Notice.

Sworn to this 16<sup>th</sup> day of DECEMBER 2015.

**WATER OAKS ASSOCIATION, INC.**

BY: Benita Staadecker  
**Benita Staadecker, President**

STATE OF FL  
COUNTY OF Collier:

Sworn to (or affirmed) and subscribed before me this 16<sup>th</sup> day of December 2015, by **Benita Staadecker**, as President of **Water Oaks Association Inc.**, a Florida Corporation. She is personally known to me or who has produced \_\_\_\_\_ (type of identification) as identification.



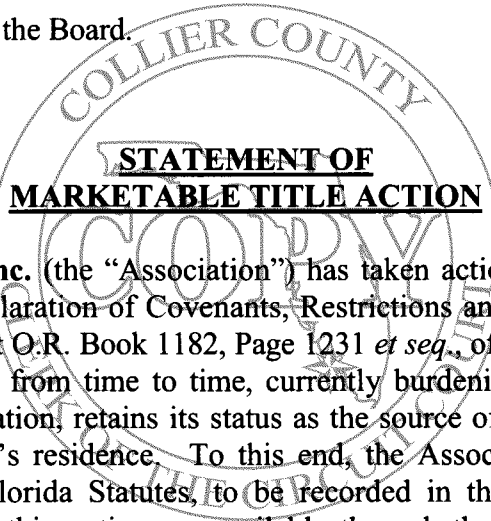
Donna Sullivan  
Notary Public  
Printed Name: Donna Sullivan

My commission expires: 10/7/17

**NOTICE OF SPECIAL MEETING OF BOARD OF DIRECTORS  
FOR PRESERVATION OF COVENANTS AND RESTRICTIONS UNDER  
MARKETABLE RECORD TITLE ACT**

TO ALL ASSOCIATION MEMBERS:

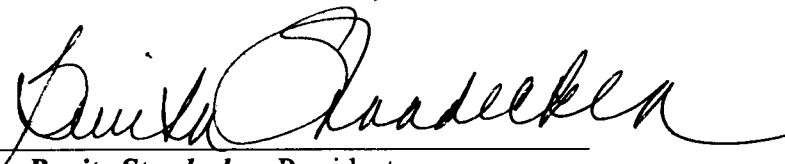
The Board of Directors of **Water Oaks Association, Inc.** will hold a special meeting on December 16, 2015, at 8:15 A.M., at Wyndemere Homeowners Association office, 98 Wyndemere Way, Naples, Florida. The sole agenda item at the Special Meeting of the Board of Directors will be a vote on preservation of recorded covenants and restrictions in accordance with the Marketable Record Title Act. The following is the Statement of Marketable Title Action that will be considered and adopted by the Board.



**STATEMENT OF  
MARKETABLE TITLE ACTION**

**Water Oaks Association, Inc.** (the "Association") has taken action and will be taking further action to ensure that the Declaration of Covenants, Restrictions and Easements for Water Oaks recorded on March 6, 1986, at O.R. Book 1182, Page 1231 *et seq.*, of the Public Records of Collier County, Florida, as amended from time to time, currently burdening the property of each and every member of the Association, retains its status as the source of marketable title with regard to the transfer of a member's residence. To this end, the Association shall cause the notice required by Chapter 712, Florida Statutes, to be recorded in the Public Records of Collier County, Florida. Copies of this notice are available through the Association pursuant to the Association's governing documents regarding official records of the Association and the applicable Statute.

**WATER OAKS ASSOCIATION, INC.**

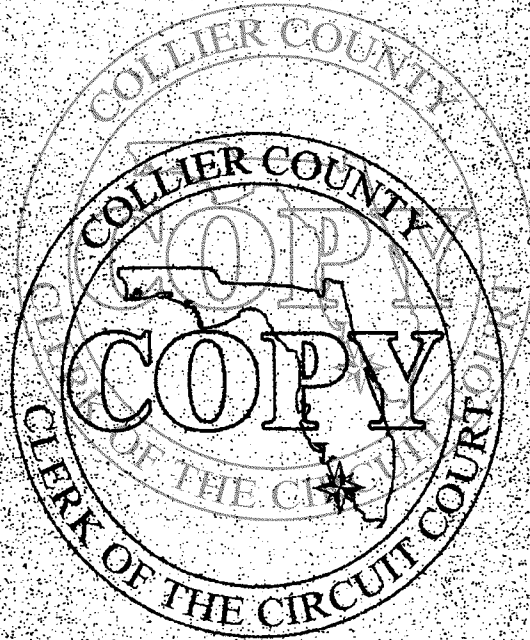
By:   
**Benita Staadecker, President**

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PAGE:

EXHIBIT A

THE LAND BEING SUBMITTED TO THE WATER OAKS COVENANTS IS THE LAND DESCRIBED IN THIS EXHIBIT "A" WHICH IS THE LAND DESCRIBED IN A-1, page 1 and 2 (11.40 acres), LESS THE LAND DESCRIBED IN EXHIBIT B, WHICH IS THE ROADWAY TRACT WHICH HAS BEEN CONVEYED TO THE WYDNEMERE HOMEOWNERS ASSOCIATION AS PART OF THE WYDNEMERE ROADWAY SYSTEM.

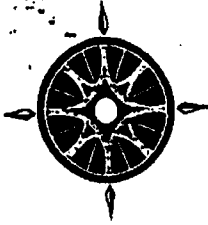


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WILSON, MILLER, BARTON, SOLL & PEEK, INC.  
 PROFESSIONAL ENGINEERS, PLANNERS AND LAND SURVEYORS

Description of the proposed plat of  
 "WATER OAKS AT WYNDEMERE" (not recorded)  
 being a part of parcels GG-1 and MM-2 of  
 "REPLAT OF PART OF WYNDEMERE TRACT MAP"  
 (P.B. 13, pages 39-43) Collier County, Florida

Commencing at the center of Section 19, Township 49 South, Range 26 East, Collier County, Florida;  
 thence along the north and south 1/4 section line of said Section 19, South 0°-11'-46" West 47.15 feet to a point on the boundary line of parcel "MM-2" of "REPLAT OF PART OF WYNDEMERE TRACT MAP" according to the plat thereof as recorded in Plat Book 13, pages 39 through 43, Public Records of Collier County, Florida and the POINT OF BEGINNING of the parcel herein described;

thence along said boundary line of parcel "MM-2" in the following (5) five described courses;

- (1) South 56°-20'-30" West 173.11 feet;
- (2) North 76°-31'-43" West 136.63 feet;
- (3) North 89°-36'-00" West 154.83 feet;
- (4) southwest 78.23 feet along the arc of a non-tangential circular curve concave to the northwest, having a radius of 129.48 feet and being subtended by a chord which bears South 56°-39'-47" West 77.65 feet;
- (5) South 73°-58'-20" West 151.25 feet;

thence leaving said boundary line North 22°-30'-02" West 215.35 feet to a point on said boundary line of parcel "MM-2";

thence along said boundary line in the following (4) four described courses;

- (1) North 38°-58'-23" East 91.36 feet;
- (2) North 6°-00'-43" West 45.01 feet;
- (3) North 51°-03'-38" West 215.34 feet;
- (4) northeast 56.35 feet along the arc of a non-tangential circular curve concave to the northwest, having a radius of 50.00 feet and being subtended by a chord which bears North 47°-10'-01" East 53.41 feet;

thence leaving said boundary line North 22°-00'-00" West 59.08 feet;

thence North 35°-30'-00" East 118.99 feet;  
 thence North 65°-10'-14" East 63.53 feet to a point on said boundary line of parcel "MM-2";

thence along said boundary line in the following (3) three described courses;

- (1) South 82°-07'-42" East 334.44 feet;
- (2) North 80°-43'-28" East 94.63 feet;
- (3) North 71°-04'-48" East 109.00 feet;

thence leaving said boundary line, North 34°-00'-00" East 41.00 feet;

thence South 89°-00'-00" East 63.00 feet;  
 thence South 74°-45'-00" East 106.16 feet;  
 thence South 48°-00'-00" East 110.99 feet;  
 thence South 24°-00'-00" East 107.74 feet;  
 thence South 7°-00'-00" East 142.81 feet to a point on said boundary line of parcel "MM-2";

(continued on page 2)

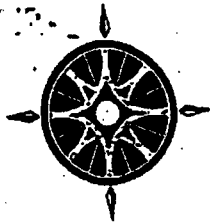
Exhibit A-1- page 1

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WILSON, MILLER, BARTON, SOLL & PEEK, INC.  
PROFESSIONAL ENGINEERS, PLANNERS AND LAND SURVEYORS

"WATER OAKS AT WYNDEMERE"  
part of parcels GG-1 and MM-2  
(continued from page 1)

thence along said boundary line in the following (3) three  
described courses;

- (1) South 24°-21'-00" West 55.42 feet;
- (2) South 38°-40'-44" West 192.85 feet;
- (3) South 56°-20'-30" West 23.10 feet to said north and south  
1/4 section line and the Point of Beginning of the parcel  
herein described;

being a part of parcels "GG-1 and MM-2" "REPLAT OF PART OF WYNDEMERE  
TRACT MAP" (P.B. 13, pages 39-43) and also being a part of Section  
19, Township 49 South, Range 26 East, Collier County, Florida;  
subject to easements and restrictions of record;  
containing 11.40 acres of land more or less.

WILSON, MILLER, BARTON, SOLL & PEEK, INC.  
Registered Engineers and Land Surveyors

*John E. Boutwell*  
John E. Boutwell, P.E., S. 43834  
DATE *November 25, 1985*

Not valid unless embossed with the Professional's seal.

24174  
Ref: 4G-596B (GG) and GG-1/MM-2  
Date: October 11, 1985

**COPY**

SEAL OF THE CIRCUIT COURT OF COLIER COUNTY, FLORIDA

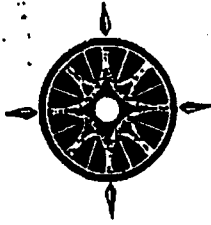
Exhibit A-1 - page 2

Recorded and Verified  
in Official Records of  
COLIER COUNTY, FLORIDA  
WILLIAM J. REGAN  
Clerk of Circuit Court

RAYMOND W. MILLER, P.E. • WILLIAM L. BARTON, P.E. • THOMAS R. PEEK, P.E., P.L.S. • WILBUR M. CHRISTIANSEN, P.L.S. • CLIFFORD M. SCHNEIDER, P.E.  
BENJAMIN C. PRATT, P.E., P.L.S. • CARL H. SOLL, P.L.S. • FERMIN A. DIAZ, P.E. • JOHN E. BOUTWELL, P.L.S. • GARY L. DANCA, C.P.A. • ALAN D. REYNOLDS, A.I.C.P.

Exhibit B-1

Page 3 of 6



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WILSON, MILLER, BARTON, SOLL & PEEK, INC. PAGE  
 PROFESSIONAL ENGINEERS, PLANNERS AND LAND SURVEYORS

Description of Tract "A" (ingress and egress easement)  
 being a part of Parcel "MM-2" of "REPLAT OF PART OF WYNDEMERE  
 TRACT MAP" (P.B. 13, pages 39-43) Collier County, Florida

(Ref: Water Oaks at Wyndemere)

Commencing at the center of Section 19, Township 49 South, Range 26  
 East, Collier County, Florida;  
 thence along the north and south 1/4 section line of said Section  
 19, South 0°-11'-46" West 47.15 feet to a point on the boundary line  
 of parcel "MM-2" of "REPLAT OF PART OF WYNDEMERE TRACT MAP"  
 according to the plat thereof as recorded in Plat Book 13, pages 39  
 through 43, Public Records of Collier County, Florida;  
 thence along said boundary line of parcel "MM-2" in the following

- (1) South 56°-20'-30" West 173.11 feet;
- (2) North 76°-31'-43" West 138.33 feet;
- (3) North 89°-36'-00" West 154.83 feet;
- (4) southwesterly 78.23 feet along the arc of a non-tangential  
 circular curve concave to the northwest, having a radius of  
 129.48 feet and being subtended by a chord which bears South  
 56°-39'-47" West 17.05 feet;
- (5) South 73°-58'-20" West 13.10 feet to the POINT OF BEGINNING of  
 the parcel herein described;  
 thence leaving said boundary line, North 6°-00'-00" West 97.46  
 feet;  
 thence northerly and northeasterly 117.57 feet along the arc of  
 a tangential circular curve concave to the southeast, having a  
 radius of 202.00 feet and being subtended by a chord which  
 bears North 45°-00' East 118.43 feet;  
 thence North 27°-30'-00" East 57.07 feet;  
 thence northeasterly, easterly and southeasterly 43.98 feet  
 along the arc of a tangential circular curve concave to the  
 southeast, having a radius of 28.00 feet and being subtended by  
 a chord which bears North 72°-30'-00" East 39.60 feet;  
 thence South 62°-30'-00" East 121.21 feet;  
 thence southeasterly 124.04 feet along the arc of a tangential  
 circular curve concave to the northeast, having a radius of  
 309.00 feet and being subtended by a chord which bears South  
 74°-00'-00" East 123.21 feet;  
 thence South 85°-30'-00" East 41.98 feet;  
 thence northeasterly 105.70 feet along the arc of a tangential  
 circular curve concave to the northwest, having a radius of  
 161.50 feet and being subtended by a chord which bears North  
 75°-45'-00" East 103.82 feet;  
 thence North 57°-00'-00" East 18.32 feet;  
 thence northeasterly and northerly 195.26 feet along the arc of  
 a tangential circular curve concave to the northwest, having a  
 radius of 179.00 feet and being subtended by a chord which  
 bears North 25°-45'-00" East 185.72 feet;  
 thence North 5°-30'-00" West 65.96 feet;  
 thence northerly and northwesterly 128.43 feet along the arc of  
 a tangential circular curve concave to the southwest, having a  
 radius of 89.50 feet and being subtended by a chord which bears  
 North 46°-36'-34" West 117.69 feet to a point of reverse  
 curvature;  
 thence northwesterly 28.61 feet along the arc of a tangential  
 circular curve concave to the northeast, having a radius of

(continued on page 2)

Exhibit B - Page 1

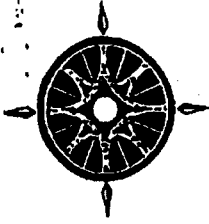


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WILSON, MILLER, BARTON, SOLL & PEEK, INC.  
 PROFESSIONAL ENGINEERS, PLANNERS AND LAND SURVEYORS

Replat of Wyndemere Tract Map  
 Tract "A"  
 (continued from page 1)

38.00 feet and being subtended by a chord which bears North 66°-08'-57" West 27.94 feet to a point of reverse curvature; thence northwesterly, southwesterly, southeasterly and northeasterly 202.74 feet along the arc of a tangential circular curve concave to the east, having a radius of 42.00 feet and being subtended by a chord which bears South 2°-52'-06" East 55.89 feet to a point of reverse curvature; thence northeasterly and southeasterly 51.35 feet along the arc of a tangential circular curve concave to the southeast, having a radius of 38.00 feet and being subtended by a chord which bears North 77°-33'-29" East 47.53 feet to a point of compound curvature; thence southeasterly 62.50 feet along the arc of a tangential circular curve concave to the southwest, having a radius of 61.50 feet and being subtended by a chord which bears South 34°-36'-48" East 33.84 feet; thence South 5°-30'-00" East 65.96 feet; thence southerly and southwesterly 164.72 along the arc of a tangential circular curve concave to the northwest, having a radius of 151.00 feet and being subtended by a chord which bears South 23°-45'-00" West 156.67 feet; thence South 57°-00'-00" West 13.88 feet; thence southwesterly 87.38 feet along the arc of a tangential circular curve concave to the northwest, having a radius of 133.50 feet and being subtended by a chord which bears South 75°-45'-00" West 85.82 feet; thence North 85°-30'-00" West 47.98 feet; thence northwesterly 112.80 feet along the arc of a tangential circular curve concave to the northeast, having a radius of 281.00 feet and being subtended by a chord which bears North 74°-00'-00" West 112.04 feet; thence North 62°-30'-00" West 163.21 feet; thence northwesterly 59.56 feet along the arc of a tangential circular curve concave to the northeast, having a radius of 108.33 feet and being subtended by a chord which bears North 46°-45'-00" West 58.81 feet; thence North 31°-00'-00" West 28.96 feet; thence northwesterly 83.61 feet along the arc of a tangential circular curve concave to the southwest, having a radius of 286.00 feet and being subtended by a chord which bears North 39°-22'-30" West 83.31 feet; thence North 47°-45'-00" West 74.96 feet; thence northwesterly, southwesterly, southeasterly and northeasterly 185.12 feet along the arc of a tangential circular curve concave to the east, having a radius of 42.00 feet and being subtended by a chord which bears South 5°-58'-49" West 67.72 feet to a point of reverse curvature; thence northeasterly and southeasterly 48.34 feet along the arc of a tangential circular curve concave to the southwest, having a radius of 38.00 feet and being subtended by a chord which bears South 83°-50'-34" East 45.15 feet to a point of compound curvature; thence southeasterly 73.83 feet along the arc of a tangential circular curve concave to the southwest, having a radius of

(continued on page 3)

Exhibit B - page 2

RAYMOND W. MILLER, P.E. • WILLIAM L. BARTON, P.E. • THOMAS R. PEEK, P.E., P.L.S. • WILBUR M. CHRISTIANSEN, P.L.S. • CLIFFORD M. SCHNEIDER, P.E.  
 BENJAMIN G. PRATT, P.E., P.L.S. • CARL M. SOLL, P.L.S. • PERMIA A. DIAZ, P.E. • JOHN E. SOUTHWELL, P.L.S. • GARY L. DANEA, C.P.A. • ALAN D. REYNOLDS, A.T.C.

Exhibit B-1

Page 5 of 6

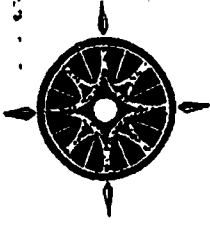
Best Available Image

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WILSON, MILLER, BARTON, SOLL & PEEK, INC.  
PROFESSIONAL ENGINEERS, PLANNERS AND LAND SURVEYORS

Replat of Wyndemere Tract Map  
Tract "A"  
(continued from page 2)

258.00 feet and being subtended by a chord which bears south  
39°-11'-53" East 73.58 feet;  
thence South 31°-00'-00" East 28.96 feet;  
thence southeasterly 39.72 feet along the arc of a tangential  
circular curve concave to the northeast, having a radius of  
136.33 feet and being subtended by a chord which bears South  
39°-20'-45" East 39.58 feet to a point of reverse curvature;  
thence southeasterly and southwesterly 36.75 feet along the arc  
of a tangential circular curve concave to the southwest, having  
a radius of 28.00 feet and being subtended by a chord which  
bears South 10°-05'-45" East 34.16 feet;  
thence South 27°-30'-00" East 159.52 feet;  
thence southwesterly and southeasterly 134.48 feet along the  
arc of a tangential circular curve to the southeast, having a  
radius of 230.00 feet and being subtended by a chord which  
bears South 10°-45'-00" West 132.57 feet;  
thence South 6°-00'-00" East 102.41 feet to a point on said  
boundary line of parcel "MM-2";  
thence along said boundary line North 73°-58'-20" East 28.43  
feet to the point of beginning of the parcel herein described;  
being a part of parcel "MM-2" of "REPLAT OF PART OF WYNDEMERE TRACT  
MAP" (P.B. 13, pages 39-43) Collier County, Florida,  
subject to easements and restrictions of record,  
containing 1.15 acres more or less.

WILSON, MILLER, BARTON, SOLL & PEEK, INC.  
Reg. Engineers and Land Surveyors

BY *John E. Boutwell*  
John E. Boutwell, P.L.S. # 1934

DATE Nov. 26, 1985

Not valid unless embossed with the Professional's seal.

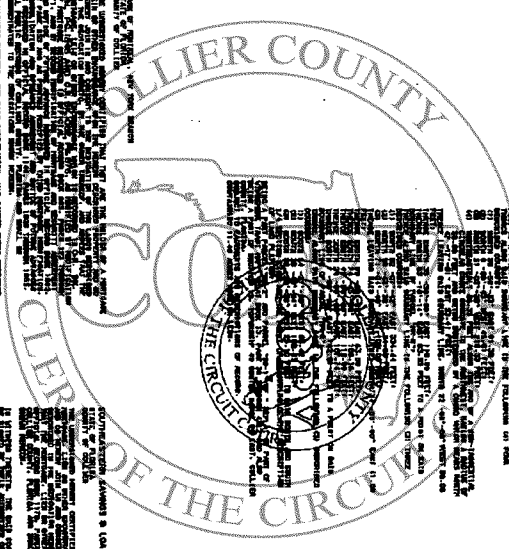
W.O. 24782  
Ref: 4G-595 (GGG:kjd tract-a)  
Date: November 21, 1985

Exhibit B - page 3

Recorded and Verified  
in Official Records of  
COLLIER COUNTY, FLORIDA  
WILLIAM J. REAGAN  
Clerk of Circuit Court

WATER OAKS AT WYNDEMERE

A RESUBDIVISION OF PART OF PARCELS 789-1 AND 789-2  
PREPARED FOR PART OF WYNDEMERE TRACT MAP  
PLAT BOOK 13, PAGES 39 THROUGH 431  
PUBLIC RECORDS OF COLLIER COUNTY, FLORIDA

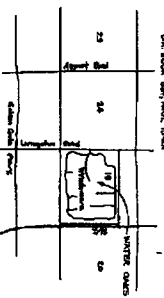


NOT A PART APPROVED BY THE COLLIER COUNTY ATTORNEY THIS 20<sup>th</sup>  
JUNE 1964  
BY: *[Signature]*  
COUNTY CLERK

NOT A PART APPROVED BY THE COLLIER COUNTY ATTORNEY THIS 27<sup>th</sup>  
JUNE 1964  
BY: *[Signature]*  
COUNTY CLERK

NOT A PART APPROVED BY THE COLLIER COUNTY ATTORNEY THIS 27<sup>th</sup>  
JUNE 1964  
BY: *[Signature]*  
COUNTY CLERK

1. THE SUBDIVISION OF PART OF PARCELS 789-1 AND 789-2  
PREPARED FOR PART OF WYNDEMERE TRACT MAP  
PLAT BOOK 13, PAGES 39 THROUGH 431  
PUBLIC RECORDS OF COLLIER COUNTY, FLORIDA  
IS HEREBY APPROVED BY THE COLLIER COUNTY ATTORNEY  
THIS 20<sup>th</sup> JUNE 1964  
BY: *[Signature]*  
COUNTY CLERK



NOT A PART APPROVED BY THE COLLIER COUNTY ATTORNEY THIS 20<sup>th</sup>  
JUNE 1964  
BY: *[Signature]*  
COUNTY CLERK

NOT A PART APPROVED BY THE COLLIER COUNTY ATTORNEY THIS 20<sup>th</sup>  
JUNE 1964  
BY: *[Signature]*  
COUNTY CLERK

NOT A PART APPROVED BY THE COLLIER COUNTY ATTORNEY THIS 20<sup>th</sup>  
JUNE 1964  
BY: *[Signature]*  
COUNTY CLERK

NOT A PART APPROVED BY THE COLLIER COUNTY ATTORNEY THIS 20<sup>th</sup>  
JUNE 1964  
BY: *[Signature]*  
COUNTY CLERK

NOT A PART APPROVED BY THE COLLIER COUNTY ATTORNEY THIS 20<sup>th</sup>  
JUNE 1964  
BY: *[Signature]*  
COUNTY CLERK



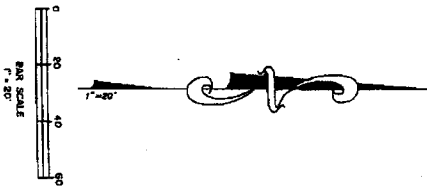


# "REPLAT OF PART OF WATER OAKS AT WYNDEMERE"

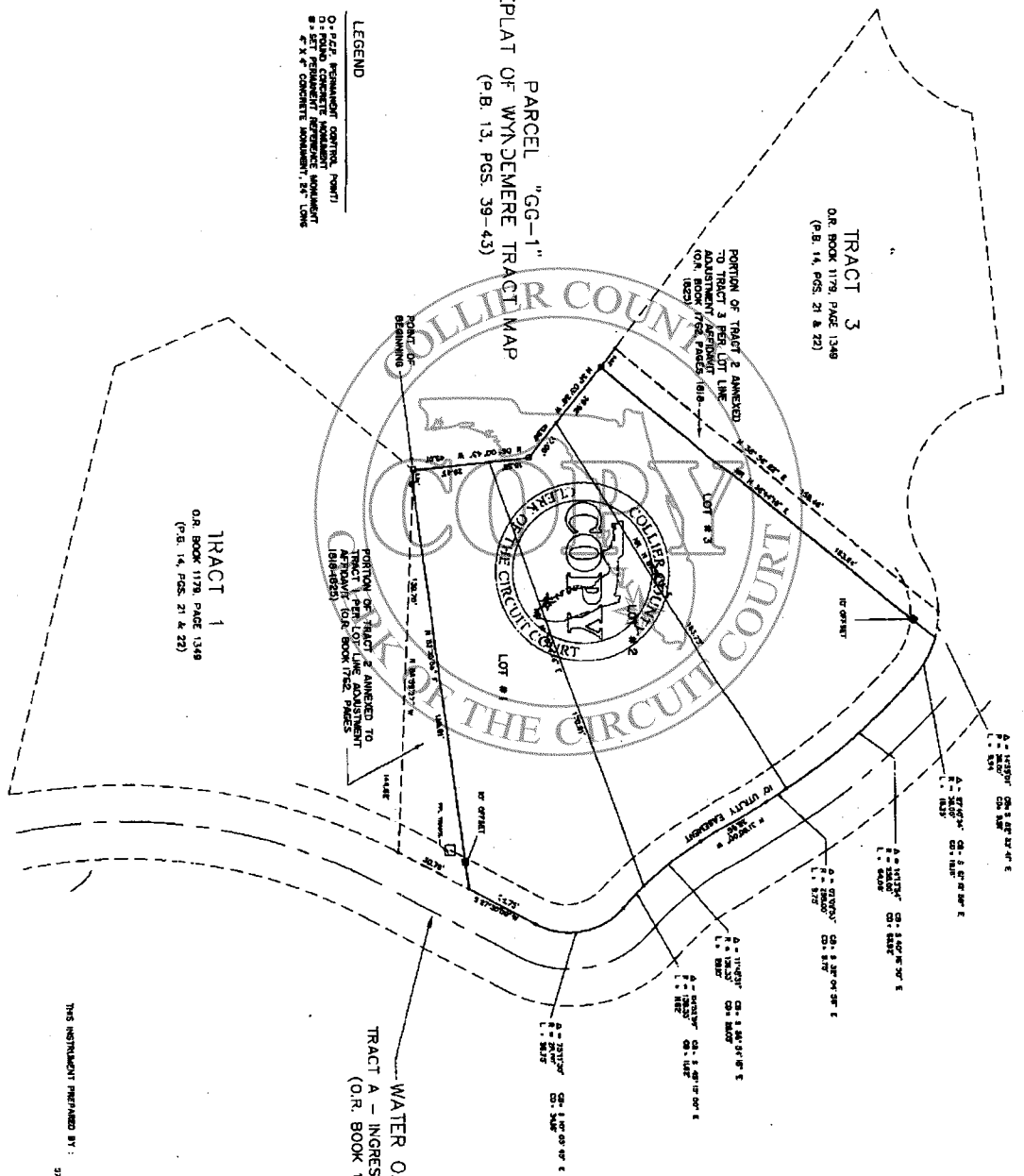
A RESUBDIVISION OF TRACT 2, WATER OAKS AT WYNDEMERE,  
(PLAT BOOK 14, PAGES 21 & 22), PUBLIC RECORDS OF  
COLLIER COUNTY, FLORIDA - BEING PART OF SECTION 19,  
TOWNSHIP 49S, RANGE 26E

PLAT BOOK ... 20... PAGE ... 30...  
PAGE 2 OF 2

## PARCEL "GG-1" REPLAT OF WYNDEMERE TRACT MAP (P.B. 13, PGS. 39-43)



**LEGEND**  
O - 1/2" PERMANENT CONTROL POINT  
S - 1/2" PERMANENT CONTROL POINT  
S - SET PERMANENT REFERENCE MONUMENT  
X - 4" CONCRETE MONUMENT, 24" LONG



WATER OAKS WAY  
TRACT A - INGRESS & EGRESS EASEMENT  
(O.R. BOOK 1170, PAGE 829)

THIS INSTRUMENT PREPARED BY:  
DANIEL L. BOER, P.L.L.C.  
M. KEES & ASSOCIATES, INC.  
3700 WOODBRIDGE BLVD., FT. MYERS, FL. 33912  
813-491-1041

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PLEASE RETURN TO:  
MURPHY & CRANE, CHARTERED  
6800 TRAIL BOULEVARD NORTH  
NAPLES, FLORIDA 33963

DECLARATION OF COVENANTS, RESTRICTIONS  
AND EASEMENTS  
FOR  
WATER OAKS

THIS DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS FOR WATER OAKS ("Water Oaks Declaration") is made this 28th day of FEB 1986 by WYNDEMERE FARMS DEVELOPMENT, INC., A Florida Corporation ("Developer") and joined in by WATER OAKS ASSOCIATION, INC., A Florida Corporation Not For Profit ("Association") and WYNDEMERE HOMEOWNERS ASSOCIATION, INC., A Florida Corporation Not For Profit, and the "ARC" (as such term is hereinafter defined), and by the other entities set forth at the end hereof.

WHEREAS, Developer and the other entities executing this instrument are the owners of the real property more particularly described on Exhibit A, attached hereto and made a part hereof (hereinafter referred to as the "Land"); and

WHEREAS, Developer intends to develop or has developed or has caused to be developed on portions of said Land a planned residential community known as "Water Oaks" all in accordance with applicable zoning ordinances; and

WHEREAS, Developer desires to provide for preservation of the values and amenities of the Land and to subject the Land to the land use covenants, restrictions, easements, reservations, regulations, burdens and liens hereinafter set forth; and

WHEREAS, Developer has deemed it desirable for the efficient preservation of the values and amenities established as aforesaid to create a corporation known as The Water Oaks Association, Inc., to which there has been and will be delegated and assigned certain powers and duties of ownership, operation, administration, maintenance and repair of the Land, the enforcement of the covenants, restrictions, easements, reservations, regulations, burdens and liens contained herein and the collection and disbursement of the assessments and charges as hereinafter more particularly set forth; and

WHEREAS, the Land is subject to that certain "Master Declaration" (as hereinafter defined); and

WHEREAS, the Master Association and the ARC have been established pursuant to the Master Declaration to enforce the provisions thereof; and

WHEREAS, the Master Association and the ARC and the other entities executing this instrument desire to join in and consent to this Water Oaks Declaration to acknowledge their consent and ~~join in the same~~.

NOW THEREFORE, in consideration of the premises and mutual covenants herein contained, the owners hereby declare that the Land shall be owned, held, used, transferred, sold, conveyed, demised and occupied subject to the covenants, restrictions, easements, reservations, regulations, burdens and liens hereinafter set forth.

ARTICLE I

DEFINITIONS

The following words and phrases when used in this Water Oaks Declaration shall have the following meanings:

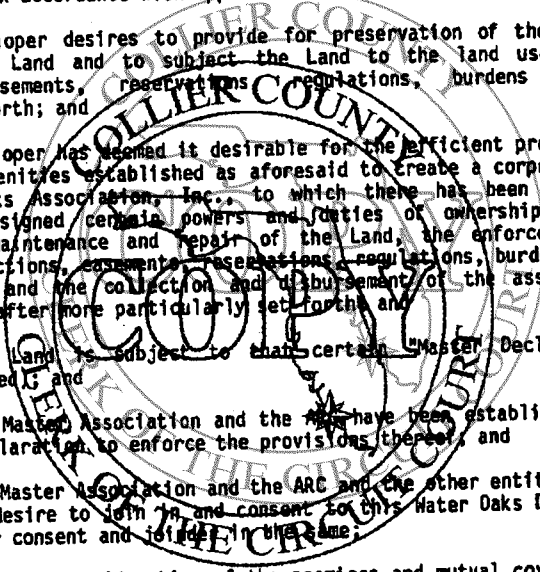
1.1 ARC means the Architectural Review Committee as defined in the Article VIII of the Master Declaration.

1.2 ARTICLES means the Articles of Incorporation of the Water Oaks Association, Inc.

1.3 ASSOCIATION means the Water Oaks Association, Inc., a Florida Corporation Not For Profit, which is hereby designated as a "Section Association" as such term is defined in the Master Declaration.

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1.4 **ASSOCIATION EXPENSES** means the expenses for which the Owners are or may be liable to the Association in accordance with the method of allocation thereof described in Article VII hereof and includes the following:

1.4.1 **Common Area Expenses** which means and includes expenses incurred or to be incurred by the Association with regard to ownership, operation, administration, maintenance and repair of the Common Areas or any part thereof; and

1.4.2 **Villas Expenses** which means and includes expenses incurred or to be incurred by the Association with regard to the operation, administration, maintenance and repair of the Villas Buildings under the provisions of this Water Oaks Declaration.

1.5 **BOARD** means the architectural review board for Water Oaks established in accordance with Article II of this Water Oaks Declaration.

1.6 **BYLAWS** means the Bylaws of the Association.

1.7 **COMMON AREAS** means the portions of the Land not included within the Lots nor dedicated to a party other than the Association unless the Association maintains such dedicated area pursuant to the terms hereof, and such additional Common Areas as may hereafter be declared as such.

1.8 **DIRECTORS** means the Board of Directors as established in accordance with Article III hereof.

1.9 **LAND** means the land more particularly described on Exhibit A, which is committed by this Water Oaks Declaration to the provisions hereof and any additional real estate which may hereafter be declared to be subject to this Declaration.

1.10 **COUNTY** means Collier County, Florida.

1.11 **DEVELOPER** means WYNDEMERE FARMS DEVELOPMENT, INC., A Florida Corporation, its successors and assigns; provided however that an Owner shall not, solely by the purchase of a Villa, be deemed a successor or assign of Developer or of the rights of the Developer under this Declaration unless such Owner is specifically so designated as a successor or assign or designated with such rights in the respective instrument of conveyance or any other instrument executed by the Developer.

1.12 **INSTITUTIONAL MORTGAGEE** means any lending institution or real estate investment trust having a first mortgage lien upon a Lot or Villa and includes any insurance company doing business in Florida and approved by the Commissioner of Insurance of the State of Florida; a Federal or State Savings and Loan Association, Building and Loan Association or bank doing business in the State of Florida and approved by the office of the Comptroller, Division of Banking of the State of Florida; a mortgage banking company licensed in the State of Florida; and "Secondary Mortgage Market Institution" which includes the Federal National Mortgage Association, Federal Home Loan Mortgage Corporation and such other secondary mortgage market institution as the Board shall hereafter approve in writing; and any mortgagee which has loaned money to Developer secured by a mortgage encumbering any portion of the Land.

1.13 **LOT** means a portion of the Land upon which is or will be located a Villa or Villas, the legal description of which is set forth in the deed of conveyance of the Villa or Villas. It is anticipated that each lot shall have a Villa constructed upon it and that the constructed Villa will have a party wall with at least one other Villa. Where the context requires, Lot may also mean the Lot as improved with the constructed Villa.

1.14 **MASTER ASSOCIATION** means WYNDEMERE HOMEOWNERS ASSOCIATION, INC.

1.15 **MASTER DECLARATION** means the Declaration of Covenants, Conditions and Restrictions of Wyndemere recorded at Official Records Book 916, page 1080, et.



001182

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2/20/86

OR BOOK

PAGE

seq. of the Public Records of the County and any amendments, supplements and modifications thereto.

1.16 **OWNER** means the owner or owners of the fee title to a Lot or Villa located within the property identified as the Land.

1.17 **SINGLE FAMILY OCCUPANCY**. Single Family Occupancy shall mean and refer to occupancy by a family unit consisting of not more than five adult members.

1.18 **SUPPLEMENTAL DECLARATION** means a Supplemental Declaration of Covenants, Conditions, and Restrictions recorded amongst the Public Records of County by Developer submitting all or a portion of additional land to the terms and provisions of this Declaration.

1.19 **VILLAS DOCUMENTS** means in the aggregate this Declaration and any and all Supplemental Declarations, the Articles, the Bylaws, the Master Declaration and all supplements thereto, the Articles of Incorporation and bylaws of the Master Association, and the Rules and Regulations of the Association and the Master Association and all of the instruments and documents referred to or incorporated therein or attached thereto as the same may be amended from time to time.

1.20 **VILLA BUILDING** shall mean the entire building containing attached Villas. It is anticipated that there will be eighteen (18) Villa Buildings within Water Oaks.

1.21 **WATER OAKS** means the residential Villas community planned as a stage in the development of Wyndemere which is to be developed upon the Land and all improvements now or hereafter located thereon and includes the Land and all improvements on any Land submitted to the provisions of this Declaration.

1.22 **WATER OAKS DECLARATION** means this instrument and any amendments, supplements or modifications hereto.

1.23 **WYNDERERE** means a multi-staged, residential golf course community planned and being developed upon the real property described in the Master Declaration. Such real property includes various geographical areas constituting stages in the development of Wyndemere.

ARTICLE II  
COVENANTS AND RESTRICTIONS, CONVEYANCE  
TO ASSOCIATION OF COMMON AREAS

The entities executing this instrument do hereby declare that the Land shall be used, transferred, demised, sold, conveyed and occupied subject to and in accordance with the following:

2.1 **LAND USE COVENANTS**

2.1.1 **Land**. The Land shall be for residential use only. No commercial or business occupations may occur on the Land except for the construction, development, sale and rental of the Land or portions thereof by Developer and use by Developer as offices.

2.1.2 **Common Areas**. The portions of the Land not included within the Lots nor dedicated to a party other than the Association shall be used and conveyed solely in accordance with this Declaration. Common Areas owned by the Association may not be mortgaged by the Association without the prior written consent of the holders of any and all mortgages on residential units (lots) within Water Oaks.

2.1.3 **Land Use**. Except for areas serving as a driveway connecting a Lot to the Wyndemere Road System, the Common Areas shall be grassed or planted and kept grassed or planted as green open space, or planted with such other form of ground cover or landscaping as developer or the Board consider consistent with the plan for development for the beautification of Water Oaks.

001182

001234

OR BOOK

PAGE

2/20/86

2.1.4 Private Use. The Common Areas are not for the use and enjoyment of the public, but are expressly reserved for the private use and enjoyment of Developer, the Association, Owners and their lessees and their family members, guests and invitees in accordance with this Water Oaks Declaration.

## 2.2 RESTRICTIONS ON OCCUPANCY AND USE OF THE LAND

In consideration of the benefits hereinafter contained and the payment of the Association Expenses referred to herein, the entities executing this instrument hereby declare the Land, including but not limited to the Lots and Villas, shall at all times be used, constructed, occupied and held subject to the following:

2.2.1 Plans and Specifications and Architectural Review Board. For the purpose of insuring the development of Water Oaks as an area of high standards, an architectural review board ("Board") shall be established as follows:

- A) The Board. Initially, the Board shall consist of at least three (3) persons designated by Developer, and Developer shall also retain the power to replace such designees. The members of the Board may be, but need not be, members of the ARC. At such time as Developer no longer owns any property within Watershire, or when Developer voluntarily so elects, Developer shall assign to the Association Developer's rights, powers, duties and obligations as to the Board, whereupon the Board of Directors of the Association shall appoint the members of the Board. In the event of the death or resignation of any member of the Board, the Developer or its assignee shall have the authority to designate a successor. Neither the members of the Board nor its designated representative shall be entitled to any compensation for any services pursuant to this Declaration.
- B) Board Action. A majority of the Board may designate a member of the Board to act for it. Approval or disapproval by a majority of the members of the Board (or by the member designated by the majority of the members) shall constitute the official approval or disapproval of the Board. Any approval or disapproval of the Board shall be subject to review by the ARC ("Appeal"). An Appeal may be made by either the Owner who submitted the initial request for approval to the Board, the Developer or the Association. The request for an Appeal shall be submitted in writing to the ARC within ten (10) days after issuance by the Board of its decision; provided, however, such time period may be extended in the sole discretion of the ARC. Unless extended as herein provided, any decision of the Board shall be final ten (10) days after issuance. Where a decision of the Board is appealed, the decision of the ARC shall be the final decision on the matter. Any written request for Appeal shall be accompanied by copies of all material submitted to the Board and by the written determination of the Board in reference to the matter. A request for Appeal shall also state the basis on which the person submitting the request for Appeal believes the decision of the Board should be changed.
- C) Requirement of Board Approval. No improvement or structure of any kind, including, without limitation, any building, wall, fence, swimming pool, tennis court, or screened enclosure, shall be erected, placed or maintained and no addition, alteration, modification or change to any such improvement or structure shall be made without the prior written approval of the Board.

2/20/86

001182

OR BOOK

001235

PAGE

- D) Method of Obtaining Board Approval. In order to obtain the approval of the Board, a complete set of plans and specifications for proposed construction and any all other reasonably requested information and materials related thereto ("Plans") shall be submitted to the Board for its review. The Plans shall include, as appropriate, the proposed location, grade, elevations, shape, dimensions, exterior color plans, landscaping plans, approximate costs, and nature, type and color of materials to be used. The Board may also require the submission of additional information and materials as may be reasonably necessary for the Board to evaluate the proposed construction or alteration. The Board shall evaluate all Plans utilizing standards of the highest level as to the aesthetic quality and materials and workmanship to be used and as to suitability and harmony of location, structure and external design in relation to surrounding topography and structures. Any improvements on the lots described on Exhibit A that are existing on the date of recordation of this Declaration ("Existing Improvements") shall be exempted from the approval required hereby, but any modification, alteration, or replacement of Existing Improvements shall be subject to the provisions hereof in such cases within the Land.
- E) Approval or Disapproval by the Board. The Board shall have the right to refuse to approve any Plans which, in its sole discretion, are not suitable or desirable. Any and all approvals or disapprovals of the Board shall be in writing and shall be sent to the respective Owner and the ARC. In the event the Board fails to approve or to disapprove in writing any proposed Plans within thirty (30) days after their submission to the Board, then said Plans shall be deemed to have been approved by the Board and the appropriate written approval delivered forthwith; provided, however, any Owner intending to rely upon the Board's failure to act, shall submit notice of such intention in writing to the ARC together with a copy of all materials submitted to the Board in connection with the Owner's application for approval ("Notice"). If, within thirty (30) days of submission of the notice and the Plans to the ARC, the ARC issues a written disapproval, or if an Owner fails to provide the ARC with Notice, the Plans shall be deemed disapproved notwithstanding anything herein to the contrary.
- F) Indemnification. Each and every member of the Board, specifically including but not limited to Developer's designated members, shall be indemnified by the Association and the Owners against all costs, expenses and liabilities, including counsel fees at all trial and appellate levels, reasonably incurred by or imposed upon him or her in connection with any proceeding, litigation or settlement in which he or she becomes involved by reason of being or having been a member of the Board. The foregoing provisions for indemnification shall apply whether or not he or she is a member of the Board at the time such expenses are incurred. Notwithstanding the above, in instances where a member of the Board admits or is adjudged guilty of willful misfeasance or malfeasance in the performance of his or her duties, the indemnification provisions of this Declaration shall not apply; otherwise the foregoing rights to indemnification shall be in addition to and not exclusive of any and all right of indemnification to which a member of the Board may be entitled whether by statute or common law.
- G) Enforcement. There is specifically reserved unto the Board the right of entry and inspection upon any Lot or other

2/20/86

001182

OR BOOK

001236

PAGE

portion of the Land for the purpose of determination by the Board whether there exists any construction of any improvement which violates the terms of any approval by the Board, the ARC, or the terms of this Declaration or of any other covenants, conditions and restrictions to which its deed or other instrument of conveyance make reference. The Board is specifically empowered to enforce the provisions of this Declaration by any legal or equitable remedy, and in the event it becomes necessary to resort to litigation to determine the propriety of any constructed improvement, or to remove any unapproved improvements, the prevailing party in such litigation shall be entitled to recover all court costs, expenses and reasonable attorneys' fees in connection therewith. The Association shall indemnify and hold harmless the Board from all costs, expenses and liabilities, including attorney's fees incurred by virtue of any member of the Board's service as a member of the Board.

- H) **Development Standards.** The Board is empowered to publish or modify from time to time, design and development standards ("Standards") for Water Oaks, including but not limited to standards for the following: i) Architectural design of improvements; ii) fences, walls and similar structures; iii) exterior building materials and colors; iv) exterior landscaping; v) exterior appearances relating to utility installations; vi) signs and graphics, mailboxes and exterior lighting; vii) building set backs, pools and pool decks, side yards and related height bulk and design criteria; viii) pedestrian and bicycle ways, sidewalks and pathways; and ix) all buildings, landscaping and improvements on land owned or controlled by the Association. The Standards shall be reasonable and in conformance with the plan of development of Water Oaks and Wyndemere. A copy of any Standards promulgated and any modification or amendment thereof shall be mailed to all Owners and their mortgagees and shall not be effective until placed among the Public Records of the County. No written consent of any Owner or mortgagee shall, however, be required to effect such amendment and reproduction.
- I) **Scope of Review.** The Board shall review and approve or disapprove all plans submitted to it for any proposed improvement, alteration or addition, solely on the basis of the aesthetic considerations and overall benefit or detriment which would result to the immediate vicinity and to Wyndemere and the Land as a whole. The Board shall take into consideration the aesthetic aspects of the architectural design, placement of buildings, landscaping, color schemes, exterior finishes and materials and similar features, and shall not be responsible for reviewing, nor shall its approval of any plans or design be deemed approval of, any design or plan from the standpoint of structural safety or conformance with building or other codes.
- J) **Variance from Standards.** The Board may authorize, subject to the approval of the ARC, in a reasonable manner so as not to destroy the general scheme or plans of the development of Water Oaks and of Wyndemere, variances from compliance with the Standards, as the same may be modified or amended by the Board from time to time, when circumstances such as topography, natural obstructions, hardship, aesthetics or environmental considerations may require. If any such variances are granted by the Board and approved by the ARC, no violation of the restrictions contained in this Declaration shall be deemed to have occurred with respect to

2/20/86

001182

OR BOOK 1

001237

PAGE

the matter for which the variance was granted. The granting of such a variance shall not operate to waive any of the terms and provision of this Declaration for any purpose except as to that particular property and particular provision hereof or standards promulgated hereby which are covered by the variance. Such variance shall be evidenced in writing and executed by a member of the Board and the members of the ARC.

2.2.2 Other Provisions As To Use Of The Land. The following occupancy and use restrictions shall apply to each Owner and his lessees and family members, guests and invitees:

- A) Residential Use. The Lots and all Lots enlarged, reduced or recreated by the shifting or relocation of property lines are restricted to residential use with each individual unit to be restricted to residence by a single family, its household, servants and guests. A construction shed or trailer may, at the sole discretion of Developer, be placed on a Lot and remain there temporarily during the course of active construction of a Villas Building. No other temporary buildings, including, but not limited to tents, trailers, tanks and shacks may be placed on a Lot without the prior written consent of the Association.
- B) No Trade, Business, Profession, Etc. No trade, business, profession, or any other type of commercial activity shall be carried on upon the Land. Notwithstanding the foregoing, Developer shall have the right to carry on construction activity and to transact on the Land any business necessary to consummate the sale, lease or encumbrance of Lots, Villas or other real property in Water Oaks or other developments within Wyndemere, including but not limited to the right to maintaining models and sales offices and have signs and employees in the offices. Developer may, from time to time, assign this commercial usage right (including the right to carry on construction activity) to such other persons or entities as Developer may choose while at the same time retaining such right for itself. The prohibition against commercial activity shall not prohibit the creation, within Wyndemere, and at the sole discretion of the Developer or of the Master Association, of a storage facility for "Prohibited Vehicles" (as hereinafter defined). Notwithstanding anything to the contrary herein contained, the provisions of this Paragraph may not be amended without Developer's prior written consent for so long as Developer owns at least one (1) Lot within Wyndemere.
- C) Nuisance. No Owner shall cause or permit to come from his Villa any unreasonable noises or obnoxious odors or commit or permit to be carried on in his Villa or elsewhere on the Land any nuisance or any immoral or illegal activities.
- D) Litter and Garbage Collection. No Owner shall sweep or throw from his Villa any dirt or other materials or litter in any way on to the Land. No garbage, trash, refuse or rubbish shall be deposited, dumped or kept on any part of the Land except in closed containers, dumpsters or other sanitary garbage collection facilities, and proper sized, closed plastic bags shall be placed for pick-up in accordance with any rules and regulations promulgated by the Association.
- E) Removal of Sod and Shrubbery; Alteration of Drainage, etc. Except for Developer's acts and activities in the development of Water Oaks and Wyndemere, no sod, topsoil, muck, trees or

2/20/86

001182

OR BOOK-

001238

PAGE

shrubby shall be removed from the Land and no change in the condition of the soil or the level of any Land shall be made which results in any permanent change in the flow or drainage of surface water of or within Water Oaks or which detrimentally affects adjoining Lots or other portions of Wyndemere, nor shall any tree or shrub, the trunk of which exceeds two inches (2") in diameter be cut down, destroyed or removed from a Lot without the prior express consent of the Association. No artificial grass, plants or other artificial vegetation shall be placed or maintained upon the exterior portion of any Lot unless approved by the Association. No weeds, underbrush or other unsightly vegetation shall be permitted to grow or remain upon any Lot, and no refuse pile or unsightly objects shall be allowed to be placed or suffered to remain anywhere thereon; and each Owner shall maintain his Lot in accordance with a landscaping plan as approved by the Association.

F) Signs. No sign of any kind shall be displayed to the public view on any of the Lots or Villas, except that "For Sale" or "For Rent" signs may be displayed on Lots or Villas, provided they shall not exceed five square feet in size, and are approved by the Board. Notwithstanding anything herein to the contrary, however, this provision shall not be a restriction upon Developer or Builders erecting signs which are approved by the Association or the ARC, advertising Water Oaks or Wyndemere, or any other sections thereof.

G) Dikes, Dams or Canal Walls. No dikes, dams or canal walls shall be erected or constructed except pursuant to a plan approved by the Association and appropriate governmental officials.

H) Docks, Boathouses, Waterfront Construction, and Shore Contours. No docks, bulkheads, moorings, pilings, boathouses, or boat shelters of any kind or any construction shall be erected on or over waterways of and within Water Oaks without the consent of the Association. The area, if any, between the rear lot line of the Lot and the water edge of any lake or other body of water within the Land shall be landscaped and/or sodded and maintained by the owner of said Lot as if said area were a portion of the Lot owned by said Owner. No person or persons whatsoever shall be permitted upon that portion of the Land lying between the rear lot line and the water's edge of any lake or other water body within the Land, except:

- i) The Owner from time to time of said adjacent Lot, his family, guests and invitees, or
- ii) An employee or contractor of the Association for the sole and exclusive purpose of performing maintenance upon and within said lake or other water body.

I) Boats. No boats shall be used upon any portion of the Land which is designed for water retention. The administration, management, operation and maintenance of the water retention areas and drainage system shall be the responsibility of the Master Association. The Master Association shall not waive or amend the foregoing maintenance obligation without the prior written consent of all Institutional Mortgagees and the South Florida Water Management District. The cost of administering, operating, maintaining, repairing, replacing

2/20/86

001182

OR BOOK

001239

PAGE

and reconstructing the water retention areas and drainage system and improvements shall be the responsibility of the Master Association.

J) **Water Supply.** No individual water supply system for drinking purposes or household use shall be permitted on any Lot. This provision, however, shall not preclude the installation of any water supply system for irrigation or sprinkler purposes; provided, however, that such system is located, constructed and equipped in accordance with the requirements, standards and recommendations of the Association and the applicable governmental authorities. Where a water supply system for irrigation or sprinkler purpose is installed by the Master Association, the Association, or Developer, and the use of such system will serve a conservation function, then Developer, the Association or the Master Association, as the case may be, may require that an Owner use such water and such a requirement may be promulgated by the Association as part of the Standards.

K) **Sewage Disposal.** No individual sewage disposal system shall be permitted on any Lot.

L) **Sidewalks.** Each Owner shall be responsible for keeping the sidewalk and bike paths abutting his Lot, if any, free from any obstruction and clutter including, but not limited to, bicycles, grass clippings and garbage.

M) **Lighting.** No lighting shall be permitted which alters the residential character of Wyndemere provided, however, nothing herein contained shall be deemed to prohibit the maintenance upon the roadways within Wyndemere of lighting as installed by the Master Association, the Developer or the Association for the purposes of lighting the roadways, sidewalks and parkways as Wyndemere and Water Oaks. No lighting of outdoor activity areas upon a Lot shall be permitted unless approved by the Association.

N) **Vehicular Parking.**

Except as provided in paragraph 2.2.2 N (ii) hereof, no person, firm or corporation shall park or cause to be parked on the Land, including but not limited to their Lot or in the streets, alleys or parkways abutting their Lot, any recreational vehicle, house trailer, boat, boat trailer or truck (including either tractor or trailer or both) which truck has a carrying capacity of over 3/4 ton ("Prohibited Vehicles"), for a period exceeding four hours.

ii) Any recreational vehicle, boat, boat trailer, panel truck, pick-up truck which has a carrying capacity not over 3/4 ton shall be permitted but shall be kept in a closed garage or screened from view from all other portions of Wyndemere by a fence or landscaping approved by the Association. Trucks having a carrying capacity of over 3/4 ton may be kept in a close garage.

iii) No maintenance or repair shall be done upon or to any vehicle (including, but not limited to, four wheel passenger automobiles) except within a closed garage and totally isolated from public view.

2/20/86

001182

OR BOOK

001240

PAGE

- (iv) Nothing herein shall prohibit the establishment by Developer (or, after the Conveyance Date, by the Association or the Master Association) an area within Wyndemere designated and available for the storage of prohibited vehicles if the establishment of such storage facility is otherwise permitted by applicable government regulation and approved by the Association and the ARC.
- 2.3.5 **Radio Transmission Equipment.** No ham radios or radio transmission equipment shall be operated or permitted to be operated in the Land without the prior written consent of the Association.
- 2.3.6 **Antennae and Aerials.** Except as may be permitted by the Association or by Developer, no antennae or aerials shall be placed upon the Land.
- 2.3.7 **Casualty Destruction to Improvements.** In the event a Villa is damaged or destroyed by casualty, hazard or other loss, then, within a reasonable period of time after such incident, the Owner thereof shall either commence to rebuild or repair the damaged Villa or improvement upon obtaining Association approval if required hereunder and shall diligently continue such rebuilding or repairing activities to completion or (upon a determination by the Owner thereof that the improvements will not be repaired or replaced) promptly clear damaged improvements and grass over and landscape the Lot in a sightly manner. Notwithstanding the foregoing, in the event the Owner rebuilds or repairs his damaged Villa or improvements without substantial alteration from what was existing prior to the damage or destruction, then the Association's approval shall not be required.
- 2.3.8 **Increase in Insurance Rates.** No Owner may take any action which will result in an increase in the rate of any insurance policy or policies covering any portion of Water Oaks.
- 2.3.9 **Reconstruction.** Any repair, rebuilding or reconstruction of damage Villas shall be substantially in accordance with the architectural plans and specifications for: (i) the originally constructed Villa; (ii) a previously reconstructed Villa; or (iii) new plans and specifications approved by the Association; provided however, any material or substantial change in the new plans and specifications approved by the Association from the plans and specifications of the previously constructed Villa (except such as are required by applicable law or building codes) shall require approval by the Institutional Mortgagees holding mortgages encumbering two-thirds (2/3) of the Villas to be reconstructed pursuant to such new plans and specifications ("Approving Mortgagees").
- 2.3.10 **Owner Liability.** An Owner shall be liable for the expense of any maintenance, repair or replacement of any real or personal property in Water Oaks rendered necessary by his act, neglect or carelessness, or by that of any member of his family, or his or their guests, employees, invitees, agents or lessees, but only to the extent that such expense is not met by proceeds of insurance which may be carried by the Association or the Master Association. Such liability shall include any increase in fire insurance rates occasioned by use, misuse, occupancy or abandonment of a Villa or the Common Areas. An Owner shall also be liable for any personal injuries caused by his negligent acts or those of any members of his family, or his or their guests, employees, invitees, agents or lessees. Nothing herein



2/20/86

001182

OR BOOK

001241

PAGE

contained, however, shall be construed so as to modify any waiver by insurance companies of rights of subrogation.

- 2.3.11 Rules and Regulations. Each Owner shall be subject to such rules and regulations with respect to Water Oaks as the Association determines from time to time to be in the best interest of Water Oaks and the Owners provided that no rules and regulations promulgated by the Association shall conflict with the provisions of the Master Declaration.

2.4 NON-SEVERABLE INTERESTS OF OWNERS. The ownership of a Lot, the Villas constructed thereon, all easement rights appurtenant thereto as provided for in this Water Oaks Declaration or any Supplemental Section Declaration including, but not limited to, utility and governmental services easements for encroachments, and structural cross easements with respect to "Common Structural Elements" (as hereinafter defined); membership in the Association; and all other appurtenances thereto under the Villa Documents (hereinafter collectively referred to as the "Interests"); shall not be severable, and an Owner shall not any may not sell, convey, demise, lease, assign, pledge or otherwise transfer or encumber any of his right, title or interest in and to his respective Interests or any of such Interests unless such sale, conveyance, demise, lease, assignment, pledge or other form of transfer or encumbrance includes all of his right, title and interest in and to the Interests including, but not limited to, the Villa and the Lot upon which it is constructed.

2.5 RIGHTS OF DEVELOPER. Notwithstanding any provisions in this Water Oaks Declaration as to use or otherwise to the contrary, Developer reserves the right to carry on construction, development and sales activities; place equipment, machinery; supplies and signs; construct and maintain models or other structures; and park vehicles of prospective or actual purchasers, lessees or employees and personnel of Developer on any part of the Land owned by Developer or the Association; and exercise the easement rights and all other rights granted Developer under the Villa Documents.

2.6 DISPUTES AS TO USE. In the event there is any dispute as to whether the use of the Land or any portion or portions thereof complies with the covenants, restrictions, easements or other provisions contained in this Declaration, such dispute shall be referred to the Board, and a determination rendered by the Board with respect to such dispute shall be final and binding on all parties concerned therewith. Notwithstanding anything herein to the contrary, disputes regarding the decisions of the Board shall be referred to the ARC, and a determination entered by the ARC with respect to such disputes shall be final and binding on all parties concerned therewith and any use by Developer of the Land or any part thereof determined by Developer, in its sole discretion, to be in accordance with Paragraph 2.5 above, regarding rights of Developer, shall be deemed a use of the Land which complies with this Declaration and such determination by Developer shall not be subject to any further determination or review to the contrary by the Board.

2.7 CONVEYANCE TO ASSOCIATION. Developer agrees that it shall convey or cause to be conveyed to the Association fee simple title in and to the Common Areas together with the improvements located thereon upon the "Conveyance Date" which shall be on or before sixty (60) days after the earlier of the following ("Turnover Event"):

- i) The conveyance by Developer of a total of ninety percent (90%) of the Lots within Water Oaks; or
- ii) Ten (10) years from the date hereof; or
- iii) When Developer shall determine that the development of Water Oaks has been completed; or
- iv) At such earlier time as Developer, in its sole discretion, may elect.

2/20/86

001182

OR BOOK

001242

PAGE

All such conveyances to the Association described herein shall be by Special Warranty Deed subject to (1) taxes for the year of conveyance and subsequent years; (2) such facts as an accurate survey would show; (3) the terms and provisions of the Villas Documents and the Master Declaration; (4) easements, restrictions, reservations, conditions and limitations of record; (5) applicable zoning ordinances and regulations. Subject to the foregoing, the Developer may make conveyances of less than the entire Common Area at such earlier times as the Developer sees fit.

## ARTICLE III

MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION;  
BOARD OF DIRECTORS

3.1 MEMBERSHIP AND VOTING RIGHTS. Membership in the Association shall be established and terminated as set forth in the Articles. Each Owner shall be entitled to the benefit of and is subject to, the provisions of the Water Oaks Documents as same may be amended from time to time. The voting rights of the Members shall be as set forth the Articles.

3.2 BOARD OF DIRECTORS. The Association shall be governed by the Board of Directors which shall be appointed, designated or elected, as the case may be, as set forth in the Articles.

3.3 INITIATION OF LEGAL ACTION. Notwithstanding anything contained herein to the contrary, the Association shall be required to obtain the approval of the Owners of three-quarters (3/4) of all Lots or Villas within the Land (at a duly called meeting of the Association at which a quorum is present) prior to the payment of legal or other fees to persons or entities engaged by the Association for the purpose of suing, or making, preparing or investigating any lawsuit, or commencing any lawsuit other than for the following purposes:

- 3.3.1 The collection of assessments and "Maintenance Fees"; or
- 3.3.2 The collection of other charges which Owners are obligated to pay pursuant to the Water Oaks Documents; or
- 3.3.3 The enforcement of the use and occupancy restrictions contained in the Water Oaks Documents; or
- 3.3.4 In an emergency where waiting to obtain the approval of the Owners creates a substantial risk of irreparable injury to the Land or to Owners.

3.4 DEVELOPER APPROVALS. If Developer holds Lots within Water Oaks for sale in the ordinary course of business, none of the following actions may be taken without approval in writing by Developer:

- 3.4.1 Assessment of Developer as an Owner for capital improvement; and
- 3.4.2 Any action by the Association that would be detrimental to the sale of Lots or Villas by Developer. The determination as to what actions would be detrimental to sales shall be in the sole discretion of Developer.

## ARTICLE IV

COMMON STRUCTURAL ELEMENTS

Each Villa Building contains or shall contain certain elements, features or parts which are structural elements of the Villa Building or of more than one Villa contained in said Villa Building (hereinafter referred to as "Common Structural Elements"). The Common Structural Elements of each Villa Building shall include the following:

2/20/86

001182

001243

OR BOOK

PAGE

4.1 **UTILITY LINES.** All utility lines, ducts, conduits, pipes, wires and other utility fixtures and appurtenances which are located on or within the Land and which directly or indirectly in any way service more than one Villa in the Villa Building in question, all of which are collectively referred to herein as the "Utility Lines".

4.2 **PARTY WALLS.** All division walls (hereinafter referred to as "Party Walls") between two Villas located upon a Lot line between two Villas (hereinafter referred to as "Lot Lines"), provided that the mere fact that such a division wall between two Villas is found to be not on a Lot line shall not preclude that division wall from being a Party Wall.

4.3 **ROOFING.** The entire roof of the Villas Building, any and all roof support structures, and any and all appurtenances to such roof and roof support structures including, but not limited to, the roof covering, roof trim and roof drainage fixtures, all of which are collectively referred to herein as the "Roofing".

4.4 **SIDING.** Any and all siding, finish, trim, exterior sheathings and other exterior materials and appurtenances on the exterior of the Villas Building, all of which are collectively referred to herein as the "Siding".

4.5 **FLOORING.** The entire concrete floor slab or wood floor system if utilized in lieu thereof and all foundational and support structures and appurtenances thereto, all of which are collectively referred to as the "Flooring".

ARTICLE V

USE AND MAINTENANCE OF THE LAND  
AND MAINTENANCE OF COMMON AREAS

5.1 COVENANTS FOR USE.

5.1.1 Each Owner, by acceptance of a deed or other instrument of conveyance conveying a Lot within Water Oaks, whether or not it shall be so expressed in such deed or instrument, covenants and agrees that the Villa and the Lot shall be used, held, maintained and conveyed solely in accordance with the covenants, reservations, easements, restrictions and lien rights regarding same as are or may be set forth in the Villas Documents including, but not limited to, this Water Oaks Declaration and all applicable Supplemental Sections Declarations.

5.1.2 No Owner shall in any way damage, injure or impair the Common Structural Elements.

5.2 **MAINTENANCE AND REPAIR OF LAND.** The maintenance and repair of the Land is either the responsibility of the Owners or the Association as hereinafter more particularly set forth:

5.2.1 Responsibility of Owners.

A) Each Owner shall maintain in good condition and repair at his own expense:

- 1) All portions of his Lot and Villa, except that all painting, refurbishing, staining or varnishing of any outside or exterior surfaces of the Villa Building ("Outside Maintenance") shall be the obligation of the Association.
- 11) All utility lines, ducts, conduits, pipes, wires and other utility fixtures and appurtenances which are located upon or under his Lot and which service only his Villa.

2/20/86

001182

OR BOOK

001244

PAGE

iii) All glass and screens in windows and doors, in a manner consistent and in uniformity with the standards promulgated by the Association.

Each owner shall perform promptly all such maintenance and repairs and shall be liable for any damages that arise due to his failure to perform such maintenance and repairs. Furthermore, should the negligence or willful misconduct of an Owner result in the need for work (including, but not limited to, work in the nature of maintaining or repairing portions of the Land of the Common Areas) which would otherwise be the responsibility of the Association, the Owner in question shall be liable to the Association for the cost and expense so incurred and shall be subject to a special assessment therefor.

B) Each Owner shall promptly report to the Association any defect known to such Owner which requires repair of the property for which the Association or a party other than that Owner is responsible.

5.2.2 Responsibility of Association for Villa Buildings. The Association shall be responsible for the maintenance and repair of all portions of the property which are not the responsibility of any individual Owner. All painting, refurbishing, staining or varnishing of any outside or exterior portion or surfaces of the Villa building ("Outside Maintenance") shall be the obligation of the Association.

In the case of a situation deemed an emergency by the Association or the failure of an Owner to perform proper maintenance, the Association may repair, replace, or maintain those portions of the Villa and/or the Land which are otherwise the responsibility of an Owner and levy a Special Assessment against such Owner for same.

5.2.3 Landscaping. In order to provide a means by which the covenants in this Declaration as to landscape maintenance by Owners of their Lots may be fulfilled without jeopardizing the security of Wyndemere by the possibility of admission thereto of a large number of landscaping or pool maintenance contractors and their agents and employees, the Association shall be responsible for the maintenance of landscaped Land in particular lawn care of each and every Lot within Water Oaks and shall also provide pool service (consisting of appropriate chemical maintenance and periodic cleaning) to any Lots upon which a swimming pool is constructed; provided, however, such duty of maintenance shall not extend to areas requiring unusual maintenance such as rose gardens or areas specifically designated by the Association as an "Area of High Maintenance" nor shall an Owner be hereby prohibited from providing pool services to his own pool. Areas of High Maintenance shall be maintained by the Owner of the Lot or by such special arrangement as may be approved by the Association. The Association shall contract for the maintenance of the Lots which shall be an Association Expense.

5.2.4 Provisions for Interpretation of Responsibilities. Notwithstanding any provision in this Declaration to the contrary, in the event any Common Structural Element requires maintenance, repair or replacement and the Association determines that the necessity for such maintenance, repair or replacement was not due to any act or failure to act on the part of the Owner of the Villa in question and that the cost of such maintenance, repair or replacement would result in an inequitable and unfair burden upon any particular Villa, then upon such determinations by the Association the cost of such maintenance, repair or replacement shall be determined to be the

2/20/86

001182

001245

OR BOOK'

PAGE

subject of a special assessment and shared equally by all of the Villas in the Villas Building. Decisions of the Association with respect to the foregoing shall be consistent.

- 5.2.5 **Maintenance and Repair of Common Areas.** Maintenance and repair of Common Areas and any improvements located thereon is the responsibility of the Association including landscape maintenance and drainage maintenance. The Association shall not waive or abandon the foregoing maintenance obligations without the prior written consent of all Institutional Mortgagees.

#### ARTICLE VI

##### ASSOCIATION EXPENSES

In order to fulfill the covenants contained in this Declaration and in order to maintain and operate the Villa Buildings and the Common Areas for the use, safety, welfare and benefit of Owners, their families, invitees, guests and lessees there is hereby imposed upon each Lot and its Owners the affirmative covenant and obligation to pay to the Association (in the manner set forth in Article VII hereof), and upon the Association, the obligation to assess, collect and expend, the Association Expenses, as those expenses are about to be more fully set forth and described.

##### 6.1 VILLA EXPENSE.

- 6.1.1 **Utility Charges.** All charges levied for utilities providing services for the Villas Buildings which are metered to a Villa Building and not separately metered to each individual Villa, whether supplied by a private firm or public utility, including any and all such charges for water, gas, electricity, sewer and other type of utility or service charge.
- 6.1.2 **Maintenance and Repairs.** Any and all expenses necessary to maintain and repair the portions of the Villa Buildings which are the responsibility of the Association in a manner consistent with the development of Waters Oaks, in accordance with the covenants and restrictions contained herein and in conformity with all applicable federal, state and municipal laws, statutes, ordinances, rulings, regulations and orders.
- 6.1.3 **Miscellaneous Expenses.** The cost of all items of expense pertaining to or for the benefit of the Association Members not herein specifically enumerated, and which is determined to be Association Expenses by the Board of Directors.

##### 6.2 COMMON AREA.

- 6.2.1 **Taxes.** Any and all taxes levied or assessed at any and all times upon the Common Areas by any and all taxing authorities, including all taxes, charges, assessments and impositions and liens for public improvements, special charges and assessments, and water drainage districts and, in general, all taxes and tax liens which may be assessed against the Common Areas and against any and all personal property and improvements which are now or which hereafter may be placed thereon, including any interest, penalties and other charges which may accrue on such taxes.
- 6.2.2 **Utility Charges.** All charges levied for utilities providing services for the Common Areas, whether supplied by a private or public firm including, without limitation, all charges for water, gas, electricity, telephone, sewer and any other type of utility or service charge.
- 6.2.3 **Insurance.** The premiums on any policy or policies of insurance required to be obtained by the Association under this Declaration or the Villas Documents.

001182

001246

2/20/86

OR BOOK:

PAGE

6.2.4 Maintenance, Repair and Replacement. Any and all expenses necessary to:

A) Maintain and preserve the Common Areas (including such expenses as grass cutting, tree trimming and other landscape maintenance, operating and maintaining sprinklers and the like); and

B) To keep, maintain, repair and replace any and all improvements upon the Common Area in a manner consistent with the development of Water Oaks, the covenants and restrictions contained herein and all orders, ordinances, rulings and regulations of any and all federal, state and city governments having jurisdiction thereover as well as the statutes and laws of the State of Florida and the United States.

6.2.5 Administrative Expenses. The costs of administration for the Association, including any secretaries, bookkeepers and other employees necessary to carry out the obligations and covenants of the Association under this Declaration, notwithstanding the fact that some of these services may be expended in providing services to or collecting sums owed by particular Owners. In addition, the Association may retain a managing company or contractor to assist in the operation of Water Oaks and to perform or assist in the performance of certain obligations of the Association hereunder. The fees or costs of any management company or contractor so retained shall be deemed to be part of the Common Area Expenses.

6.2.6 Indemnification. The costs to the Association to indemnify and save harmless Developer from and against any and all claims, suits, actions, damages and/or causes of action arising from any personal injury, loss of life and/or damage to property sustained in or about the Common Areas or the appurtenances thereof from and against all costs, counsel fees, expenses and liabilities incurred relating to any such claim or in settlement thereof, the investigation thereof or the defense at any levels of any action or proceedings brought thereon, and from and against any order, judgments and/or decrees which may be entered therein. Included in the foregoing provisions for indemnification are any expenses that Developer may be compelled to incur in bringing suit for the purpose of enforcing rights hereunder, or for the purpose of compelling the specific enforcement of the provisions, conditions, covenants and restrictions contained in this Water Oaks Declaration to be kept and performed by the Association and/or the Owners, including the payment of Association Expenses.

Further, the costs to the Association of indemnifying its Officers and members of the Board of Directors for all costs and expenses whatsoever incurred in the pursuance of their duties, obligations and functions hereunder and in any legal defense of such actions or in settlement thereof including, without limitation, counsel fees and costs at all levels of any trial or appeal or other proceeding, costs or investigation and discovery.

Nothing in the provisions of this Paragraph 6.2.6 shall require an Institutional Mortgagee to pay any Association Expenses or portion thereof attributable to costs to the Association to indemnify and save harmless Developer in accordance with such Paragraph. Any such Association Expenses shall be reallocated amongst the Owners other than the Institutional Mortgagees.

001182

001247

2/20/86

OR BOOK 7

PAGE

- 6.2.7 **Enforcement.** Any and all expenses incurred by the Association in enforcing any of the covenants, restrictions, terms and conditions of this Water Oaks Declaration or in curing any default, violation or failure to perform or abide by such covenants, restrictions, terms and conditions.
- 6.2.8 **Reserve Funds.** The costs to establish, at the discretion of the Association, an adequate reserve fund for replacement and/or capital refurbishment of the Common Areas in amounts determined proper and sufficient by the Association. Each Owner acknowledges, understands and consents that such reserve funds are the exclusive property of the Association as a whole and that no Owner shall have any interest, claim or right to any reserve funds. The Association shall be responsible for maintaining the reserve funds in a separate reserve account and to use such funds only for capital costs and expenses as aforesaid.
- 6.2.9 **Miscellaneous Expenses.** The costs of all items of expense pertaining to or for the benefit of the Common Areas or any part thereof, or the Association or Water Oaks not herein specifically enumerated and which is determined to be a Common Area Expense by the Association including, but not limited to, the cost of refuse collection, the cost of providing security services to Water Oaks in the event the Board of Directors elects to provide such services.

## ARTICLE VII

METHOD OF DETERMINING ASSESSMENT OF ASSOCIATION EXPENSES

7.1 **ASSESSMENTS.** It is hereby declared, and all Owners and the Association agree, that the Association Expenses shall be disbursed by the Association out of funds assessed and collected from and paid by all Owners in Water Oaks.

7.2 **DETERMINING INDIVIDUAL ASSESSMENTS.**

- 7.2.1 As provided in the Bylaws of the Association, the Board shall prepare an annual estimated Budget which shall reflect the estimated Common Area Expenses, and other Association Expenses. Thereupon the Board of Directors shall allocate to all Lots for which a Certificate of Occupancy for a Villa or Villas has been issued by the appropriate governmental authority an equal share of the Common Area Expenses and shall allocate to each Villa a prorata share of such expenses. The share of the Association Expenses (including the Maintenance Fee) allocated to a Villa Owner is the "Individual Assessment" for each Villa.
- 7.2.2 For purposes of assessments, the number of Villas located in Water Oaks shall include all Villas located upon Land for which a Certificate of Occupancy has been issued by an appropriate governmental agency, and the number of Villas contained in any Villa Building which is subsequently destroyed, damaged or demolished shall be the number of Villas originally constructed thereon until such time as the structure is replaced and a new Certificate of Occupancy is issued, whereupon the number of Villas contained in the replaced structure shall be used.
- 7.2.3 The Individual Assessments shall be payable in advance on a monthly or quarterly basis, as the Association shall determine.

2/20/86

001182

OR BOOK

001248

PAGE

### 7.3 DETERMINATION OF INDIVIDUAL ASSESSMENTS DURING THE INTERIM PERIOD.

7.3.1 The term "Interim Period" means that period of time commencing with the date of the recordation of this Declaration amongst the Public Records of the County and continuing for a period of one (1) year or until the Turnover Event, whichever is the sooner to occur.

7.3.2 It is declared and agreed by the Association and Developer that the Owners, exclusive of Developer, shall each pay the "Guaranteed Assessments" (as hereinafter defined) to the Association as Individual Assessments during the Interim Period prorated as of the date of the conveyance of title of a Lot to the Owner by Developer. The "Guaranteed Assessments" shall be Eighty Dollars (\$80.00) per Villa per month in addition to any assessments payable to the Master Association. Developer covenants and agrees with the Association and the Owners, exclusive of Developer, that during the Interim Period, Developer will pay the difference, if any, between: 1) the Association Expenses, including that portion of the Maintenance Fee attributable to landscape maintenance but not including the portion of expenses attributable to Areas of High Maintenance, pool maintenance, or any expenses incurred due to an Owner's negligence or willful misconduct; and 2) the Guaranteed Assessments period. During the Interim Period, Developer shall not be required to make any payments of Individual Assessments for Association Expenses for Lots owned by Developer and for which there has been no Certificate of Occupancy issued.

7.3.3 Developer may extend the Interim Period for an unlimited number of additional six-month periods by providing the Association notice at least sixty (60) days prior to the then current date set forth the end of the Interim Period of Developer's intention to extend the Guaranteed Assessments.

7.4 SPECIAL ASSESSMENTS. "Special Assessments" include, in addition to other assessments designated as Special Assessments in the Villas Documents and whether or not for a cost or expense which is included therein the definition of "Association Expenses", those assessments which are levied for capital improvements which include the costs (whether in whole or in part) of constructing or acquiring improvements for, or on, the Common Areas or the cost (whether in whole or in part) of reconstructing or replace such improvement or improvements on the Land and any other assessments in addition to the Individual Assessments as shall be levied by the Board of Directors as a result of: i) extraordinary items or expense under this Declaration; ii) the failure or refusal of other Owners to pay assessments of Association Expenses; and iii) such other reason or basis determined by the Board which is not inconsistent with the terms of any of the Villas Documents. Notwithstanding anything to the contrary herein contained, it is recognized and declared that Special Assessments shall be in addition to, and are not part of, the Guaranteed Assessment and any such Special Assessments assessed against Villa Owners thereof shall be paid by such Owners in addition to any such Guaranteed Assessments. Special Assessments shall be assessed in the same manner as the Individual Assessment provided that no Villa owned by Developer shall be subject to any Special Assessments without the prior written consent of Developer. Any Villas owned by Developer which are not subject to a Special Assessment shall not be deemed to be Villa in determining the respective amount of such Special Assessments being assessed against the Villas subject thereto. Special Assessments shall be paid in such installments or in a lump sum as the Directors shall, from time to time determine.

7.5 LIABILITY OF OWNERS FOR INDIVIDUAL ASSESSMENTS. By the acceptance of a deed or other instrument of conveyance of a Lot in Water Oaks, each Owner thereof acknowledges that each Lot and the Owners thereof are jointly and severally liable for their own Individual Assessment and their applicable



2/20/86

001182

OR BOOK

001249

PAGE

portion of any Special Assessments (as to Special Assessments, subject to the limitations thereon relating to Villas owned by Developer) as well as for all assessments for which they are liable as provided for herein. Accordingly, subject to such specific limitations, it is recognized and agreed by each Owner for himself and his heirs, executors, successors and assigns, that in the event Owners fail or refuse to pay their Individual Assessment or any portion thereof or their respective portions of any Special Assessments, then the other Owners may be responsible for increased Individual Assessments or Special Assessment due to the nonpayment by such other Owners, and such increased Individual Assessment or Special Assessment can and may be enforced by the Association and the Developer in the same manner as all other assessments hereunder as provided in this Declaration. The limitations applicable to Villas owned by Developer insofar as Special Assessments are concerned also apply to any portion of an assessment arising from the failure of any Owner to pay a Special Assessment or any portion thereof.

## ARTICLE VIII

ESTABLISHMENT AND ENFORCEMENT OF LIENS

8.1 LIENS. Any and all Individual Assessments for Association Expenses, and Special Assessments and all installments thereof (collectively the "Assessments") with interest thereon at the highest rate allowed by law and costs of collection, including attorneys' fees, are hereby declared to be a charge and continuing lien upon Lot and/or Villa against which each such Assessment is made. Each Assessment against a Lot and/or Villa, together with interest thereon at the highest non-usurious rate allowed by law (and if no such rate is specified by law, then at eighteen percent (18%) per annum) and costs of collection thereof, including attorneys' fees, shall be the personal obligation of the person, persons or entity owning the Lot and/or Villa assessed. Said lien shall be effective only from and after the time of recording amongst the Public Records of the County of a written acknowledged Claim of Lien by the Association setting forth the amount due to the Association as of the date the Claim is signed. Upon full payment of all sums secured by that lien, the party making payment shall be entitled to a recordable satisfaction of the Claim of Lien. Where an Institutional Mortgagee obtains title to a Lot and/or Villa as a result of foreclosure of its mortgage or deed given in lieu of foreclosure, such acquirer of title, its successors and assigns, shall not be liable for the share of Assessments pertaining to such Lot and/or Villa or chargeable to the former Owner which become due prior to the acquisition of title as a result of the foreclosure, unless such share is secured by a claim of lien for Assessments that is recorded prior to the recording of the foreclosed mortgage. Such unpaid share of Assessments shall be deemed to be Assessments collectible from all other Lots and/or Villas in Water Oaks. The foregoing shall not excuse an Institutional Mortgagee from payment of Assessments pertaining to a Lot and/or Villa which accrue during the period of ownership of such Lot and/or Villa by such Institutional Mortgagee whether or not such Lot and/or Villa is occupied.

8.2 ENFORCEMENT. In the event any Owner shall fail to pay Assessments or any installment thereof charged to his Lot within fifteen (15) days after the same becomes due ("Delinquent Owner"), then the Association, through its Directors, shall have any of the following remedies to the extent permitted by law:

- 8.2.1 To accelerate the entire amount of any Assessments for the remainder of the calendar year notwithstanding any provisions for the payment thereof in installments.
- 8.2.2 To advance on behalf of the Delinquent Owner funds to accomplish the needs of the Association and the amount or amounts of monies so advanced, including reasonable attorneys' fees and expenses which might have been reasonably incurred because of or in connection with such advance, including costs and expenses of the Association if it must borrow to pay expenses because of the Delinquent Owner, together with interest at the highest

2/20/86

001182

001250

OR BOOK

PAGE

non-usurious rate allowable by law (and if no such rate is specified by law, then an eighteen percent [18%] per annum), may thereupon be collected or enforced by the Association and such advance or loan by the Association shall not waive the default.

- 8.2.3 To place of record a claim of lien against the Villa and/or Lot of the Delinquent Owner.
- 8.2.4 To file an action in equity to foreclose its lien at anytime after the effective date thereof. The lien may be foreclosed by an action in the name of the Association in like manner as a foreclosure of a mortgage on real property.
- 8.2.5 To file an action at law to collect said Assessment plus interest at the high non-usurious rate allowable by law (and if no such rate is specified by law, then at eighteen percent [18%] per annum) plus court costs and attorneys' fees without waiving any lien rights and/or rights of foreclosure in the Association.

8.3 **COLLECTION BY DEVELOPER.** In the event for any reason the Association fails to collect the Assessments, then in that event Developer, until the Developer no longer owns a Lot, shall have the right to collect the same in the same manner as the Association.

ARTICLE IX

INSURANCE

9.1 **VILLA BUILDING INSURANCE.** Each Owner shall purchase insurance for his Villa (including but not limited to the Common Structural Elements which are a part thereof) in an amount equal to one hundred percent (100%) of the "replacement value" thereof. The term "replacement value" shall mean one hundred percent (100%) of the the current replacement costs exclusive of Land, foundation, excavation, items of personal property and other items normally excluded from coverage. Such insurance shall contain an "Agreed Amount Endorsement" or its equivalent, "Inflation Guard Endorsement", and if required, Flood Insurance sponsored by the Federal Government, and if determined necessary, an "Increased Cost of Construction Endorsement" or a "Demolition Endorsement" or the equivalent. Such insurance shall insure the Villa from loss or damage caused by or resulting from at least the following: fire, and other hazards covered by the standard extended coverage endorsement, and by sprinkler leakage, windstorm, vandalism, malicious mischief, Flood (if required) and/or water damage, debris removal and demolition, and such other risks as shall customarily be covered with respect to projects or developments similar to Water Oaks in construction, location and use.

Any repair, rebuilding or reconstruction of damaged property shall be substantially in accordance with (1) the architectural plans and specifications for the originally constructed or reconstructed Villa Building; or (2) new plans and specifications approved by the Association ("New Plans"); provided however, any material or substantial change in the New Plans from the plans and specifications of the Villa as previously constructed shall require approval by any mortgagees holding mortgages encumbering any portion of the Villa subject to the New Plans.

Each such Owner shall pay for the foregoing insurance with respect to his Villa(s) and shall supply to the Association a copy of the policy in effect and a certificate showing the premium for such insurance to have been paid for the then forthcoming year. Each Owner shall also obtain the flood insurance sponsored by the federal government with respect to his Villa, provided same is available.

If any Owner ("Delinquent Owner") shall fail to obtain such insurance as is required hereby or shall fail to supply satisfactory evidence to the

2/20/86

001182

OR BOOK

001251

PAGE:

Association that such insurance is in full force and effect, the Association shall have the right, but not the obligation, to obtain such insurance and obtain a reimbursement from the Delinquent Owner for the premium together with interest at the highest rate allowable by law. The Association is hereby irrevocably appointed agent for each Delinquent Owner for purposes of the Association obtaining such insurance. The cost of such premiums together with interest thereon at the highest non-usurious rate allowed by law and the expenses of collection (if any), including court costs and reasonable attorneys' fees at all trial and appellate levels shall become a lien upon the Villa of the Delinquent Owner. The Delinquent Owner shall be personally liable to the Association for the foregoing amount advanced by the Association. In the event the Delinquent Owner does not pay same within twenty (20) days of notice thereof, the Association may proceed to enforce and collect such amounts from the Delinquent Owner in any manner provided for by laws of the State of Florida, including foreclosure and sale of the Villa. Said lien shall be effective only from and after time of recordation amongst the Public Records of Collier County, Florida of a written, acknowledged statement signed by an authorized agent of the Association setting forth the amount due. All sums expended shall earn interest at the highest non-usurious rate permitted under law, but in no event in excess of the rate of eighteen (18) percent per annum. Upon full payment of all sums secured by the lien, the party making payment shall be entitled to a recordable Satisfaction of Lien.

Subject to the rights of an Institutional Mortgagee as expressed in the mortgage held by it on a Villa, any proceeds paid under any such policy as a result of damage to or destruction of a Villa shall be utilized, to the extent necessary, toward the restoration of such Villa and, if such proceeds are insufficient therefor, the Owner in question shall be responsible for such additional sums as are necessary to so restore the Villa in question. Notwithstanding the foregoing, in the event the deficiency between the estimated cost of repair and replacement of a damaged Villa and the insurance proceeds exceed the sum of \$50,000 and the Owners of the Villa in such Villa Building advise the Association in writing, within ten (10) days of the amount of such deficiency having been established that they are opposed to a Special Assessment with respect thereto, then, and in such event occurring, such Owners of the Villa Building in question need not utilize the proceeds of such insurance towards the restoration and repair of the Villa.

9.2 COMMON AREAS INSURANCE. The Association shall purchase the following coverage for the Common Areas subject to the following provisions:

9.2.1 Liability Insurance. The costs of the policy or policies of insurance in the form generally known as Public Liability and/or Owners policies insuring the Association against any and all claims and demands made by any person or persons whomsoever for injuries received in connection with the use, operation and maintenance of Common Areas and improvements and buildings located thereon, or for any other risk insured against by such policies which the Association, in its sole discretion, determines to insure against. Each policy purchased by the Association shall have limits of not less than One Million Dollars (\$1,000,000) covering all claims for personal injury and One Hundred Thousand Dollars (\$100,000) for property damage arising out of a single occurrence. The coverage of the liability insurance policies purchased by the Association shall include protection against liability for property damage, bodily injuries and deaths of person in connection with the operation, maintenance or use of the Common Areas, legal liability arising out of law suits related to employment contracts of the Association, water damage liability, liability for non-owned and hired automobiles, liability of hazards related to usage and liability for property of others. All such policies will name the Association (and Developer for so long as Developer shall own any portion of the Common Areas as their respective interests may appear) as the insured under such policy or

2/20/86

001182  
OR BOOK001252  
PAGE:

policies. The insurance purchased shall contain a "severability of interest endorsement", or equivalent coverage, which would preclude the insurer from denying the claim of an Owner because of the negligent acts of either the Association, the Developer of any other Owners or deny the claim of either the Developer or the Association because of the negligent acts of an Owner.

9.2.2 **Casualty Insurance.** The costs of the policy or policies of insurance to allow the Association to insure any improvements now located or which may hereafter be located, built or placed upon the Common Areas against loss or damage caused by or resulting from at least the following: fire and other hazards covered by the standard extended coverage endorsement, sprinkler leakage, windstorm, vandalism, malicious mischief, water damage, debris removal and demolition, and such other risks as the Association shall determine are customarily covered with respect to developments similar to Water Oaks in construction, location and use.

9.2.3 **Fidelity Coverage.** Adequate fidelity coverage to protect against dishonest acts of the officers and employees of the Association and the Directors and all others who handle and are responsible for handling funds of the Association, such coverage to be in the form of fidelity bonds which meet the following requirements:

- A) Such bonds shall name the Association as an obligee;
- B) Such bonds shall be written in an amount equal to at least one hundred fifty percent (150%) of the estimated annual Association Expense; and
- C) Such amounts shall contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression.

9.3 **MISCELLANEOUS INSURANCE.** The Association may also obtain such forms of insurance and in such coverages as the Association shall determine for the protection and preservation of the Common Areas. Such insurance may include, without limitation, workmen's compensation insurance and Flood insurance.

9.4 **POLICY CANCELLATION.** All insurance policies and fidelity bonds obtained by the Association shall provide that they may not be cancelled or substantially modified without at least ten (10) days' prior written notice to the Association.

9.5 **INSURANCE TRUSTEE.** The Board of Directors may, if it deems it to be in the best interests of Water Oaks, provide that insurance policies be deposited with an Insurance Trustee whose duty shall be to receive any and all proceeds from the insurance policies held by it as such Insurance Trustee and to pay such proceeds to the Association pursuant to the terms hereof.

#### ARTICLE X

##### GRANT AND RESERVATION OF EASEMENTS

As the Owner of those portions of the Land committed or which may be committed to the terms hereof, Developer and Consenting Existing Owners, as their interest may appear, hereby reserve and grant the following easements over and across the Land for the duration of the term of this Declaration (except as hereafter provided) and for the benefit of the parties or properties as hereinafter specified for the following purposes:

10.1 **UTILITY AND GOVERNMENTAL SERVICES EASEMENTS.** An easement or easements to provide utility services, including (but not limited to) power, electric

2/20/86

001182

OR BOOK

001253

PAGE.

transmission, television cable, light, telephone, gas, water, sewer, and drainage and governmental services including police and fire protection including rights of access to maintain, repair, replace or install fixtures and appurtenances necessary for such utility and governmental services for the benefit of the appropriate utility companies, agencies, franchises or governmental agencies.

**10.2 RIGHTS-OF-WAY.** A perpetual nonexclusive easement is hereby declared, granted and reserved in favor of Developer, Developer's grantees, the Association, the Master Association, Owners and "Owners" (as defined in the Master Declaration) within any portion of Wyndemere, their lessees and family members, guests and invitees over and upon the walks and other rights-of-way within the Common Areas to provide ingress, egress and access to and from, through and between the Land and publicly dedicated roads.

**10.3 EASEMENT FOR ENCROACHMENT.**

(i) An easement for encroachment in favor of all Owners in the event any portion of any of the Villas now or hereafter encroaches upon any of the other Villas, Lots or other portions of Water Oaks as a result of minor inaccuracies in survey, construction or reconstruction, or due to settlement or movement, (ii) an easement for encroachment in favor of Developer, Owners and the Association where any portion of the Common Areas encroaches upon any portion of the Land or any Lot therein, (iii) an easement in favor of the Owner of each Villa for encroachment of any portion of the Villa upon the Common Areas, (iv) any encroaching improvements shall remain undisturbed for so long as the encroachment exists. The easements for encroachment include an easement for the maintenance and use of the encroaching improvements in favor of the Owner or Owners thereof and their designees.

**10.4 STRUCTURAL CROSS-EASEMENTS.** Cross easements of support and use in favor of each of the Owners within a Villa Building for the continued use, benefit and enjoyment and continued support, service and design of all Common Structural Elements and utility lines within a Villa Building.

**10.5 RIGHT OF ASSOCIATION TO ENTER UPON THE LAND.** An easement or easements for ingress and egress in favor of the Association by its Board or the designees of the Association to enter upon each portion of the Land for the purpose of fulfilling its duties and responsibilities of ownership, administration, maintenance and repair in accordance with the Villas Documents.

**10.6 USE AND ENJOYMENT OF COMMON AREAS.** A nonexclusive easement for the use and enjoyment and for access over and to the Common Areas on behalf of Developer, the Association, and all Water Oaks Owners, their lessees, family members, guests and invitees; provided, however, an Owner's easement to such use and enjoyment may be temporarily suspended by the Association upon written notice for a period not to exceed thirty (30) days for failure of an Owner, his lessee, or their family members, guests or invitees to conform to the rules and regulations promulgated by the Association in regard to use of the Common Areas.

**10.7 EASEMENT FOR OWNERS WITHIN WYNDEMERE.** An easement in favor of the owners of any residential dwelling unit now or hereafter located upon any portion of Wyndemere for purposes of ingress and egress across, over and upon the Land and the private roadways located or to be located thereon to and from publicly dedicated rights-of-way.

**10.8 ASSIGNMENT; ADDITIONAL EASEMENTS.** The easements reserved hereunder unto Developer may be assigned by Developer in whole or in part to the Association, any city, county or state government or agency thereof, or any duly licensed or franchised public utility, or any other designee of Developer. The Owners, by the acceptance of a deed of conveyance of a Villa, authorize Developer and/or the Association to execute on their behalf and without further authorization, such grants of easement or other instruments as may, from time to time, be necessary to grant easements over and upon the Land or any portion or portions thereof in accordance with or to implement the provisions of this

001182

001254

2/20/86

OR BOOK

PAGE

Article. Notwithstanding the foregoing, no such easement shall be permitted or deemed to exist which causes any buildings, permanent structures or other permanent facilities within Water Oaks which have been constructed (i) in accordance with the Villa Documents; and (ii) prior to the use of such easement; to be materially altered or detrimentally affected thereby nor shall any such easement be granted or deemed to exist under any such structures or buildings so built in accordance with this Declaration and the Villas Documents prior to the actual use of such easement. The foregoing shall not preclude such easements under then-existing improvements other than buildings or structures provided that the use and enjoyment of the easement and the installation of facilities in connection therewith would not result in other than minor, temporary alterations to such improvements other than a building or structure (such as, but not limited to, temporary alteration or removal of a fence or temporary excavation within a paved area) and provided that same is repaired and/or restored by the one making use of such easement at its expense and within a reasonable time thereafter.

## ARTICLE XI

## CONDEMNATION

11.1 TAKING OR PARTIAL TAKING. If at any time during the term of this Declaration the whole or any portion of the Common Areas shall be taken ("Taken Area") for any public or quasi-public purpose by any lawful power or authority by the exercise of the right of eminent domain or by agreement between those authorized to exercise such right (hereinafter for the purpose of this Paragraph called "Condemnation"), this Declaration and all obligations hereunder as to the Taken Area shall terminate and expire on the date of such taking, and Expenses provided to be paid for such Taken Area shall be apportioned and paid to the date of such taking. The Association shall represent the Owners in the condemnation proceedings or negotiations, settlements and/or agreements with the condemning authority for acquisition of the Taken Area, or part thereof, by the condemning authority.

11.2 DIVISION OF AWARDS. The rights of Developer and other Owners in and to the net award or awards ("Taken Area Award") after any Condemnation (after reasonable fees and expenses of collection) shall be determined as follows:

11.2.1 To the extent that Developer owns any Villas or Lots, Developer shall participate in any Taken Area Awards for its interest in the Common Areas along with and to the lesser degree than other Owners.

11.2.2 The Association shall have the right to attend and participate in all hearings relevant to the Condemnation and to receive notice from Developer of such hearings.

11.3 REPAIR AND PLACEMENT. If any improvements upon the Common Areas not included in the Taken Area shall be damaged or partially destroyed by and Condemnation, then the Association shall proceed with reasonable diligence to demolish, if necessary, and to construct, repair, replace or rebuild such improvements so such improvements are complete and in good condition and repair. The Association shall hold that portion, if any, of the Taken Area Award which represents consequential damages to said improvements or replacements thereof in trust for application of the same to the cost and expense as herein provided. Repair of such improvements shall be conducted under the supervision of any architect or engineer licensed in the State of Florida selected by the Association, and such work shall be done in accordance with plans and specifications prepared and approved in writing by such architect or engineer and submitted to Developer for approval, which approval shall not unreasonably be withheld.

11.4 TEMPORARY USE. If the temporary use of the whole or any part of the Common Areas shall be taken at any time during the term of this Declaration by the exercise of the right of Condemnation, the term of this Declaration shall

2/20/86

001182

001255

OR BOOK

PAGE

not be reduced or affected in any way, and the Association Expenses herein provided to be paid shall continue to be due and payable and the various Owners shall be entitled to the entire award granted by reason of such taking.

11.5 **TAKING OF LAND.** In the event of any Condemnation of the Land, the award therefor and with interest thereon as shall represent compensation for the value of the property taken shall be payable jointly to the record Owner or Owners and Institutional Mortgagee or Institutional Mortgagees thereof as of the date of taking in accordance with the respective interests in such property.

#### ARTICLE XII

##### ENFORCEMENT

The covenants and restrictions contained in the Villas Documents may be enforced by Developer, the Association, any Owner and any Institutional Mortgagee holding a first mortgage on a Villa or upon a portion of the Land in any judicial proceeding seeking any remedy recognizable at law or in equity, including damages, injunction or any other form of relief against any person, firm or entity violating or attempting to violate any covenant or restriction hereunder. The failure by any party to enforce any covenant, restriction or easement herein contained shall in no event be deemed a waiver of such covenant, restriction or easement or of the right of such party to thereafter enforce such covenant, restriction or easement. The prevailing party in any such litigation shall be entitled to reasonable attorneys fees.

#### ARTICLE XIII

##### AMENDMENT AND MODIFICATION

13.1 Prior to conveyance of a Villa by Developer as evidenced by the recording of the instrument of conveyance amongst the Public Records of the County, Developer may modify and/or amend this Declaration; provided, however, that any such modification and/or amendment shall be reflected in an instrument executed by Developer and recorded amongst the Public Records of the County.

13.2 Except as to amendments described in paragraphs 13.1, 13.2, 13.3, 13.4, 13.5, 13.6, 13.7 and 13.8, this Declaration may be amended at any regular or special meeting of the Owners called and held in accordance with the Bylaws by the affirmative vote of the Owners owning a majority of the Lots or Villas, provided that any amendment shall be approved or ratified by a majority of the Association as a whole. An amendment to the Declaration shall be evidenced by a certificate executed by the Association. A true copy of such amendment shall be sent by certified mail by the Association to Developer and all Institutional Mortgagees ("Mailing"). The amendment shall become effective upon the recording of the certificate amongst the Public Records of the County, but the certificate shall not be recorded until thirty (30) days after the Mailing, unless such thirty (30) day period is waived in writing by Developer and all Institutional Mortgagees.

13.3 Whenever it shall appear to the Association that there is a technical or minor defect, error or omission in the Declaration, the Association, through its Directors, may amend the Declaration. A true copy of such amendment shall be sent pursuant to the Mailing. The amendment shall become effective upon the recording of the certificate amongst the Public Records of the County, but the certificate shall not be recorded until thirty (30) days after the Mailing, unless such thirty (30) day period is waived in writing by Developer and all Institutional Mortgagees.

13.4 Prior to the conveyance of one-half (1/2) of the Lots, Developer may amend this Declaration provided that such amendment does not materially and adversely affect any Owner's, other than Developer's, property rights. This amendment shall be signed by Developer and a copy of the amendment shall be furnished to each Owner and the Association.

001182

001256

2/20/86

OR BOOK

PAGE

13.5 Notwithstanding anything contained in this Declaration, the Developer in its sole discretion without the consent of any Owners or the Association may execute and record a Supplemental Section Declaration to this Declaration and with the consent of Developer, an Existing Owner may execute a Joinder and Consent, declaring additional Land within Wyndemere to be subject to all of the terms, conditions, rights and obligations of Owners of Lots or Villas on the Land already committed.

13.6 No amendment shall be adopted which shall impair or prejudice the rights or priorities of Developer, the Association and any Institutional Mortgagee under this Declaration without the specific written approval of Developer, the Association or any Institutional Mortgagee affected thereby, nor shall any amendment which would affect the surface water management system, including the water management portions of the Common Areas be made without the prior approval of the South Florida Water Management District.

13.7 The following amendments shall require the affirmative votes of the Owners owning at least sixty-seven percent (67%) of the Lots:

13.7.1 Amend Article VII of this Declaration to change the method of determining the obligations, assessments, or other charges which may be levied against any Owner;

13.7.2 Amend Article IX of this Declaration to decrease the minimum insurance requirements as to either Villa Buildings or the Common Areas;

ARTICLE XIV  
TERM

This Declaration, and the terms, provisions, conditions, covenants, restrictions, reservations, regulations, easements, burdens and liens contained herein, including without limitation the provisions for assessment of a Villa, shall run with and bind the Land and inure to the benefit of Developer, the Association, Owners and their respective legal representatives, heirs, successors and assigns for a term of ninety (90) years from the date of the recording of this Declaration amongst the Public Records of the County, after which time this Declaration shall be automatically renewed and extended for successive periods of ten (10) years each, unless at least one (1) year prior to the termination of such ninety (90) year term or of any such ten (10) year extension thereof there is recorded amongst the Public Records of the County, an instrument signed by the then Owners owning two-thirds (2/3) of the Lots and all Institutional Mortgagees in existence one (1) year prior to the termination of such term or extension agreeing to terminate this Declaration, upon which event this Declaration shall be terminated upon the expiration of the ninety (90) year term or the ten (10) year extension during which such instrument of termination is recorded.

ARTICLE XV

GENERAL PROVISIONS

15.1 NOTICES. Any notices or other communication required or permitted to be given or delivered hereunder shall be deemed properly given and delivered upon the mailing thereof by United States mail, postage prepaid, to: (i) any Owner, to the last known address of the person whose name appears as the Owner on the records of the Association at the time of such mailing; (ii) the Association at 700 Wyndemere Way, Naples, Florida 33999, or such address as the Association shall hereafter notify Developer and all Owners in writing; and (iii) Developer at 700 Wyndemere Way, Naples, Florida 33999, or such other address or addresses as Developer shall hereafter notify the Association of in writing, any such notice to the Association of a change in Developer's address being deemed notice to the Owners.



2/20/86

001182

OR BOOK:

001257

PAGE

15.2 CAPTIONS. Article and Paragraph captions inserted throughout this Declaration are intended only as a matter of convenience and for reference only and in no way shall such captions or headings define, limit or in any way affect any of the terms and provisions of this Declaration.

15.3 CONTEXT. Whenever the context so requires, any pronoun used herein may be deemed to mean the corresponding masculine, feminine or neuter form thereof and the singular form of any nouns and pronouns herein may be deemed to mean the corresponding plural form thereof and vice versa.

15.4 SEVERABILITY. In the event any one of the provisions of this Declaration shall be deemed invalid by a court of competent jurisdiction, said jurisdictional determination shall in no way affect any of the other provisions hereof which shall remain in full force and effect. Further, the invalidation of any of the covenants or restrictions or terms and conditions of this Declaration or a reduction in the term of the same by reason of the rule of law known as the "rule against perpetuities" shall in no way affect any other provision which shall remain in full force and effect for such period of time as may be permitted by law.

15.5 The Association, pursuant to resolution duly adopted by its Board of Directors, shall have the continuing authority to delegate all or any portion of its responsibilities for maintenance, operation and administration, as provided herein, to any managing agency or entity selected by the Board of Directors from time to time.

15.6 ATTORNEYS' FEES. Any provision herein for the collection or recovery of attorneys' fees shall be deemed to include, but not be limited to, court costs and attorneys' fees for the attorneys' services at all trial and appellate levels and postjudgment proceedings and, unless the context clearly indicates a contrary intention, whether or not suit is instituted.

15.7 INTERPRETATION. In the event of a conflict between the provisions of this Declaration and the Articles and Bylaws, the provisions of this Declaration shall control. In the event of a conflict between this Declaration and the Master Declaration, the Master Declaration shall control.

15.8 RULE AGAINST PERPETUITIES. In the event any court should hereafter determine any provisions as originally drafted herein are in violation of the rule of property known as the "rule against perpetuities" or any other rule of law because of the duration of the period involved, the period specified in this Declaration shall not thereby become invalid, but instead shall be reduced to the maximum period allowed under such rule or law, and for such purpose, "measuring lives" shall be those of the signatories hereof.

IN WITNESS WHEREOF, this Declaration of Covenants, Restrictions and Easements for Water Oaks has been signed by Developer and the Association and the Master Association and the ARC and by other entities having a property interest in the Land submitted to this Declaration on the day and year first above set forth.

WITNESSES:

WYNDMERE FARMS DEVELOPMENT, INC.  
A Florida Corporation

*[Handwritten signatures]*

BY: *[Signature]*  
Russell G. Hobbs, Jr., PRES.

001182

001258

2/20/86

OR BOOK:

PAGE:

WATER OAKS ASSOCIATION, INC.  
A Florida Not-For-Profit Corporation

Patelli  
Matthew L. Pomeroy

BY: Ralph H. Haskins  
Ralph H. Haskins, President

Joined In, Acknowledged and Consented to by the following:

WYNDEMERE HOMEOWNERS ASSOCIATION, INC.  
a Florida Non-For-Profit Corporation

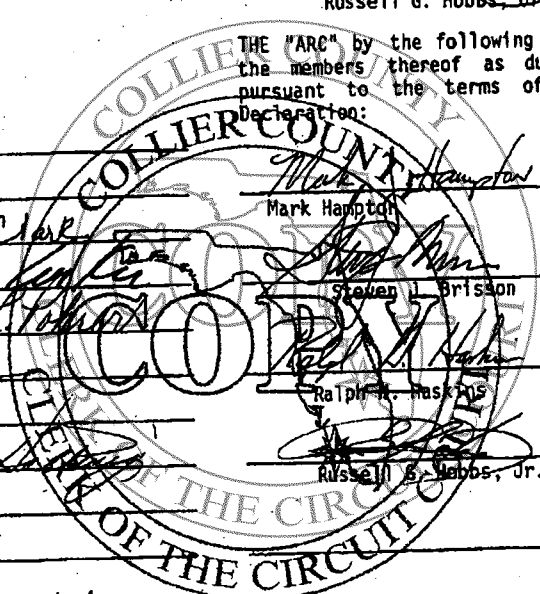
Judith A. Haskins  
James A. Haskins

BY: Russell G. Hobbs, Jr.  
Russell G. Hobbs, Jr., PRES.

THE "ARC" by the following being all of  
the members thereof as duly appointed  
pursuant to the terms of the Master  
Declaration:

W. S. Selt  
John Ellis  
Janet Clark  
Stanley Kent  
Matthew L. Pomeroy  
John W. Hill  
W. S. Selt  
Judith A. Haskins

Mark Hampton  
Mark Hampton  
Steven L. Brisson  
Steven L. Brisson  
Ralph H. Haskins  
Ralph H. Haskins  
Russell G. Hobbs, Jr.  
Russell G. Hobbs, Jr.



ISLAND VILLA HOMES, INC.  
A Florida Corporation

Ralph H. Haskins  
William E. Sandman

BY: William E. Sandman, President  
William E. Sandman

NAPLES EXECUTIVE ASSOCIATES LIMITED  
A Florida Limited Partnership  
By: Equity Management Associates, Inc.  
A Delaware Corporation, The General  
Partner of Naples Executive Associates

Katherine M. Wagnard  
Mary Ann Breaux

By: Katherine M. Wagnard, V.P.

001182  
OR BOOK

001259  
PAGE

2/20/86

STATE OF FLORIDA }  
COUNTY OF COLLIER }ss:

I HEREBY CERTIFY that on this day before me, an officer duly qualified to take acknowledgments, personally appeared Russell C. Hobbs, Jr. as President of WYNDEMERE FARMS DEVELOPMENT, INC., to me known to be the person described in and who executed the foregoing instrument and acknowledged before me that he executed the same.

WITNESS my hand and official seal in the County and State last aforesaid this 20th day of February, 1986.

Jamot C. Clark  
NOTARY PUBLIC  
MY COMMISSION EXPIRES:  
Notary Public, State of Florida at Large  
My Commission Expires May 19, 1989  
Bonded by Iowa National Ins. Co.

STATE OF FLORIDA }  
COUNTY OF COLLIER }ss:

I HEREBY CERTIFY that on this day before me, an officer duly qualified to take acknowledgments, personally appeared Robert H. Haskins as President of WATER OAKS ASSOCIATION, INC., to me known to be the person described in and who executed the foregoing instrument and acknowledged before me that he executed the same.

WITNESS my hand and official seal in the County and State last aforesaid this 3rd day of March, 1986.

Jamot C. Clark  
NOTARY PUBLIC  
MY COMMISSION EXPIRES:  
Notary Public, State of Florida at Large  
My Commission Expires May 19, 1989  
Bonded by Iowa National Ins. Co.

STATE OF FLORIDA }  
COUNTY OF COLLIER }ss:

I HEREBY CERTIFY that on this day before me, an officer duly qualified to take acknowledgments, personally appeared Russell C. Hobbs, Jr. as President of WYNDEMERE HOMEOWNERS ASSOCIATION, INC., to me known to be the person described in and who executed the foregoing instrument and acknowledged before me that he executed the same.

WITNESS my hand and official seal in the County and State last aforesaid this 28th day of February, 1986.

Jamot C. Clark  
NOTARY PUBLIC  
MY COMMISSION EXPIRES:  
Notary Public, State of Florida at Large  
My Commission Expires May 19, 1989  
Bonded by Iowa National Ins. Co.

2/20/86

001182

001260

OR BOOK

PAGE

STATE OF FLORIDA }  
COUNTY OF COLLIER }ss:

I HEREBY CERTIFY that on this day before me, an officer duly qualified to take acknowledgments, personally appeared Mark T. Hampton, Steven J. Brisson, Ralph H. Haskins, Russell C. Hobbs Jr. of "ARC" to me known to be the persons described in and who executed the foregoing instrument and acknowledged before me that they executed the same.

WITNESS my hand and official seal in the County and State last aforesaid this 3rd day of March, 1986.

Janet C. Clark  
NOTARY PUBLIC  
MY COMMISSION EXPIRES:  
Notary Public, State of Florida at Large  
My Commission Expires May 19, 1989  
Bonded by Iowa National Ins. Co?

STATE OF FLORIDA }  
COUNTY OF COLLIER }ss:

I HEREBY CERTIFY that on this day before me, an officer duly qualified to take acknowledgments, personally appeared William E. Sandman as President of ISLAND VILLA HOMES, INC., to me known to be the person described in and who executed the foregoing instrument and acknowledged before me that he executed the same.

WITNESS my hand and official seal in the County and State last aforesaid this 24 day of February, 1986.

Janet C. Clark  
NOTARY PUBLIC  
MY COMMISSION EXPIRES:  
Notary Public, State of Florida at Large  
My Commission Expires May 19, 1989  
Bonded by Iowa National Ins. Co?

STATE OF FLORIDA }  
COUNTY OF COLLIER }ss:

I HEREBY CERTIFY that on this day before me, an officer duly qualified to take acknowledgments, personally appeared Raymond J. DeAngelis as Vice President of Equity Management Associates, Inc., a Florida Corporation; The General Partner of Naples Executive Associates Limited, a Florida Limited Partnership, to me known to be the person described in and who executed the foregoing instrument and acknowledged before me that he executed the same.

WITNESS my hand and official seal in the County and State last aforesaid this 4th day of March, 1986.

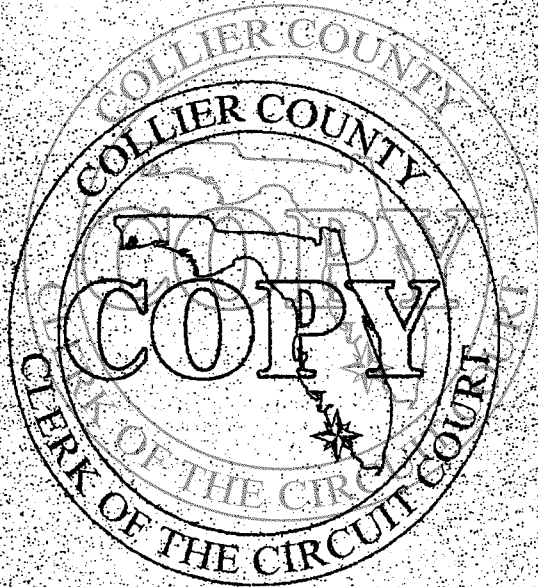
Kathleen M. Winfield  
NOTARY PUBLIC  
MY COMMISSION EXPIRES:  
NOTARY PUBLIC STATE OF FLORIDA  
MY COMMISSION EXP. APR 10, 1988  
BONDED THRU GENERAL INS. CO.

001182  
OR BOOK:

001261  
PAGE:

EXHIBIT A

THE LAND BEING SUBMITTED TO THE WATER OAKS COVENANTS IS THE LAND DESCRIBED IN THIS EXHIBIT "A" WHICH IS THE LAND DESCRIBED IN A-1, page 1 and 2 (11.40 acres), LESS THE LAND DESCRIBED IN EXHIBIT B, WHICH IS THE ROADWAY TRACT WHICH HAS BEEN CONVEYED TO THE WYNDEMERE HOMEOWNERS ASSOCIATION AS PART OF THE WYNDEMERE ROADWAY SYSTEM.

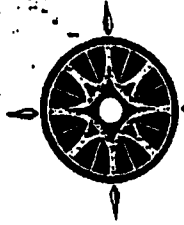


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OR BOOK

PAGE



WILSON, MILLER, BARTON, SOLL & PEEK, INC.  
 PROFESSIONAL ENGINEERS, PLANNERS AND LAND SURVEYORS

Description of the proposed plat of  
 "WATER OAKS AT WYNDEMERE" (not recorded)  
 being a part of parcels GG-1 and MM-2 of  
 "REPLAT OF PART OF WYNDEMERE TRACT MAP"  
 (P.B. 13, pages 39-43) Collier County, Florida

Commencing at the center of Section 19, Township 49 South, Range 26 East, Collier County, Florida;  
 thence along the north and south 1/4 section line of said Section 19, South 0°-11'-46" West 47.15 feet to a point on the boundary line of parcel "MM-2" of "REPLAT OF PART OF WYNDEMERE TRACT MAP" according to the plat thereof as recorded in Plat Book 13, pages 39 through 43, Public Records of Collier County, Florida and the POINT OF BEGINNING of the parcel herein described;

thence along said boundary line of parcel "MM-2" in the following (5) five described courses;

- (1) South 56°-20'-30" West 173.11 feet;
- (2) North 76°-31'-43" East 138.61 feet;
- (3) North 89°-36'-00" West 154.82 feet;
- (4) southwestwardly 78.23 feet along the arc of a non-tangential circular curve concave to the northwest, having a radius of 129.48 feet and being subtended by a chord which bears South 56°-29'-47" West 77.05 feet;
- (5) South 73°-58'-20" West 151.25 feet;

thence leaving said boundary line North 22°-30'-02" West 215.35 feet to a point on said boundary line of parcel "MM-2";  
 thence along said boundary line in the following (4) four described courses;

- (1) North 38°-58'-23" East 94.36 feet;
- (2) North 6°-00'-43" West 45.01 feet;
- (3) North 81°-03'-38" West 216.31 feet;
- (4) northeasterly 56.35 feet along the arc of a non-tangential circular curve concave to the northwest, having a radius of 50.00 feet and being subtended by a chord which bears North 47°-11'-31" East 53.41 feet;

thence leaving said boundary line North 22°-00'-00" West 59.08 feet;

thence North 35°-30'-00" East 118.99 feet;  
 thence North 65°-10'-14" East 63.53 feet to a point on said boundary line of parcel "MM-2";

thence along said boundary line in the following (3) three described courses;

- (1) South 82°-07'-42" East 334.44 feet;
- (2) North 80°-43'-28" East 94.63 feet;
- (3) North 71°-04'-48" East 109.00 feet;

thence leaving said boundary line, North 34°-00'-00" East 41.00 feet;

thence South 89°-00'-00" East 63.00 feet;  
 thence South 74°-45'-00" East 106.16 feet;  
 thence South 48°-00'-00" East 110.99 feet;  
 thence South 24°-00'-00" East 107.74 feet;  
 thence South 7°-00'-00" East 142.81 feet to a point on said boundary line of parcel "MM-2";

(continued on page 2)

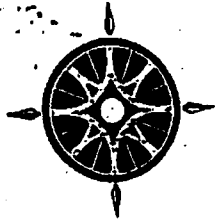
Exhibit A-1- page 1

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WILSON, MILLER, BARTON, SOLL & PEEK, INC.  
PROFESSIONAL ENGINEERS, PLANNERS AND LAND SURVEYORS

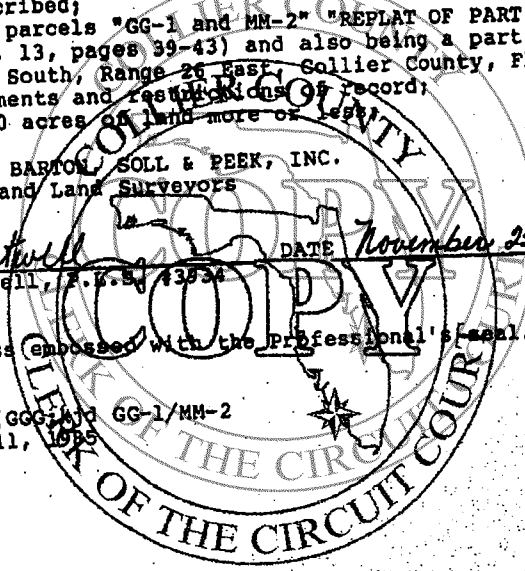
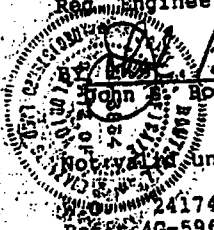
"WATER OAKS AT WYNDEMERE"  
part of parcels GG-1 and MM-2  
(continued from page 1)

thence along said boundary line in the following (3) three  
described courses;

- (1) South 24°-21'-00" West 55.42 feet;
- (2) South 38°-40'-44" West 192.85 feet;
- (3) South 56°-20'-30" West 23.10 feet to said north and south  
1/4 section line and the Point of Beginning of the parcel  
herein described;

being a part of parcels "GG-1 and MM-2" "REPLAT OF PART OF WYNDEMERE  
TRACT MAP" (P.B. 13, pages 39-43) and also being a part of Section  
19, Township 49 South, Range 26 East, Collier County, Florida;  
subject to easements and restrictions of record,  
containing 11.40 acres of land more or less;

WILSON, MILLER, BARTON, SOLL & PEEK, INC.  
Registered Engineers and Land Surveyors



DATE November 25, 1985

John A. Boutwell, F.L.S., No. 24174

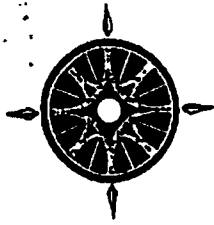
Not valid unless embossed with the Professional's seal.

Ref: 4G-596B (GG-1 and MM-2)  
Date: October 11, 1985

Exhibit A-1 - page 2

Recorded and Verified  
in Official Records of  
COLLIER COUNTY, FLORIDA  
WILLIAM J. REAGAN  
Clerk of Circuit Court

RAYMOND W. MILLER, P.E. • WILLIAM L. BARTON, P.E. • THOMAS R. PEEK, P.E., P.L.S. • WILBUR N. CHRISTIANSEN, P.L.S. • CLIFFORD M. SCHNEIDER, P.E.  
BENJAMIN C. PRATT, P.E., P.L.S. • CARL H. SOLL, P.L.S. • FERMIN A. DIAZ, P.E. • JOHN E. BOUTWELL, P.L.S. • GARY L. DANCA, C.P.A. • ALAN D. REYNOLDS, A.L.C.P.



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Description of Tract "A" (ingress and egress easement)  
 being a part of Parcel "MM-2" of "REPLAT OF PART OF WYNDEMERE  
 TRACT MAP" (P.B. 13, pages 39-43) Collier County, Florida

(Ref: Water Oaks at Wyndemere)

Commencing at the center of Section 19, Township 49 South, Range 26  
 East, Collier County, Florida;  
 thence along the north and south 1/4 section line of said Section  
 19, South 0°-11'-46" West 47.15 feet to a point on the boundary line  
 of parcel "MM-2" of "REPLAT OF PART OF WYNDEMERE TRACT MAP"  
 according to the plat thereof as recorded in Plat Book 13, pages 39  
 through 43, Public Records of Collier County, Florida;  
 thence along said boundary line of parcel "MM-2" in the following  
 five (5) described courses;

- (1) South 56°-20'-30" West 173.11 feet;
- (2) North 76°-31'-43" West 138.33 feet;
- (3) North 89°-36'-00" West 154.83 feet;
- (4) southwesterly 78.23 feet along the arc of a non-tangential  
 circular curve concave to the northwest, having a radius of  
 129.48 feet and being subtended by a chord which bears South  
 56°-39'-47" West 17.05 feet;
- (5) South 73°-58'-20" West 13.10 feet to the POINT OF BEGINNING OF  
 the parcel herein described;  
 thence leaving said boundary line, North 6°-00'-00" West 97.46  
 feet;  
 thence northerly and northeasterly 117.57 feet along the arc of  
 a tangential circular curve concave to the southeast, having a  
 radius of 202.00 feet and being subtended by a chord which  
 bears North 16°-45'-00" East 118.43 feet;  
 thence North 27°-30'-00" East 57.07 feet;  
 thence northeasterly, easterly and southeasterly 43.98 feet  
 along the arc of a tangential circular curve concave to the  
 southeast, having a radius of 28.00 feet and being subtended by  
 a chord which bears North 72°-30'-00" East 39.60 feet;  
 thence South 62°-30'-00" East 121.21 feet;  
 thence southeasterly 124.04 feet along the arc of a tangential  
 circular curve concave to the northeast, having a radius of  
 309.00 feet and being subtended by a chord which bears South  
 74°-00'-00" East 123.21 feet;  
 thence South 85°-30'-00" East 41.98 feet;  
 thence northeasterly 105.70 feet along the arc of a tangential  
 circular curve concave to the northwest, having a radius of  
 161.50 feet and being subtended by a chord which bears North  
 75°-45'-00" East 103.82 feet;  
 thence North 57°-00'-00" East 18.32 feet;  
 thence northeasterly and northerly 195.26 feet along the arc of  
 a tangential circular curve concave to the northwest, having a  
 radius of 179.00 feet and being subtended by a chord which  
 bears North 25°-45'-00" East 185.72 feet;  
 thence North 5°-30'-00" West 65.96 feet;  
 thence northerly and northwesterly 128.43 feet along the arc of  
 a tangential circular curve concave to the southwest, having a  
 radius of 89.50 feet and being subtended by a chord which bears  
 North 46°-36'-34" West 117.69 feet to a point of reverse  
 curvature;  
 thence northwesterly 28.61 feet along the arc of a tangential  
 circular curve concave to the northeast, having a radius of

(continued on page 2)

Exhibit B - Page 1

RAYMOND W. MILLER, P.E. • WILLIAM L. BARTON, P.E. • THOMAS R. PEEK, P.E., P.L.S. • WILBUR M. CHRISTIANSEN, P.L.S. • CLIFFORD H. SCHNEIDER, P.E.  
 BENJAMIN C. PRATT, P.E., P.L.S. • CARL W. SOLL, P.L.S. • PERMIN A. DIAZ, P.E. • JOHN C. BOUTWELL, P.L.S. • GARY L. DANCA, C.F.A. • ALAN D. REYNOLDS, A.I.C.E.

Exhibit C

Page 34 of 36

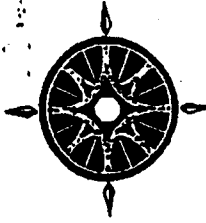


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WILSON, MILLER, BARTON, SOLL & PEEK, INC.  
 PROFESSIONAL ENGINEERS, PLANNERS AND LAND SURVEYORS

Replat of Wyndemere Tract Map  
 Tract "A"  
 (continued from page 1)

38.00 feet and being subtended by a chord which bears North 66°-08'-57" West 27.94 feet to a point of reverse curvature; thence northwesterly, southwesterly, southeasterly and northeasterly 202.74 feet along the arc of a tangential circular curve concave to the east, having a radius of 42.00 feet and being subtended by a chord which bears South 2°-52'-06" East 55.89 feet to a point of reverse curvature; thence northeasterly and southeasterly 51.35 feet along the arc of a tangential circular curve concave to the southeast, having a radius of 38.00 feet and being subtended by a chord which bears North 77°-33'-29" East 47.53 feet to a point of compound curvature; thence southeasterly 62.50 feet along the arc of a tangential circular curve concave to the southwest, having a radius of 61.50 feet and being subtended by a chord which bears South 34°-36'-48" East 35.84 feet; thence South 57°-30'-00" East 65.96 feet; thence southerly and southwesterly 164.72 along the arc of a tangential circular curve concave to the northwest, having a radius of 151.00 feet and being subtended by a chord which bears South 21°-45'-00" West 156.67 feet; thence South 57°-30'-00" West 13.34 feet; thence southwesterly 87.18 feet along the arc of a tangential circular curve concave to the northwest, having a radius of 133.50 feet and being subtended by a chord which bears South 75°-45'-00" West 85.82 feet; thence North 45°-30'-00" West 47.98 feet; thence northwesterly 112.80 feet along the arc of a tangential circular curve concave to the northeast, having a radius of 281.00 feet and being subtended by a chord which bears North 74°-00'-00" West 112.04 feet; thence North 62°-30'-00" West 163.21 feet; thence northwesterly 59.55 feet along the arc of a tangential circular curve concave to the northeast, having a radius of 108.33 feet and being subtended by a chord which bears North 46°-45'-00" West 58.81 feet; thence North 31°-00'-00" West 28.96 feet; thence northwesterly 83.61 feet along the arc of a tangential circular curve concave to the southwest, having a radius of 286.00 feet and being subtended by a chord which bears North 39°-22'-30" West 83.31 feet; thence North 47°-45'-00" West 74.96 feet; thence northwesterly, southwesterly, southeasterly and northeasterly 185.12 feet along the arc of a tangential circular curve concave to the east, having a radius of 42.00 feet and being subtended by a chord which bears South 5°-58'-49" West 67.72 feet to a point of reverse curvature; thence northeasterly and southeasterly 48.34 feet along the arc of a tangential circular curve concave to the southwest, having a radius of 38.00 feet and being subtended by a chord which bears South 83°-50'-34" East 45.15 feet to a point of compound curvature; thence southeasterly 73.83 feet along the arc of a tangential circular curve concave to the southwest, having a radius of

(continued on page 3)

Exhibit B - page 2

RAYMOND W. MILLER, P.E. • WILLIAM L. BARTON, P.E. • THOMAS R. PEEN, P.E., P.L.S. • WILBUR M. CHRISTIANSEN, P.L.S. • CLIFFORD M. SCHNEIDER, P.E. • BENJAMIN C. PRATT, P.E., P.L.S. • CARL H. SOLL, P.L.S. • FERMIN A. DIAZ, P.E. • JOHN E. SOUTHWELL, P.L.S. • GARY L. DANCA, C.P.A. • ALAN D. REYNOLDS, A.I.C.

Exhibit C

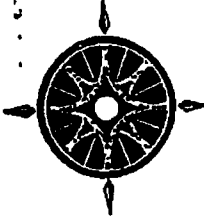
Page 35 of 36

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OR BOOK:

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WILSON, MILLER, BARTON, SOLL & PEEK, INC.  
PROFESSIONAL ENGINEERS, PLANNERS AND LAND SURVEYORS

Replat of Wyndemere Tract Map  
Tract "A"  
(continued from page 2)

258.00 feet and being subtended by a chord which bears south  
 39°-11'-53" East 73.58 feet;  
 thence South 31°-00'-00" East 28.96 feet;  
 thence southeasterly 39.72 feet along the arc of a tangential  
 circular curve concave to the northeast, having a radius of  
 136.33 feet and being subtended by a chord which bears South  
 39°-20'-45" East 39.58 feet to a point of reverse curvature;  
 thence southeasterly and southwesterly 36.75 feet along the arc  
 of a tangential circular curve concave to the southwest, having  
 a radius of 28.00 feet and being subtended by a chord which  
 bears South 10°-05'-45" East 34.16 feet;  
 thence South 27°-30'-00" East 59.53 feet;  
 thence southwesterly and southeasterly 134.48 feet along the  
 arc of a tangential circular curve to the southeast, having a  
 radius of 230.00 feet and being subtended by a chord which  
 bears South 10°-45'-00" West 132.57 feet;  
 thence South 6°-00'-00" East 102.41 feet to a point on said  
 boundary line of parcel "MM-2";  
 thence along said boundary line North 73°-58'-20" East 28.43  
 feet to the Point of Beginning of the parcel herein described;  
 being a part of parcel "MM-2" of "REPLAT OF PART OF WYNDEMERE TRACT  
 MAP" (P.B. 13, pages 39-43) Collier County, Florida;  
 subject to easements and restrictions of record;  
 containing 1.13 acres more or less.

WILSON, MILLER, BARTON, SOLL & PEEK, INC.  
Reg. Engineers and Land Surveyors

By *John E. Boutwell*  
John E. Boutwell, P.L.S. # 4934 Date Nov. 26, 1985

Not valid unless embossed with the professional's seal.

W.O. 24782  
Ref: 4G-595 (GGG:kjd tract-a)  
Date: November 21, 1985

Exhibit B - page 3

Recorded and Verified  
in Official Records of  
COLLIER COUNTY, FLORIDA  
WILLIAM J. REAGAN  
Clerk of Circuit Court

RAYMOND W. MILLER, P.E. • WILLIAM L. BARTON, P.E. • THOMAS R. PEEK, P.E., P.L.S. • WILBUR M. CHRISTIANSEN, P.L.S. • CLIFFORD M. SCHNEIDER, P.E.  
BENJAMIN F. PRATT, P.E., P.L.S. • EARL W. SOLL, P.L.S. • FERMIN A. DIAZ, P.E. • JOHN E. BOUTWELL, P.L.S. • GARY L. DANCA, C.F.A. • ALAN B. REYNOLDS, A.S.