

PREPARED BY AND TO BE RETURNED TO:  
Robert S. Freedman, Esquire  
Carlton Fields Jordan Burt, P.A.  
4221 W. Boy Scout Blvd, Suite 1000  
Tampa, Florida 33607  
(813) 223-7000

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**AMENDED AND RESTATED  
DECLARATION OF CONDITIONS, COVENANTS, EASEMENTS AND  
RESTRICTIONS  
FOR  
PINE TRACE**

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**NOTICE:** As provided in Section 15.12 of this Amended and Restated Declaration, each Homeowner, by virtue of taking title to a Lot, hereby agrees that the deed of conveyance of the Lot to a third party shall specifically state that the Lot is subject to the terms of this instrument and shall state the recording book and page information for this instrument as recorded in the public records of the County. The intent of this provision is to defeat any potential argument or claim that Chapter 712, Florida Statutes, has extinguished the application of this instrument to each of the Lots.

**THIS AMENDED AND RESTATED DECLARATION OF CONDITIONS, COVENANTS, EASEMENTS AND RESTRICTIONS FOR PINE TRACE** ("Declaration" as defined hereinafter) is made by KB Home Jacksonville LLC, a Delaware limited liability company authorized to do business in Florida, and its successors, assigns and designees.

**WITNESSETH:**

**WHEREAS**, Declarant, pursuant to that certain Assignment and Assumption of Declarant's Rights recorded on November 24, 2015, in Official Records Book 3811, Page 1496, public records of Saint Lucie County, Florida is the developer of that certain community commonly known as Pine Trace as created pursuant to that certain Amended and Restated Declaration of Conditions, Covenants, Easements and Restrictions for Pine Trace as recorded on July 27, 2010, in Official Records Book 3216, Page 1074, public records of Saint Lucie County, Florida ("Original Declaration"); and

**WHEREAS**, Declarant desires to amend and restate the Original Declaration, as set forth hereinafter; and

**WHEREAS**, Declarant has deemed it desirable, for the efficient preservation, protection and enhancement of the values and amenities in the Community and to insure the residents' enjoyment of the specific rights, privileges and easements in the Community common properties, areas and facilities, to create an organization to which should be delegated and assigned the powers of owning, maintaining and administering the Community common properties, areas and facilities and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created; and

**WHEREAS**, P Trace Property Owners Association, Inc., a Florida not-for-profit corporation, has been incorporated for the purpose of exercising the functions aforesaid within the Community;

**NOW, THEREFORE**, the foregoing recitals are hereby incorporated as if fully set forth hereinafter, and in consideration of the foregoing, Declarant hereby amends and restates the Original Declaration and to include as exhibits hereto certain revised exhibits, as follows:

**Article 1: Definitions and Construction**

Unless the context expressly requires otherwise, the following terms mean as follows wherever used in this Declaration:

1.1 "ARC" means the Architectural Review Committee of the Association, as established pursuant to this Declaration.

1.2 "ARC Guidelines" means the guidelines for development and/or renovation of the Lots contained or to be contained in the Community. A copy of the ARC Guidelines for the Community is contained in Exhibit E attached hereto and made a part hereof. Any amendments or modifications to the ARC Guidelines need not be recorded in the public records of the County. Wherever in this Declaration the approval of the ARC is required, it shall be in accordance with the ARC Guidelines, to the extent the ARC Guidelines contain guiding provisions.

1.3 "Act" means Chapter 720, Florida Statutes, as existing on the date of recordation of this Declaration.

1.4 "Articles of Incorporation" or "Articles" means the Amended and Restated Articles of Incorporation of the Association, as may be amended from time to time. A copy of the Amended and Restated Articles of Incorporation as filed with the Florida Department of State is attached as Exhibit B hereto. Any future amendments to the Amended and Restated Articles of Incorporation need not be recorded in the public records of the County.

1.5 "Assessment" means a General Assessment, Special Assessment or Specific Assessment levied by the Association against a Lot from time to time.

1.6 "Association" means Pine Trace Community Association, Inc., a Florida corporation not for profit, organized under Chapter 617, Florida Statutes, and the Act.

1.7 "Authorized User" means the tenants, guests and invitees of a Homeowner and all occupants of a Home and Lot other than the Homeowner(s).

1.8 "Benefited Parties" means Declarant, the Association and the Homeowners, together with each of their respective successors and assigns, and the tenants, guests and invitees of the Homeowners, but excluding the general public.

1.9 "Board" means the Association's board of directors.

1.10 "By-Laws" means the By-Laws of the Association as may be amended from time to time. A copy of the original By-Laws is attached as Exhibit C hereto. Any future amendments to the original By-Laws need not be recorded in the public records of the County.

1.11 "Common Expenses" means all expenses properly incurred by the Association in the performance of its duties pursuant to this Declaration, the Articles, the By-Laws or any rules promulgated thereunder, or any agreement properly entered into by the Association, including, but not limited to, (a) the expenses incurred in connection with the ownership, maintenance, repair, replacement, reconstruction or improvement of the Common Property and/or real property held in title by the Association, if any, as provided for pursuant to this Declaration (which expenses may, but shall not necessarily, include utilities, taxes, assessments, insurance and repairs); (b) the expenses of obtaining, repairing or replacing personal property owned by the Association; (c) the expenses incurred in the administration and management of the Association; and (d) the expenses declared to be Common Expenses pursuant to this Declaration or the Articles or the By-Laws.

1.12 "Common Property" or "Common Properties" mean any portion or portions of the Property now or hereafter owned by the Association or designated herein or on the plats of the Property as recorded in Plat Book 49, Page 5, Plat Book 52, Page 32, Plat Book 62, Page 10, and Plat Book 71, Page 16, all of public records of the County, as from time to time may be amended (collectively, "Plat"), as either Common Property or property to be maintained by the Association (whether or not such property is part of a dedicated right-of-way or easement). "Common Property" shall also include, but shall not be limited to, (a) any landscaping in any median or cul-de-sac island located in any right-of-way as shown on the Plat (whether or not these areas are indicated as common areas), (b) any lake areas for which the Association has maintenance responsibility and for which the costs thereof shall be shared by the Homeowners and certain owners of adjacent real property pursuant to separate agreement, (c) all portions of the "Surface Water Drainage and Management System" (as defined in Article 10 hereof) which serves the Community, (d) any property designated by Declarant as Common Property elsewhere in this Declaration or in any amendment or supplement to this Declaration, and (e) utility easements or tracts for corresponding sewer or potable water.

1.13 "Community" means the subdivision development project known as Pine Trace.

1.14 "Community Wide Standards" means the standards of conduct, maintenance or other activity generally prevailing throughout the Property. Such standards may be more specifically determined by Declarant so long as Declarant owns any portion of the Property. Community Wide Standards shall be set forth in this Declaration and/or as a part of the Rules and Regulations.

1.15 "County" means Saint Lucie County, Florida.

1.16 "Declaration" means this instrument, as may be amended from time to time.

1.17 "Declarant" means KB Home Jacksonville LLC, a Delaware limited liability company authorized to do business in Florida, and its successors, assigns and designees. A Homeowner or a Mortgagee shall not be deemed to be the Declarant by the mere act of purchase or mortgage of a Lot. No successor or assignee of Declarant shall have any rights or obligations of Declarant under this Declaration except to the extent any such rights and obligations are specifically set forth in an instrument of succession or assignment, or unless such rights pass by operation of law.

1.18 "Family" means one or more persons each related to the other by blood, marriage, or legal adoption, or a group of not more than 3 persons not all so related, together with domestic servants if any, maintaining a common household in a Home.

1.19 "First Mortgage" means a valid Mortgage (as defined hereinafter) having priority over all other mortgages on the same property.

1.20 "First Mortgagee" means the holder of a recorded First Mortgage encumbering a Lot and the Home thereon, if any.

1.21 "Governing Documents" means collectively this Declaration, the Articles, the By-Laws, any rules and regulations of the Association, and any other instrument which governs the operation and/or use of the Property and the duties and obligations of the Association.

1.22 "Governmental Entities" means collectively the agencies of the local, state or federal government having jurisdiction over all or a portion of the Property, including, but limited to, the County and the WMD.

1.23 "Home" means any residential dwelling that has been completed and a certificate of occupancy has been issued, and which has been conveyed to a Person other than Declarant and is to be used by one Family.

1.24 "Homeowner" means any person who from time to time holds record title to any Lot. If more than one person holds such title, all such persons are Homeowners, jointly and severally. Declarant is a Homeowner with respect to each Lot from time to time owned by such Declarant.

1.25 "Lot" means each numbered lot as established by the recorded Plat of the Property.

1.26 "Member" means a member of the Association.

1.27 "Mortgage" means any valid instrument transferring any interest in real property as security for the performance of an obligation.

1.28 "Person" means any natural person or artificial entity having legal capacity.

1.29 "Property" means the real property described in Article II of this Declaration.

1.30 "Resident" means a permanent occupant of a Home who is not a Homeowner, but occupies pursuant to a lease or other formalized arrangement with such Homeowner pursuant to the terms of this Declaration, including all approvals required therein.

1.31 "Rules and Regulations" means the rules and regulations adopted by the Board, as same may be amended from time to time.

1.32 "Transfer of Control" means that date upon which Declarant transfers majority control of the Board as provided in Section 5.4 hereof.

1.33 "WMD" means the South Florida Water Management District.

1.34 "WMD Permit" means the permit(s) issued from time to time with regard to the Community. The current WMD Permit is attached hereto and incorporated herein as Exhibit D.

1.35 "Work" means the development of all or any portion of the Property as a residential community by Declarant's construction and installation of streets, dwellings, buildings, and other improvements and the sale or other disposition of the Property and improvements thereon as completed Lots.

The term "Article" and the term "Paragraph" where used throughout this Declaration shall mean the same, unless the context requires otherwise. The term "Section" where used throughout this Declaration shall refer to that portion of the Article indicated, unless the context requires otherwise.

All definitions contained in the Governing Documents other than this Declaration are hereby incorporated into this Declaration (most specifically the definitions contained in the exhibits to this Declaration).

Unless the context expressly requires otherwise: (i) the use of the singular includes the plural and vice versa; (ii) the use of one gender includes all genders; (iii) the use of the terms "including" or "include" is without limitation; (iv) the use of the term "Lot" includes any portion applicable to the context thereof, any and all improvements, fixtures, trees, vegetation, and other property from time to time situated thereon, and any and all appurtenant rights, unless the context otherwise dictates; and (v) the words "must," "should," and "will" have the same legal effect as the word "shall." This Declaration should be interpreted, construed, applied, and enforced in a reasonable, practical manner to effectuate its purpose of protecting and enhancing the value, marketability, and desirability of the Lots by providing a common plan for their development and enjoyment. The various headings used in this Declaration are for indexing and organizational purposes only and are not to be used to interpret, construe, apply, or enforce its substantive provisions.

## **Article 2: Property Subject to this Declaration**

2.1 Subject Property. The real property which is, and shall be, held, transferred, sold, conveyed, and occupied subject to this Declaration is located in Saint Lucie County, State of Florida, and is more particularly described in the metes and bounds description attached hereto as Exhibit A and incorporated by reference as fully as if specifically repeated herein, and all of which real property shall hereinafter be referred to as "Property."

2.2 Expansion of Community. Declarant has the right, acting in its sole discretion, but not the obligation, to expand the Community from time to time by adding additional land, or to change the number or type of Lots, Homes, and any other residential, amenities or other features of the Community.

2.3 Long-Term Development; Non-Binding Plans. From time to time, Declarant and/or others may present to the public drawings, renderings, plans or models showing possible future development of the Property. Declarant does not represent, warrant and/or guarantee that the development programs or features of any such drawings, renderings, plans and/or models will be carried out or how the future improvements, if any, within the Property will actually be developed and/or built. Any such drawings, renderings, plans and/or models are conceptual in nature and do not represent a final development or improvement plan. Each Homeowner acknowledges, covenants and agrees that Declarant shall have no liability to any Homeowner or other party for any changes to, or failure to complete, any development and/or improvements in accordance with any drawings, renderings, plans and/or models. Each Homeowner further acknowledges that the development of the Property may extend over a number of years, and each Owner specifically and voluntarily agrees and consents to all changes in the following:

2.3.1 uses or density of Lots within the Property;

2.3.2 the architectural scheme of the Property; and/or

2.3.3 the architectural pattern of the Property.

Each Homeowner acknowledges and agrees that the Homeowner is not entitled to rely upon, and has not received and/or relied upon, any representations, warranties and/or guarantees of any type or nature whatsoever as to the current or future: design, construction, completion, development, use, benefits and/or value of land within the Property; number, types, sizes, prices and/or designs of any Home, structure, building, facilities, amenities and/or improvements built or to be built in or on any portion of the Property; and/or use or development of any land, real property, personal property, building, structure and/or improvement adjacent to or within the vicinity of the Property.

**Article 3: Property Rights; Common Property; Covenants, Easements and Restrictions**

3.1 Appurtenances; Extension of Rights and Benefits.

3.1.1 The benefit of all rights and easements granted by this Declaration with regard to the Common Property constitute a permanent appurtenance to, and will pass with, the title to every portion of the Property enjoying such benefit. Whenever any such rights or easements are described as non-exclusive by this Article, its benefit nevertheless is exclusive to all Homeowners and other Benefited Parties granted such benefit by this Article, unless this Article expressly grants such benefit to other Persons. In no event will the benefit of any such easement extend to the general public.

3.1.2 Every Homeowner shall automatically have the rights and easements of enjoyment vested in him under this Article extended to each of the applicable Benefited Parties, and to such other persons as may be permitted by the Association.

3.2 Utility Easements. Declarant has identified areas for use by all utilities for the construction and maintenance of their respective facilities servicing the Property, and Declarant hereby grants to such utilities, jointly and severally, easements for such purpose. The location and extent of such easements are as shown on the Plat (recorded or to be recorded) of the Property or such other instrument defining them. In addition to the above, Declarant hereby reserves unto itself and its successors and assigns an easement over, under, across and through the Common Property as may be required for the construction, maintenance and operation of a two-way communication and monitored access control system. Such utilities, as well as Declarant, and their respective agents, employees, designees and assigns shall have full rights of ingress and egress over any Lot for all activities appropriately associated with the purposes of said easements. Furthermore, Declarant hereby grants to the Governmental Entities an easement over, under, across and through the Common Property as may be required for the construction, maintenance and operation of certain utility services, as and to the extent applicable.

3.3 Common Properties.

3.3.1 All Common Property owned or leased by Association shall be held by the Association for the use and benefit of the Association, the Benefited Parties, and any other Persons authorized to use the Common Property or any portion thereof by Declarant or the Association.

3.3.2 All Common Property shall be used for all proper and reasonable purposes and uses for which the same are reasonably intended, subject to (a) the terms of this Declaration, (b) the terms of any easement, restriction, reservation or limitation of record affecting the Common Property or contained in the deed or instrument conveying the Common Property to the Association, and (c) any rules and regulations adopted by the Association.

3.3.3 The rights and easements of the Benefited Parties and, in general, the use of the Common Properties, shall be subject to the following:

- (a) The right of the Association to limit the use of the Common Properties.

(b) The right of the Association to suspend the enjoyment rights of an Homeowner, if and up to the maximum extent permitted by law, for any period during which any Assessment remains unpaid, or for any infraction of the Rules and Regulations or this Declaration.

(c) The right of the Association to dedicate or transfer all or any part of the Common Property owned by the Association to any governmental body, quasi-governmental body, public agency, authority or utility for purposes associated with such entities. No such dedication or transfer shall be effective unless the Members entitled to cast at least 67% of the total Class A votes and all of the Class B votes agree to such dedication or transfer; provided, however, that this paragraph shall not preclude (1) the Association, on or before Transfer of Control, from dedicating or transferring all or any portion of the Common Property owned by the Association to any public agency, authority or utility for such purposes without the consent of the Homeowners; (2) the Board from granting specific easements for the installation and maintenance of electrical, telephone, special purpose cable for television and other uses, water and sewer, fire protection, trash collection and utilities and drainage facilities and other utilities or services of the like, upon, over, under and across the Common Property without the consent of the Members; or (3) prevent Declarant from granting such specific easements with regard to any portion of the Property owned by Declarant, including any Common Property, without the consent of the Members.

(d) The right of the Association to impose reasonable Rules and Regulations with respect to the use of the Common Properties in addition to those set forth herein.

(e) The restrictions and conditions of any applicable zoning ordinance or development order, or any other regulation, rule or statute.

3.3.4 The Association may restrict use of any portion of the Common Property when the nature of such property is not intended for the use of some of the Benefited Parties or may restrict the type of use or times of use in any way deemed appropriate by the Board. A non-exclusive easement and right for such use of the Common Property is hereby created in favor of all Benefited Parties, appurtenant to the title to their portion of the Property, subject to any rules and regulations promulgated by the Association. In addition, (a) Declarant shall have the right, in its sole discretion, to permit access to and use of the Common Property to and by individuals other than as so described herein for so long as Declarant owns any portion of the Property, and (b) Declarant retains and reserves the right to grant easements and rights of way in, to, under and over the Common Property so long as Declarant is a member of the Association for such purposes as Declarant shall reasonably deem necessary or helpful in connection with the development, sale or operation of the Community.

#### 3.3.5 Additions, Alterations or Improvements.

(a) On or before Transfer of Control, the Association shall have the right to make additions, deletions, alterations or improvements to the Common Property (if any) and to purchase any personal property as it deems necessary or desirable from time to time. The cost and expense of any such additions, deletions, alterations or improvements to the Common Property, or the purchase of any personal property, shall be a common expense.

(b) Subsequent to Transfer of Control, the Association shall have the right to make additions, alterations or improvements to the Common Property, and to purchase any personal property as it deems necessary or desirable from time to time; provided, however, that the approval of a majority of the Members present in person or by proxy at a duly called meeting of the Association shall be required for any addition, alteration or improvement, or any purchase of personal property, for which the annual expense exceeds 10% of the annual budget in effect at the time the addition, alteration, improvement or purchase is contemplated by the Association. The foregoing approval shall in no event be required with respect to expenses incurred in connection with the maintenance, repair or replacement of existing Common Property, or any existing improvements or personal property associated therewith, or with respect to any property being conveyed to the Association by Declarant. The cost and expense of

any such additions, alterations or improvements to the Common Property, or the purchase of any personal property, shall be a Common Expense.

(c) So long as Declarant owns any portion of the Property, Declarant shall have the right to make any additions, alterations or improvements to the Common Property, or to amend the description of the Common Property, as may be desired by Declarant in its sole discretion from time to time, at Declarant's expense.

3.4 Lots. The following covenants, restrictions and easements are hereby imposed on each Lot in the Community:

3.4.1 General Restrictions. The following restrictive covenants are easements and covenants running with the land and are binding upon all Homeowners, Authorized Users, and other occupants and their respective successors and assigns:

(a) General Encroachment Easements; Right of Entry. Each Lot and the Common Property are hereby subjected to a permanent easement appurtenant to any adjoining Lot to permit the use, construction, existence, maintenance, repair and restoration of structures located on such adjoining Lot, including, but not limited to, driveways, walkways and roof structures which overhang and encroach upon the servient Lot or Common Property, if any, provided that such structures were constructed by Declarant or the construction of such structure is permitted and approved as elsewhere herein provided. The owner of the dominant tenement shall have the right, at all reasonable times, to enter the easement area in order to make full use of such structure for its intended purposes and to maintain, repair and restore any improvements located on the dominant tenement; provided, however, that any such entry made for purposes of maintenance, restoration or repair shall be limited to daylight hours and shall only be made with the prior knowledge of the owner of the servient tenement. In case of emergency, the right of entry for maintenance, restoration or repair shall be immediate, not restricted as to time, and not be conditioned upon prior knowledge of the owner of the servient tenement. The owner of the servient tenement shall not place any improvement, material or obstacle in or over the easement area on the servient tenement which would unreasonably interfere with the rights of the owner of the dominant tenement granted by this paragraph. Any such improvement, material or obstacle shall be promptly removed by the owner of the servient tenement at that owner's expense when requested by the owner of the dominant tenement or Declarant notwithstanding any lapse of time since such improvement, material or other obstacle was placed in or over the easement area.

(b) No Improper Uses. No improper, offensive, hazardous or unlawful use shall be made of the Property or any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereover shall be observed. Violations of laws, orders, rules, regulations or requirements of any governmental agency having jurisdiction thereover, relating to any portion of the Property, shall be corrected by, and at the sole expense of, the party obligated to maintain or repair such portion of the Property, as elsewhere herein set forth. Notwithstanding the foregoing and any provisions of this Declaration, the Articles of Incorporation or By-Laws, the Association shall not be liable to any person(s) for its failure to enforce the provisions of this Section. No activity specifically permitted by this Declaration shall be deemed a violation of this Section.

(c) Leases. No Lot may be leased and/or rented for a term shorter than 12 consecutive months, and no more than 1 lease shall be permitted in any 12 month period. Any lease and/or rental agreement shall specifically provide that the lessee, tenant and all occupants of the leased Home and Lot shall be bound by the terms of the Governing Documents. There shall be no subleasing of any kind of any Lot. If a Homeowner intending to lease or rent his or her Lot is delinquent in the payment of any Assessments, the Association shall so notify the Association, which shall be entitled to refuse to allow the Homeowner to rent or lease his or her Lot until such delinquency is made current. Upon execution of such a lease, the Homeowner shall provide the Association with an executed copy of such lease. The Association shall have the right to require upon notice to all Homeowners that a substantially uniform form of lease or sub-lease be used by all Homeowners (including Declarant) intending to rent or lease after said notice and to provide such form as a Common Expense.

(d) Insurance Obtained by Owners. By virtue of taking title to a Lot, a Homeowner agrees to carry blanket all-risk casualty insurance on such Homeowner's Lot and the Home and other improvements contained thereon. The insurance to be obtained by each and every Homeowner shall be in an amount sufficient to cover 100% of the replacement cost of any repair and/or reconstruction in the event of damage or destruction from any insured hazard. Each Homeowner further covenants and agrees that in the event of a partial loss or damage resulting in less than total destruction of the Home and other improvements on such Homeowner's Lot, the Homeowner shall proceed promptly to repair and/or to reconstruct the damaged structure in a manner consistent with the original construction or such other plans and specifications as are or may be approved in accordance with this Declaration. The Homeowner shall pay any costs of repair and/or reconstruction which are not covered by insurance proceeds. If the Home is totally destroyed, the Homeowner may decide not to rebuild and/or to reconstruct, in which case the Homeowner shall clear the Lot of all debris and return that Lot to substantially the natural state in which it existed prior to the beginning of construction of the original Home, and thereafter such Homeowner shall continue to maintain the Lot in a neat and attractive condition consistent with the terms, conditions and provisions of this Declaration.

3.4.2 Access by Association. The officers, employees, or designated agents of the Association have a right of entry onto the exterior of each Lot to the extent reasonably necessary to discharge any duty imposed, or exercise any right granted, by this Declaration or to investigate or enforce the provisions of the Declaration and the rules and regulations of the Association. Such right of entry must be exercised in a peaceful and reasonable manner at reasonable times, and the entry may be only upon reasonable notice whenever circumstances permit. Entry into any improvement upon any Lot may not be made without the consent of its Homeowner or occupant for any purpose, except pursuant to court order, other authority conferred by law or in the event of an emergency. Such consent will not be unreasonably withheld or delayed.

3.4.3 General Easements. In the event that any part of any Home or Lot encroaches or shall hereafter encroach upon any part of any other Lot or the Common Property, valid easements for the maintenance of such encroachments are hereby established and shall exist so long as all or any part of the same shall remain standing; provided, however, that in no event shall a valid easement for any encroachment be created in favor of any Homeowner if such encroachment or use is detrimental to or interferes with the reasonable use and enjoyment of the Home or Lot of another Homeowner and if it occurred due to the willful conduct of any Homeowner.

3.4.4 Easement for Irrigation. The Association shall each have a perpetual, non-exclusive easement over, across, under and through each of the Lots and the Common Property for purposes of installing, maintaining, repairing, replacing and/or reconstructing all lines and facilities pertaining to the irrigation system for the Community, as and to the extent same shall be a part of the Association's obligations as pertaining to the Lots.

3.5 Ingress and Egress. Each Homeowner shall have a perpetual, unrestricted easement over, across and through the Common Property for the purpose of ingress to and egress from his Lot, subject only to the right of the Association to impose reasonable and non-discriminatory rules and regulations governing the manner in which such easement is exercised, which easement shall be appurtenant to and pass with ownership to each Lot.

3.6 Continuous Maintenance of Easements by Association. The Association shall be responsible for the continuous maintenance of the easements and rights-of-way of the Surface Water Drainage and Management System. This obligation shall run with the land as do other provisions of this Declaration, and any Homeowner may enforce this covenant and will be entitled to costs and fees, pursuant to Section 15.1 hereof, which result from such enforcement.

3.7 Dedications. Declarant hereby reserves the right to dedicate, grant or convey any portion of the Property owned by it, or any interest or easement therein, to any governmental or quasi-governmental agency or private or public utility company. Declarant also shall have the right to direct the Association to likewise dedicate, grant or convey any Common Property, or any interest or

easement in any Common Property, owned by the Association whereupon the Association shall execute such documents as will be necessary to effectuate such dedication; provided, however, that this right of Declarant shall terminate when Declarant either is no longer a Member or has duly executed and recorded in the public records of the County a notice releasing and waiving this right, whereupon the right shall be vested solely within the Association. Any portion of the Property, or any interest or easement therein, which is dedicated, granted or conveyed pursuant to this provision shall not be subject to this Declaration, unless the instrument so dedicating, granting, or conveying such portion of the Property, interest or easement specifically provides that same shall remain subject to this Declaration.

3.8 Community Systems and Services. Declarant reserves for itself, its successors and assignees and the Association the exclusive and perpetual right to provide and operate, or to permit others to provide and operate, within the Property, such telecommunication systems (including, without limitation, cable television, satellite television, community intranet, internet, telephone and other systems for receiving, distributing and transmitting electronic data, signals, and audio or visual communications), systems and services, utilities, and similar systems and services, including, without limitation, conduits, wires, amplifiers, towers, antennae, and other apparatus and equipment for the operation and/or provision thereof (collectively, the "Community Systems and Services") on a reasonably competitive basis, as Declarant, in its discretion, deems appropriate. Such right shall include, without limitation, the right to select and contract with companies licensed to provide such services in the area where the Property is located, and to charge individual users a reasonable fee not to exceed the maximum allowable charge for such service, as from time to time is defined by the laws, rules, and regulations of the relevant government authority, if applicable. Declarant and/or the Association may receive, and shall be entitled to retain, any rebate, credit, fee, and/or incentive relating to the installation, operation, and/or provision of any Community Systems and Services. Declarant and/or the Association may require that the Board enter into agreements for the provision of Community Systems and Services to all Lots as part of the Common Expenses. If particular services or benefits are provided to particular Homeowners or Lots at their request, the benefited Homeowner(s) shall pay the service provider directly for such services, or the Association may assess the costs as an Assessment (the type of which shall depend upon the circumstances). No Homeowner may avoid liability for the charges associated with the Community Systems and Services by electing not to utilize the Community Systems and Services.

3.9 Playground. Declarant may, but is not obligated to, construct, erect and/or install certain recreational facilities, including a playground, on portions of the Common Properties. Declarant, the Association, and any and all of their respective officers, directors, employees, attorneys and agents do not make any warranties, representations, promises, guarantees and/or agreements with respect to the security or safety of the recreational facilities, recreational equipment, playground and/or the playground equipment. Declarant, the Association and any and all of their respective officers, directors, employees, attorneys and agents shall not be responsible and/or liable for any claims for property damage, bodily injuries, any other types of personal injuries, or any other damages whatsoever by any Homeowners, or by any invitees, licensees, agents, family members, visitors and/or guests of any Homeowner, arising out of or relating to the use of the recreational facilities, recreational equipment, playground and/or any playground equipment. Each Homeowner, by acquiring title to any Lot, shall be deemed to have agreed that the Homeowner shall not bring any action, proceeding, claim and/or suit of any kind against Declarant, the Association and any and all of their respective officers, directors, employees, attorneys and agents for any causes of action arising out of, associated with, connected with and/or relating to the use of any recreational facilities, recreational equipment, playground and/or any playground equipment.

#### **Article 4: Use Restrictions**

4.1 General Applicability to the Property. All use and development of the Property shall conform to the provisions of this Declaration and any other restrictive covenants recorded against all or a portion of the Property, as may be amended from time to time. The Property shall be used only for residential and related purposes. The Association, acting through the Board, shall have standing and the power to enforce standards imposed by the Declaration, and each Homeowner, by virtue of taking title to a Lot, hereby agrees and consents, and shall be deemed to agree and consent, to the Association's powers under this Section 4.1.

4.2 Specific Exemption for Declarant. Notwithstanding anything to the contrary herein, Declarant shall be exempt from application of the terms and provisions of this Article so long as it owns any portion of the Property. This Section 4.2 may not be amended without the prior written consent of Declarant for so long as Declarant owns any Lot in the Community.

4.3 Article 6 Provisions Not Comprehensive. This Article contains provisions and restrictions which permit or prohibit certain conduct or uses and which may require certain permitted uses to be approved by the ARC pursuant to this Declaration. The provisions and restrictions of this Article are illustrative only and shall in no event be deemed a comprehensive list of items subject to approval hereunder.

4.4 Rules and Regulations. The Association, acting through its Board, shall have the authority to make and to enforce reasonable Rules and Regulations which provide standards governing the use of the Property, in addition to those contained herein.

4.5 Homeowners and Authorized Users Bound; Homeowner's Liability.

4.5.1 In General. Use restrictions shall be binding upon all Homeowners and Authorized Users of Lots and other portions of the Property. All provisions of the Governing Documents which govern the conduct of Homeowners and which provide for sanctions against Homeowners shall also apply to all Authorized Users. Every Homeowner shall cause his or her Authorized Users to comply with the Governing Documents, and shall be responsible for all violations and losses to the Property caused by such Authorized Users, notwithstanding the fact that such Authorized Users are fully liable and may be sanctioned for any violation of the Governing Documents.

4.5.2 Right to Cure. Should any Homeowner do any of the following:

- (a) fail to perform its responsibilities as set forth herein or otherwise violate or breach the provisions of the Governing Documents; or
- (b) cause any damage to any improvement or to any portion of the Property or the Common Property; or
- (c) impede Declarant or the Association from exercising its rights or performing its responsibilities hereunder, including obligations under any applicable permits; or
- (d) undertake unauthorized improvements or modifications to a Home, the Property or the Common Property; or
- (e) impede Declarant from proceeding with or completing the development of the Community,

Declarant and/or the Association, where applicable, after reasonable prior written notice, shall have the right, through its agents and employees, to cure such violations or breaches, including, but not limited to, by entering upon the Home and/or Lot and causing the violation or breach to be remedied and/or the required repairs or maintenance to be performed, or as the case may be, remove unauthorized improvements or modifications. The cost of curing such violations or breaches, plus reasonable overhead costs and attorneys' fees and paraprofessional fees at all levels, including appeals, collections and bankruptcy, shall be assessed against the Homeowner as a Specific Assessment.

4.5.3 Non-Monetary Defaults. In the event of a violation or breach by any Homeowner, other than the nonpayment of any Assessment or other monies, of any of the provisions of this Declaration, Declarant or the Association shall notify the Homeowner of the violation, by written notice. If such violation is not cured as soon as practicable and in any event within 7 days after receipt of such written notice, the party entitled to enforce same may, at its option:

(a) commence an action to enforce the performance on the part of the Homeowner or to enjoin the violation or breach or for equitable relief as may be necessary under the circumstances, including injunctive relief; and/or

(b) commence an action to recover damages; and/or

(c) take any and all actions reasonably necessary to correct the violation or breach.

All expenses incurred in connection with the violation or breach, or the commencement of any action against any Homeowner, including reasonable attorneys' fees and paraprofessional fees at all levels, including appeals, collections and bankruptcy, shall be assessed against the Homeowner as a Specific Assessment, and shall be immediately due and payable without further notice.

4.5.4 No Waiver. The failure to enforce any right, provision, covenant or condition in this Declaration, shall not constitute a waiver of the right to enforce such right, provision, covenant or condition in the future.

4.5.5 Rights Cumulative. All rights, remedies, and privileges granted to Declarant, the Association and/or the ARC pursuant to any terms, provisions, covenants or conditions of this Declaration, or the ARC Guidelines, shall be deemed to be cumulative, and the exercise of any one or more of same shall neither be deemed to constitute an election of remedies, nor shall it preclude any of them from pursuing such additional remedies, rights or privileges as may be granted or as it might have by law.

4.5.6 Enforcement By or Against Other Persons. In addition to the foregoing, this Declaration or the ARC Guidelines may be enforced by Declarant and/or, where applicable, the Association by any procedure at law or in equity against any person violating or attempting to violate any provision herein or contained in the ARC Guidelines, to restrain such violation, to require compliance with the provisions contained herein, to recover damages, or to enforce any lien created herein or in the ARC Guidelines. The expense of any litigation to enforce this Declaration or the ARC Guidelines shall be borne by the person against whom enforcement is sought, provided such proceeding results in a finding that such person was in violation of this Declaration or the ARC Guidelines.

#### 4.6 Parking and Vehicular Restrictions.

##### 4.6.1 Location of Parking.

(a) No vehicle shall be parked anywhere but on paved areas intended for that purpose (i.e., no street parking), it being the intent to limit and control on-street parking for a more aesthetic streetscape and safer vehicle access. Notwithstanding the foregoing, the following exceptions shall exist:

(i) Guests and visitors of a Homeowner or Authorized User shall be permitted to park on the streets for no longer than 7 days in any 30 consecutive day time period and then must park in the same fashion as is required for Homeowners and Authorized Users. While parking within the Property, guests and visitors shall follow all parking rules and regulations; and

(ii) the Board may grant temporary exceptions when it deems appropriate (for example, but not limited to, large parties, holidays, parade of homes, special events at a Home, and special events at a Lot).

(b) Parking on lawns or landscaped areas is prohibited, unless specifically approved or designated for such purpose.

(c) A Homeowner shall not be permitted to install upon a Lot any parking area in addition to the existing driveway without the prior written consent of the ARC.

(d) Homeowners' automobiles shall be parked in the garage or driveway of or pertaining to a Lot.

(e) No vehicle shall be permitted to park overnight within the Community which cannot be parked within the size of a private parking garage with the garage door closed.

4.6.2 Number of Vehicles. No more than 2 vehicles of any type may be parked in a driveway of a Lot overnight without the written consent of the Association.

4.6.3 Permitted and Prohibited Vehicles; Exceptions.

(a) The parking of personal passenger vehicles and motorcycles equal to or less than two hundred thirty inches (230") in length and pick-up trucks and sport utility vehicles ("SUVs") equal to or less than two hundred ninety inches (290") in length are subject only to the restrictions found in Section 4.6.1 hereof and the restrictions set forth in Sections 4.6.3(c)-(e) hereof.

(b) Pick-up trucks and SUVs in excess of two hundred ninety inches (290") must be parked or stored so that they will not be visible from any street and not visible from any other Lot within the Property.

(c) Except as specifically herein to the contrary, vehicles, no matter their size or length, with a camper top, work racks and/or any other commercial appendages attached to it, must be stored so that same will not be visible from any street, and all vehicles, no matter the size, must be parked or stored in the driveway or garage and shall not block any part of the sidewalk.

(d) Commercial vehicles (which for purposes of this provision are defined as vehicles not designed and/or used for normal personal/family transportation, vehicles with work racks, tool racks and/or visible equipment, and/or vehicles bearing lettering, graphics, contact information, logos, advertising and/or any other commercial insignia) must be parked or stored so that they will not be visible from any street and not visible from any other Lot within the Property. A vehicle used for normal personal or family transportation shall be considered a commercial vehicle for purposes of this subsection and must be parked or stored completely out of sight if it contains any lettering, graphics, contact information, logos, advertising and/or any other commercial insignia. Such lettering, graphics, contact information, logos, advertising and/or any other commercial insignia may also be completely covered with a magnetic or other type of covering of the same color of the vehicle, so that no portion of the lettering, graphics, contact information, logos, advertising and/or other commercial insignia is visible from the street and/or visible from any other Lot within the Property. Notwithstanding the foregoing, commercial vehicles shall be permitted to temporarily park on the exterior portions of a Lot or in the street for purposes of deliveries.

(e) Unregistered, derelict and/or inoperable vehicles or trailers of any kind must be parked or stored so that they will not be visible from any street and not be visible from any other Lot within the Property. For purposes of this subsection, derelict or inoperable vehicles, include, but are not limited to, vehicles with no current license plate, vehicles with no current registration, and vehicles incapable of self-propulsion.

(f) Recreational vehicles (including, without limitation, a camper, mobile home, and a motor home, no matter their size), all-terrain vehicles (ATVs or ATCs), dune buggies, scooters, go-carts, mini-motorcycles, boats and trailers of all types, must be parked or stored so that same will not be visible from any street and not visible from any other Lot within the Property. Notwithstanding anything to the contrary in this Declaration, a Homeowner may temporarily park a recreational vehicle on the driveway of that Homeowner's Lot for the purpose of loading, unloading and/or cleaning that recreational vehicle. No such recreational vehicle shall remain visibly parked and/or stored on that Homeowner's Lot for longer than 48 consecutive hours in any 7 consecutive day time period.

(g) Notwithstanding anything to the contrary in this Declaration, a Homeowner may temporarily park a boat on the driveway of that Homeowner's Lot, if the boat is on a boat trailer, for the purpose of loading, unloading and/or cleaning that boat. No such boat and/or boat trailer shall remain visibly parked and/or stored on that Homeowner's Lot for longer than 48 consecutive hours in any 7 consecutive day time period.

(h) Delivery vans, service vans and buses, no matter their size, must be parked or stored so that they will not be visible from any street and not visible from any other Lot within the Property.

(i) Motorized scooters, dune buggies, mini-motorcycles, mopeds, motorized skateboards, go-carts and all-terrain vehicles shall not be operated and/or used on any sidewalk or street or landscaped portions of the Common Property.

(j) Notwithstanding the restrictions contained in this Section 4.6.3, all commercial and public service vehicles (including construction vehicles and vehicles owned by construction workers) present on and/or within the Property while performing work and/or services for or on behalf of Homeowners will be permitted on a temporary basis during the period of time that the work is being actually performed. However, no overnight parking of any of these vehicles shall be permitted.

4.6.4 Repairs. No repair, except for emergency repair, of vehicles shall be made within the Community, except within the closed confines of the garage of or pertaining to Lot.

4.6.5 Gas or Electric Golf Carts. No private golf carts (gas or electric) or any other cart-like vehicle (collectively, "Carts") shall be permitted in the Community, save and except for Carts (a) which are used by Declarant in the course of its sale and development of the Community (in which case such Carts shall be permitted upon the roadways and Common Properties of the Community), or (b) which are used by the Association in the fulfillment of its duties in and for all or part of the Community (in which case such Carts shall be permitted upon the roadways and Common Properties of the Community). Each Homeowner, by virtue of taking title to a Lot, understands and agrees, and shall be deemed to understand and agree, that private Carts are not permitted on or within a Lot and that Carts shall only be permitted in the limited fashion prescribed by this Section 4.6.5. No amendment or modification to this Section 4.6.5 shall be effective without the prior written consent of Declarant for so long as Declarant owns any portion of the Property.

4.6.6 Exemptions. In addition to any other exemptions from the provisions of this Section 4.6 stated otherwise, this Section does not apply to any vehicles utilized for sales, construction or maintenance operations of or by Declarant or the Association.

4.6.7 Amendments to this Section. No amendment or modification to this Section 4.6 shall be effective without the prior written consent of Declarant for so long as Declarant owns any portion of the Property. The Association may, but shall not be obligated to, promulgate rules and regulations and clarify the provisions and objectives of this Section 4.6.

4.6.8 Garage Doors. All Homes shall be equipped with automatic garage doors. Homeowners shall generally keep the garage doors closed except when required for ingress and egress from the garage.

4.6.9 Towing. In addition to all other enforcement tools available to the Association, in accordance with Section 715.07, Florida Statutes, the Association and Declarant shall have the right and authority to tow violating vehicles at the vehicle owner's sole and absolute cost and expense.

4.7 Driveways. All driveways in the Community shall be paved and/or constructed of pavers and of stable and permanent construction. Unless prior written approval of the ARC is obtained, the driveway base shall be concrete or brick pavers. No driveway surface shall be painted, repainted, or otherwise artificially colored or recolored without the prior written approval of the ARC.

4.8 Traffic Regulation. To the extent permitted by the Governmental Entities, the Association may, but shall not be obligated to, employ individuals, enter into one or more agreements to enforce rules and regulations concerning operation of motorized vehicles, parking restrictions and to otherwise provide a more enjoyable environment, on the internal roads of the Community.

4.9 Animals and Pets.

4.9.1 Prohibited and Permitted Animals; Number of Animals. No animals, livestock, reptiles, pets or poultry of any kind may be kept in and/or on any Lot or brought onto the Property by any Homeowner and/or Authorized User other than domesticated dogs, domesticated cats, fish and/or caged birds, all of which are usually and commonly kept as household pets (collectively "pets"). No more than 2 of each type of permitted pet shall be permitted on a Lot, with the exception of fish. If any Lot contains more than 2 of any type of the permitted pets (other than fish), it shall be automatically considered unreasonable and such Homeowner shall be in violation of the Governing Documents. Animals, fowl, birds and reptiles which are deemed by the Board from time to time to be obnoxious are prohibited. The determination of what is or what may be obnoxious shall be determined by the Association in its sole discretion.

4.9.2 Prohibited Actions; Requirements.

(a) No animal breeding or sales as a business shall be permitted in the Community.

(b) No pet or animal shall be kept on the exterior of a Home, or upon a Lot or the Common Property, or left unattended in a yard or on a balcony, porch, patio or lanai.

(c) All pets (including cats) shall be walked on a leash when outside of the physical boundaries of a Home, and no pet shall be permitted to be kept outside of the boundaries of a Home while such pet's Homeowner is away from the Home or overnight (meaning that no pet shall be permitted to sleep outside of the physical boundaries of a Home).

(d) No pet shall be permitted to leave its excrement on any portion of the Property, and the Homeowner of such pet shall immediately remove the same.

4.9.3 Nuisance. A determination by the Board that an animal or pet kept or harbored in a Home is a nuisance shall be conclusive and binding on all parties. When notice of removal of any pet is given by the Board, the pet shall be removed within 48 hours of the giving of the notice.

4.9.4 Limitations on Amendment. No amendment to this Section 4.9 shall be permitted except upon the prior written consent of Declarant for so long as Declarant owns any portion of the Community.

4.9.5 Agreement of Homeowners. Each Homeowner, by virtue of taking title to a Lot, shall indemnify the Association and Declarant and hold them harmless from and against any loss or liability of any kind or character whatsoever arising from such Homeowner having any pet upon any portion of any property subject to this Declaration.

4.9.6 Rules and Regulations. The Association shall have the power and right to promulgate rules and regulations in furtherance of the provisions of this Section, including, but not limited to, weight limitations, the number of pets and breeds of pets.

4.10 Nuisances; Obnoxious or Offensive Activity; Hazardous Materials.

4.10.1 No noxious or offensive activity shall be conducted upon any portion of the Property, nor shall anything be done thereon which may become an annoyance or nuisance to the Community or its members.

4.10.2 No activity or use shall be allowed upon the Property which is a source of annoyance, embarrassment and/or discomfort to the Homeowners, Authorized Users or Benefited Parties, or which interferes with the peaceful possession and proper use and enjoyment of the Property, nor shall any improper, unsightly, offensive and/or unlawful use be made of any Lot, any portion of the Property and/or the Common Property, and all laws, ordinances, codes, rules and regulations of all applicable governmental bodies shall be observed.

4.10.3 The Property shall be used, enjoyed and occupied in such manner as not to cause or produce any of the following effects discernible outside of any Home: noise or sound that is objectionable because of its volume, duration, beat, frequency or shrillness; smoke; noxious, toxic or corrosive fumes, chemicals and/or gases; obnoxious odors; trash; debris; construction materials; dust, dirt or fly ash; fire or explosive hazards; vibration; or interference with normal television, radio, telephone and/or other telecommunication reception by other Homeowners.

#### 4.11 Trash; Garbage Containers.

4.11.1 No portion of the Property shall be used or maintained as a dumping ground for rubbish.

4.11.2 Trash, garbage or other waste shall be maintained in sanitary containers with lockable tops, and all trash containers shall be kept in a clean and sanitary condition. If provided by a service provider, containers to hold recycling and garbage shall be utilized by each Homeowner. If recycling and garbage containers are not provided by a service provider, the Association shall issue specifications for acceptable containers.

4.11.3 With regard to all Homes, all trash containers shall be stored in the garage or of pertaining to a Home, and all trash containers shall be taken to curbside in front of the Home not more than 24 hours prior to pickup and returned to their area of storage by the end of the day on which trash was collected.

4.12 Satellite Dishes. Satellite dishes, aerials, antennas and all lines and equipment related thereto located wholly within the physical boundaries of a Home shall be permitted without any requirement for approval from the Board of Directors. Satellite dishes, aerials and antennas (including, but not limited to, ham radio antennas) shall not be permitted on the non-enclosed dwelling portions of the Property except to the extent required to be permitted by applicable law (including, but not limited to, the Federal Telecommunications Act of 1996). The Association shall have the right and authority, in its sole discretion and from time to time, to promulgate rules and regulations, provided same are not violative of federal law, concerning the size and location of, and safety restrictions pertaining to, the installation of such signal reception equipment. To the extent permitted by applicable law, satellite dishes shall be required to be hidden from view from adjacent lands through location and landscaping techniques.

Notwithstanding any provision to the contrary, only antennae, aerials and satellite dishes which are designed to receive signals shall be permitted (i.e., no antennae and satellite dishes which broadcast a signal shall be permitted) on a Lot. The preceding sentence shall be deemed inapplicable to the Association, which, in its discretion and from time to time, shall have the power, right and ability to erect or install any satellite dish, aerial or antenna or any wireless networking devices and facilities for purposes of disseminating information to the Homeowners or for access control and monitoring purposes.

4.13 Energy Conservation Devices. The ARC must approve all solar panels and energy conservation equipment prior to installation of such equipment on a Home or Lot. All solar heating apparatus must conform to the standards set forth in the HUD Intermediate Minimum Property Standards Supplement, Solar Heating, and Domestic Water Systems, or other applicable governmental regulations and/or ordinances. No solar energy collector panels or attendant hardware or other energy conservation equipment shall be constructed or installed unless it is an integral and harmonious part of the architectural design of a structure, as reasonably determined by the ARC. No solar panel, vents, or other roof-mounted, mechanical equipment shall project more than 1.0 feet above the surface of the roof of a

Home, and all such equipment, other than solar panels, shall be painted consistent with the color scheme of the portion of the Home for which such equipment is installed. This provision is not intended to prohibit the use of energy conservation devices.

4.14 Division of Lands; Prohibition Against Timesharing or Similar Uses. No Lot shall be subdivided or its boundary lines changed except by Declarant as to the Lots owned by Declarant and otherwise except with the prior written approval of the Board. The Board may permit a division in ownership of any Lot intended for a single family residence as shown on a plat, but solely for the purpose of increasing the size of the adjacent Lots. Declarant hereby expressly reserves the right to replat any Lots owned by Declarant. Any such division, boundary line change, or replatting shall not be in violation of the applicable subdivision and zoning regulations.

No portion of the Property shall be made subject to any type of timeshare program, interval ownership, vacation club or similar program (except for short-term lodging purposes by Declarant) whereby the right to exclusive use of the Home and Lot rotates among multiple Homeowners or members of the program on a fixed or floating time schedule over a period of years. This Section shall not prohibit ownership of such property by joint tenants or tenants-in-common nor shall it prohibit ownership by an Homeowner who is not a natural person. Notwithstanding anything to the contrary, Declarant shall specifically be exempt from any timeshare or interval ownership development restrictions imposed by this Declaration, and in its sole discretion may develop a timeshare regime or facility on any portion of the Property from time to time. No amendment or modification to this Section shall be effective without the prior written consent of Declarant for so long as Declarant owns any portion of the Property.

4.15 Firearms. The discharge of firearms within the Community is prohibited; provided, the Association, the Board, the Association's directors, officers, employees and agents shall not have any duty to become physically involved to stop any such discharge. The term "firearms" includes handguns, rifles, shotguns, "B-B" guns, paintball guns, pellet guns, crossbows, paintball guns and other firearms of all types and weapons which expel a projectile, regardless of size or type.

4.16 Irrigation. No sprinkler or irrigation systems of any type which draws upon water from creeks, streams, rivers, lakes, ponds, wetlands, canals or other ground or surface waters within the Property shall be installed, constructed or operated within the Property by any Person other than Declarant or the Association. No Person may install a pump or otherwise divert any waters from any lake located wholly or partially on, or which are adjacent to, the Property for purposes of irrigation or any other purpose.

4.17 Wells and Drainage. No private water system or well shall be constructed or permitted on any portion of the Property, either for personal use or for irrigation. Catch basins and drainage areas are for the purpose of natural flow of water only. No obstructions or debris shall be placed in these areas. No Person other than Declarant or the Association may obstruct or rechannel the drainage flows after location and installation of drainage swales, storm sewers, or storm drains. Declarant hereby reserves for itself and grants to the Association a perpetual easement across the Property for the purpose of altering drainage and water flow, provided the same shall not unreasonably interfere with a Homeowner's use of a Lot. Notwithstanding the foregoing, Declarant shall be permitted to install and maintain wells on the Property as they determine from time to time (in which event such wells shall be deemed to be permitted once the property upon which the well is located is conveyed to a third party).

4.18 Sewage Disposal; Septic Tanks. No individual sewage disposal system shall be permitted on any portion of the Property. Septic tanks are not permitted on any portion of the Property, except for sales centers, models or construction offices of Declarant or as otherwise permitted by the ARC in conjunction with temporary use.

4.19 Temporary Structures. No structure of a temporary character, trailer, tent, shack, storage building, shed, stand-alone garage, barn or other outbuilding (a) shall be used on any portion of the Property at any time as a residence either temporarily or permanently, except that Declarant may place any type of temporary structure on any portion of the Property at any time to aid in its construction and/or

sales activities, or (b) shall be permitted to be located on any portion of the Property for any other purpose without the prior written approval of the ARC (Declarant shall be exempt from this approval requirement with regard to Declarant-owned Lots).

4.20 Insurance Rates. No Homeowner shall permit or suffer anything to be done or kept in his Home or, where applicable, on his Lot which will increase the rate of insurance for, or result in the cancellation of insurance policies pertaining to, other Homeowners, the Association or Declarant.

4.21 Sight Distance at Intersections. All portions of the Property located at street intersections shall be landscaped in a manner so as to permit safe sight across the street corners. No fence, wall, hedge, or shrub planting shall be placed or permitted to remain where it would create a traffic or sight problem, as the same is determined by the Board; provided, however, that the foregoing restriction shall in no manner be deemed applicable to walls which serve to border or exist along or directly adjacent to one or more Lots.

4.22 Utility Lines. No overhead utility lines, including, without limitation, lines for electric, telephone and cable television, shall be permitted within the Property, except for (a) overhead transmission lines existing as of the date of original recording of this Declaration, and (b) temporary lines as required during construction and lines within the Property as the same may exist on the date hereof.

4.23 Wetlands, Lakes and Water Bodies. All lakes, ponds and streams within the Property, if any, shall be designated as aesthetic and drainage or irrigation amenities. No swimming, boating, playing, fishing or use of personal flotation devices on all water bodies or lake within the Community shall be permitted, save and except for activities specifically permitted by the Rules and Regulations and the requirements of the WMD Permit.

4.24 Increase in the Size of Lots; Changes in Elevation. No Lot shall be changed in size by filling in any water body or lake it may abut or by excavating existing ground, except upon the prior written approval of the ARC. The elevation of a Lot may not be changed so as to materially affect the surface elevation or grade of the surrounding Lots without the prior written approval of the ARC.

4.25 Signs.

4.25.1 In General. Except as otherwise specifically permitted hereunder, no sign, billboard or advertisement of any kind, including, without limitation, those of realtors, contractors, subcontractors and for sale or for lease signs, shall be erected within the Property without the written consent of the ARC and in accordance with the Community Wide Standard, except as may be required by legal proceedings or applicable law, and except signs, regardless of size, used by Declarant, its successor and assigns, and replacement of such signs. If permission is granted to any Homeowner to erect a sign within the Property, the ARC reserves the right to restrict the size, color, lettering, height, material and location of the sign. Under no circumstances shall signs, banners or similar items advertising or providing directional information with respect to activities being conducted outside the Property be permitted within the Property. The ARC may promulgate rules and regulations for signs which do not require prior ARC approval to be placed on a Lot. No sign shall be nailed or otherwise attached to trees.

4.25.2 Homes for Sale; Signs Advertising Auctions. Homes which are for sale or lease may be shown by prior appointment only. No "For Sale" or realtor signs shall be permitted to be placed upon any Lot, within the windows of any Home, or upon the Common Property for so long as Declarant owns at least one Lot in the Community, and thereafter only as specifically approved by the ARC. In furtherance of the provisions of Section 4.48 hereof, no signs shall be permitted indicating that a Lot will be sold by means of a public or private auction, and reference should be made to such Section 4.48 with regard to the general prohibition against a Lot being offered for sale by public or private auction. Notwithstanding the foregoing provisions of this Section 4.25.2, Declarant shall be entitled to utilize signs on a Lot or the Common Property indicating the name of a particular model type or the name of the future Homeowner of a Lot being constructed or to be constructed.

4.25.3 Prohibition Against Signs Advertising Homes for Rent or Lease; Limitation on "Open House" Signs. No "for rent," "for lease" or like signs shall be permitted on any Lot, Home or the Common Property. "Open house" signs shall only be permitted to be placed on a Lot or Home, and open houses shall only be permitted within the Community, within normal and ordinary daylight hours. The size and number of "open house" signs shall be determined by the ARC from the time to time, and the ARC shall be permitted to impose differing requirements for different Lots, as the ARC may determine in its sole and absolute discretion. No "open house" signs shall be permitted to be placed on the Common Property.

4.25.4 Traffic Signs. The Association shall be responsible for the installation, maintenance, repair and/or replacement of all traffic signs within the Community. The Association, for aesthetic purposes, may not, and shall not be required to, fully utilize the Florida Department of Transportation standards for any or all traffic signs, unless otherwise so required by a governmental entity.

4.25.5 Declarant Exemption; Amendment to Provisions Concerning Signs. Declarant is specifically exempt from the provisions of this Section 4.25, and as such shall be entitled to erect such signs as it deems necessary or desirable in Declarant's sole discretion from time to time. No amendment or modification to this overall Section pertaining to signs shall be effective without the prior written consent of Declarant for so long as Declarant owns any portion of the Property.

4.25.6 Flag Display. In accordance with the Act, a Homeowner may (i) erect a freestanding flagpole no more than 20 feet high as long as such flagpole does not obstruct sightlines at intersections and is not erected within or upon an easement, and (ii) may display one official United States flag, not larger than 4½ feet by 6 feet, and may additionally display one official flag of the State of Florida or the United States Army, Navy, Air Force, Marines, or Coast Guard, or a POW-MIA flag (such additional flag must be equal in size to or smaller than the United States flag). The flagpole and flag display are subject to all building codes, zoning setbacks, and other applicable governmental regulations, including, but not limited to, noise and lighting ordinances of the Governmental Entities (to the extent applicable) and all setback and locational criteria contained in the Declaration.

4.25.7 Security Sign Display. Any Homeowner may display a sign of reasonable size provided by a contractor for security services within 10 feet of any entrance to the Home. The Association may promulgate rules and regulations in furtherance of this Section; provided, however, that no such rules or regulations will inhibit the rights of a Member pursuant to Section 720.304(6) of the Act.

#### 4.26 Pools; Screens and Screened Enclosures.

4.26.1 Pools. A Homeowner may apply to the ARC for approval for installation of a pool in accordance with all applicable governmental regulations.

(a) Above-Ground Pools. No above-ground pools or Roman spas shall be erected, constructed or installed on any Lot, except that above-ground pools which are integrated within the construction of or are attached to a building or decking around the building may be permitted subject to the discretion of the ARC.

(b) In-Ground Pools. All in-ground pools shall be contained within a screened enclosure or otherwise shall be enclosed in accordance with applicable law.

(c) Pool Equipment. All pool equipment shall be shielded from view.

4.26.2 Spa. A Homeowner may apply to the ARC for approval for installation of a spa in accordance with all applicable governmental regulations, including setback requirements.

#### 4.26.3 Screened Enclosures.

(a) The use of standard cage screen enclosures may be restricted on Lots and Homes abutting or facing certain portions of the Property, as shall be determined by the ARC.

(b) Any screened enclosures shall be integrated within the principal structure, shall be constructed in accordance with applicable Governmental Entity building code provisions, and shall be subject to construction, design and appearance approval by the ARC, which may vary by Neighborhood. The ARC may, but shall not be obligated to, approve an alternate fence structure on a Lot in lieu of a screened enclosure, subject to applicable provisions of the ARC Guidelines and applicable Governmental Entity building code provisions; the ARC shall be permitted to approve or disapprove any such alternative fence structure in its sole discretion.

(c) All screened pool enclosures shall be of a color approved by the ARC, but no mill finish aluminum is permitted.

4.26.4 Screening of Lanais. No lanai may be enclosed by screening except for those located on the first floor of a Home; provided, however, that any screened enclosure which encompasses a pool and deck area may serve to permissibly enclose lanai and balcony areas located above the first floor of a Home.

4.26.5 Screens on Windows and Doors. The foregoing provisions shall not be deemed to apply to screens directly affixed to windows or sliding glass doors, but in no event shall screens be permitted to be affixed or attached to or in connection with the front entrance to a Home or the garage serving a Home.

4.26.6 Limitations on Amendment. Except as otherwise provided herein, the provisions of this Section 4.26 shall not be amended without the prior written consent of Declarant for so long as Declarant owns any portion of the Property.

4.27 Air Conditioning Units. No window air conditioning units may be installed on or in any Home except in connection with a temporary structure operated by Declarant or the Association. All air conditioning units shall be screened from view of the street and adjacent Homes and Lots.

4.28 Lighting. Except for seasonal Christmas or holiday decorative lights, which may be displayed between Thanksgiving and January 10 only, all exterior lights must be approved by the ARC prior to installation.

#### 4.29 Artificial Vegetation, Ornamentation, Sculptures, Statuaries and Similar Items.

4.29.1 All artificial vegetation must be approved by the ARC prior to installation.

4.29.2 Ornaments, sculptures, statuaries, lawn decorations and similar items of any size or type, including, but not limited to, bird feeders, statues, fountains, gazing balls, gnomes, planters and signs, may not be installed on a Lot without first obtaining the approval of the ARC. To implement this requirement, the ARC may adopt and amend, from time to time, standards for such ornaments, statuary, and/or lawn decorations as part of the ARC Guidelines.

4.30 On-Site Fuel Storage. No on-site storage of gasoline or other fuels shall be permitted on any Lot except that up to 5 gallons of fuel may be stored upon a Lot and/or within the boundaries of the Home contained on a Lot for emergency purposes and/or operation of lawn mowers and similar tools or equipment. No underground propane or natural gas tanks shall be permitted on the Property. Notwithstanding the foregoing to the contrary, small propane tanks which are utilized directly and solely in connection with a barbecue grill shall be permitted on any Lot, subject to applicable fire code and safety regulations. All fuel tanks must be hidden from view.

4.31 Window Treatments.

4.31.1 Any window treatments of any kind that are visible from the exterior of a Home shall be compatible with the exterior design and color of such Home.

4.31.2 The following shall not be used as window treatments and/or window coverings: sheets, towels, flags, aluminum foil and/or any material not specifically designed to be a window treatment, which shall be determined by the ARC in its respective sole and absolute discretion.

4.31.3 Notwithstanding any provision to the contrary, reflective window coverings are prohibited within the Community.

4.31.4 No awnings, canopies or shutters shall be permanently installed on the exterior of any Home unless approved by the ARC prior to installation.

4.32 Completion of Work. Upon commencement of any Work, the Homeowner of a Lot shall diligently prosecute the Work to the end so that all work shall be completed as expeditiously as is reasonable, but in no event shall last longer than 12 consecutive months. If an unforeseen event occurs that would prevent such Work from being completed in that 12 month time period, the Homeowner of such Lot shall apply to the ARC for an extension of time to complete the Work. The Homeowner of such Lot shall provide the ARC with a good faith estimate of the time required to complete the Work, but the length of any extension shall be in the sole discretion of the ARC. There shall be no more than 2 extensions for each approved Work project. If the Work remains incomplete after the second extension, the Association shall have all available rights and remedies under Florida law or the Governing Documents. The Homeowner of the Lot on which Work is being undertaken shall keep the streets, sidewalks, drainage structures and all areas adjacent to that Lot free from damage, dirt, mud, garbage, trash, refuse, building materials and/or other debris occasioned by construction.

4.33 Hedges, Walls and Fences.

4.33.1 There shall be no hedge, shrubbery, fence and/or wall constructed, built, placed, planted, erected and/or installed on any Lot or other portion of the Property unless the height, location, design, color and component materials are first submitted to and approved in writing by the ARC in accordance with the ARC Guidelines and subject to the terms and conditions of Section 4.32 hereof.

4.33.2 Incidental to the approval of any hedge, fence or wall, the ARC may impose conditions and/or requirements applicable to such hedge, fence or wall, such as, but not necessarily limited to, a requirement for a landscape buffer on the exterior side of such hedge, fence or wall.

4.33.3 In no event shall the ARC approve construction, placement and/or installation of any fence or wall between any street or boulevard and a straight line being the extensions of the farthest set back portion of the elevation (whether front, side or rear) of any Home facing such street or boulevard to the boundaries of the Lot.

4.33.4 Notwithstanding anything herein to the contrary, so long as any builders or contractors designated by Declarant maintain any staging, storage and/or parking areas within the Property, they shall be entitled to hedge, fence or wall off any such area for only the term of such use, provided that Declarant's written approval of each such hedge, fence or wall is obtained prior to construction, planting, placing and/or installation of the hedge, fence or wall.

4.33.5 Hedges, fences and walls constructed, planted, placed and/or installed by Declarant are exempt from compliance with this Section 4.33.

4.33.6 Notwithstanding anything to the contrary contained herein, construction of any fence or wall, whether by Declarant or otherwise, which obstructs the surface water flow in swales shall be strictly prohibited.

4.33.7 Declarant, in the course of creating the ARC Guidelines, shall be entitled to place restrictions on the installation of walls and fences on certain Lots based upon the Lot size and dimension.

4.33.8 Any fence, hedge or wall placed within any drainage easement area on the Lot shall be removed by the Association, and the costs of such removal shall be charged to the offending Homeowner and Lot as a Specific Assessment.

4.33.9 Invisible fences are permitted only in the rear and/or side yards. Invisible fences are permitted in a front yard only with the prior written approval of the ARC.

4.33.10 The provisions of this Section 4.33 shall specifically not be amended without the prior written consent of Declarant for so long as Declarant owns any portion of the Property.

4.34 Use Indemnity. Every Homeowner agrees to indemnify, defer and hold harmless the Association, Declarant and their partners, shareholders, directors, officers, employees and agents for any claims, demands, losses, costs, fees and expenses related to, or in any way pertaining to, use of any Common Property furnished by Declarant, or the Association, by the Homeowner and other Authorized Users.

4.35 Maintenance Easement. Every Lot is burdened with an easement permitting the Association to utilize portions of the Property abutting the Common Property to maintain portions of the Common Property, provided such easement shall be exercised in a manner which does not interfere with use or enjoyment of the Lot for its primary purpose and that such use by the Association will not damage improvements on the Lot.

4.36 Home Business Use. No trade or business may be conducted in or from any Lot, except that an Homeowner or occupant residing in a Home may conduct business activities within the Home so long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside of the Home; (b) the business activity conforms to all governmental requirements; (c) the business activity does not involve persons coming onto the residential properties who do not reside in the Property or door-to-door solicitation of residents of the Property; and (d) the business activity is consistent with the residential character of the Community and does not constitute a nuisance, or a hazardous or offensive use, or threaten the privacy or safety of other residents of the Property, as may be determined in the sole discretion of the Board.

The terms "business" and "trade", as used in this subsection, shall be construed to have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (i) such activity is engaged in full or part-time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required therefor. Notwithstanding the above, the leasing of a Lot shall not be considered a trade or business within the meaning of this Section.

4.37 View Impairment. Neither Declarant nor the Association guarantees or represents that any view over or across any body of water or the Common Property to and from the Lots shall be preserved without impairment. Neither the Association nor the Homeowners shall have an obligation to thin trees or other landscaping. The Association has the right, in their sole and absolute discretion, to add or withdraw trees and other landscaping and other improvements or changes to the Common Properties from time to time. Any such changes or additions may diminish, obstruct or impair any view from the Lots, and any express or implied easements for view purposes or for the passage of light and air are hereby disclaimed.

4.38 Wildlife. All Persons are hereby notified that from time to time alligators, snakes and other wildlife may inhabit or enter into or exit from water bodies or conservation areas within the Community and may pose a threat to persons, pets and property. No Person shall be permitted to disturb or harm any wildlife residing in the Community.

4.39 Use of Common Property. There shall be no alteration, addition or improvement of any Common Property, except as provided in this Declaration, nor shall any Person use the Common Property, or any part thereof, in any manner contrary to or not in accordance with the rules and regulations pertaining thereto as from time to time may be promulgated by the Association or approved and authorized in writing by the Association.

4.40 Mailboxes.

4.40.1 Mailboxes shall be constructed and located by Declarant in its sole discretion and in accordance with U.S. Postal Service requirements. In the event that a mailbox is not installed by Declarant, before occupying a Home, the Homeowner thereof shall install or have installed a mailbox of such type, design and decoration, and in such location on the Lot as shall hereafter be designated by Declarant and/or approved by the ARC. No other mailbox, paper box or other receptacle of any kind for use in the delivery of mail, newspapers, magazines and/or similar material(s) shall be placed, located, constructed and/or installed on any Lot.

4.40.2 A perpetual, non-exclusive easement is hereby declared across the Common Property for purposes of permitting delivery of the mail.

4.40.3 No mailbox may be altered, changed, modified, repaired and/or replaced without the prior written approval of the ARC. Replacement and maintenance of mailboxes shall be the obligation of the Homeowner.

4.41 Extended Vacation or Absences. In the event a Home will not be occupied for an extended period of time, the Home and Lot must be prepared prior to departure by:

4.41.1 notifying the Association of such absence and the anticipated date of return;

4.41.2 removing all removable furniture, plants and other items of personal property from the exterior portions of the Lot; and

4.41.3 designating a person or entity to care for the Lot during such period of absence (both in terms of routine care and in the event of damage) and providing necessary access to the Home (the Homeowner is required to provide the Association with the name and telephone number of the designated person or entity).

The Association hereby disclaims any responsibility with regard to each unoccupied Home, and the Homeowner hereby acknowledges and agrees that the Association has no duty with regard to any unoccupied Home under this Section.

4.42 Storm and Hurricane Shutters.

4.42.1 No storm or hurricane shutters or any similar protective covering for the windows or doors of a Home may be installed unless first approved in writing by the ARC, whether or not applicable provisions are contained in the ARC Guidelines. Accordion style storm shutters are not permitted on the front façade of any Home.

4.42.2 All hurricane shutters or similar protective window coverings shall be aesthetically pleasing or harmonious with the Governing Documents, Declarant's development plan, the architectural pattern of the Property and/or the architectural scheme of the Property.

4.42.3 Should severe storm weather occur the following shall apply to temporary measures that may be taken by any Homeowner or Resident:

(a) Storm shutters, hurricane shutters, plywood, tape and/or similar protective window coverings of any type may be applied, installed and/or placed no sooner than 3 days before the arrival of

a named storm based on the projected arrival time of that named storm by the National Weather Service and/or the National Hurricane Center.

(b) All storm shutters, hurricane shutters, plywood, tape and/or similar protective window coverings of any type must be removed, taken down and/or taken off no later than 5 days after the specific named storm and/or threat of that named storm has passed the Property.

4.43 Garage Sales. No garage sales or other private sales of a similar nature shall be permitted at any time in the Community, it being the specific intention of Declarant to preserve the distinct nature and character of the Community as developed. No amendment or modification to this Section shall be effective without the prior written consent of Declarant for so long as Declarant owns any portion of the Property.

4.44 Sound Transmission. Each Homeowner, by acceptance of a deed or other conveyance of their Lot, hereby acknowledges and agrees that sound and impact noise transmission is very difficult to control, and that noises from adjoining or nearby Lots and Homes and/or mechanical equipment, adjacent businesses, or adjacent roadways or streets, can be heard in another Home. Declarant does not make any representation or warranty as to the level of sound or impact noise transmission between and among Homes and the other portion of the Property, and each Homeowner hereby waives and expressly releases, to the extent not prohibited by applicable law as to the date of this Declaration, any such warranty and claims for loss or damages resulting from sound or impact noise transmission.

4.45 Access Ramps. Any Homeowner may construct an access ramp on or to their Home if a resident or occupant of the Home has a medical necessity or disability that requires a ramp for egress and ingress, under the following conditions:

4.45.1 The ramp must be as unobtrusive as possible, be designed to blend in aesthetically as practicable, and be reasonably sized to fit the intended use.

4.45.2 Plans for the ramp must be submitted in advance to the Association. The Association may make reasonable requests to modify the design to achieve architectural consistency with surrounding structures and surfaces.

4.45.3 The Homeowner must submit to the Association an affidavit from a physician attesting to the medical necessity or disability of the resident or occupant of the Home requiring the access ramp. Certification as required under Section 320.0848, Florida Statutes, shall be sufficient to meet the affidavit requirement.

4.46 Basketball Goals. Basketball goals and accompanying or related structures or supports are not permitted for Lots, it being Declarant's stated intent to ensure a uniform and consistent exterior appearance within the Community, except that portable basketball stands are permitted provided that the Homeowner stores the equipment in the garage whenever the equipment is not in use.

4.47 Swingsets and Playground Equipment. No swingset or playground equipment or other similar devices or items shall be placed on a Lot without the prior written consent of the ARC.

4.48 Prohibition Against Auctions. No Lot, or any personal property contained within or pertaining to a Lot or Home, shall be permitted to be sold by means of a public or private auction held on the Lot or upon any portion of the Community; provided, however, that (a) the sale of a Lot, or any personal property contained within or pertaining to a Lot or Home, pursuant to court order (such as, but not necessarily limited to, an order of forced sale as a result of foreclosure, bankruptcy or seizure) shall be exempt from the prohibitions of this Section 4.48, and (b) Declarant shall be exempt from the provisions of this Section 4.48.

4.49 Clothes Drying Area. No portion of the Property shall be used as a drying or hanging area for laundry of any kind unless that area is fully screened from view by fencing and/or landscaping,

except to the extent required to be permitted by applicable law. No drying or hanging area for laundry shall be permitted to be visible from the streets or from any other Lot within the Property.

4.50 Hazardous Materials. No inflammable, combustible or explosive fluid or chemical substance shall be kept on any portion of the Property except such as are required for normal household use, and same shall be kept within a Home or upon a Lot.

4.51 Exterior Equipment. All exterior water treatment systems, well pumps, sprinkler pumps, pool and spa equipment and heaters, and other mechanical fixtures and equipment, all wood piles, and all exterior fuel tanks and other storage receptacles, shall be installed only within approved accessory buildings and/or screened areas so as not to be visible from any street and surrounding Lots, and same shall also comply with any additional standards established from time to time by the ARC and applicable law.

4.52 Garages. No Homeowner may in any way diminish and/or reduce the parking capacity for a garage located on that Homeowner's Lot. No Homeowner may convert and/or turn the garage located on that Homeowner's Lot into living space of any kind. No Homeowner may use, rent and/or lease the garage located on that Homeowner's Lot as living space of any kind.

4.53 Tree Removal and Landscaping. Except by Declarant, existing trees measuring four inches (4") or more in diameter at three feet (3') or more above ground level shall not be cut and/or removed without the prior written consent of the ARC. More restrictive arbor ordinances and/or environmental laws shall control in the event of any conflict with this Declaration. There shall be no removal of trees or clearing, other than clearing of underbrush, until the ARC has approved in writing a landscape plan that designates those existing trees to be retained and preserved on the Lot. Prior to occupancy of the Home, all of the grounds of each Lot not covered by building improvements shall be completely sodded or covered with grass ground cover that has first been submitted to and approved by the ARC (except for the initial sale of a Lot by Declarant to a third party purchaser, which shall be exempt from the requirement for ARC approval).

4.54 Pumping or Draining. No Homeowner of any Lot which includes, abuts, borders, and/or is adjacent to any pond, retention pond, detention pond, drainage facility, creek, river, lake, bay head, or other body of water shall pump and/or drain any water therefrom.

4.55 Oil, Gas and Minerals. No oil, gas or mineral drilling, refining, quarrying or mining operations of any kind shall be permitted upon or in the Property, nor shall oil, gas or mineral equipment, wells, tunnels, excavations or shafts be permitted upon or in the Property. The operations and activities of Declarant in developing the Property and of the Association in operating, maintaining, repairing and replacing the Surface Water Drainage and Management System and/or any portion of the Property are exempt from the provisions of this Section 4.55.

4.56 Security Bars. No security bar system may be installed on the interior and/or exterior of any window or door of any Home unless first approved in writing by the ARC, whether or not applicable provisions are contained in the ARC Guidelines.

4.57 Holiday Displays. Homeowners shall be permitted to display religious and/or holiday signs, symbols and decorations on their Lots of the kinds normally displayed inside or outside of residences located in a single family residential community. However, in addition to the provisions of Section 4.28 hereof, the Association may adopt reasonable time, place and manner restrictions, including, but not limited to, design criteria and length of time that the display is visible, for the purpose of minimizing damage, preventing an unsightly appearance and/or minimizing disturbance to other Homeowners, Authorized Users and/or Residents.

4.58 Rules and Regulations. The Board of Directors may from time to time adopt, or amend previously adopted, Rules and Regulations governing (i) the interpretation and more detailed implementation of the restrictions set forth in this Declaration, including those which would guide the ARC

in the uniform enforcement of the foregoing general restrictions, and (ii) the details of the operation, use, maintenance, management and control of the Common Properties; provided, however, that copies of such rules and regulations shall be furnished to each Homeowner prior to the time same becoming effective and provided that said rules and regulations are a reasonable exercise of the Association's power and authority based upon the overall concepts and provisions of this Declaration.

4.59 Provisions Inoperative as to Initial Construction; Exemptions for Specified Parties. Nothing contained in this Declaration will be interpreted, construed or applied to prevent Declarant or with the prior written consent of Declarant so long as Declarant is an owner of any portion of the Property, and then the Association, or its or their contractors, subcontractors, agents, and employees (collectively, "Specified Parties"), from doing or performing on all or any part of the Property owned or controlled by Declarant whatever is determined to be reasonably necessary or convenient to complete the development of the Community, including, but not limited to, (a) the right to erecting, construct, and maintain such structures and other improvements as may be reasonably necessary or convenient for the conduct of the Specified Parties' business of completing the development, establishing the Property as a mixed-use community, disposing of the same by sale, lease, or otherwise and operating and maintaining a hotel, restaurant, bar, parking, sales and marketing or other non-residential facilities on the Property; (b) the ability to conduct thereon its business of completing the development and disposing of the same by sale, lease or otherwise, and operating and maintaining of a hotel, restaurant, bar, parking, sales and marketing or other non-residential facilities on the Property (however, any and all work described herein and proposed to be performed must be performed in accordance with the provisions of the ARC Guidelines); and (c) the right to maintain such signs as may be reasonably necessary or convenient in connection with the development or the sale, lease or other transfer of Lots or the sales and marketing activities on the Property.

4.60 Access by Association. The officers, employees or designated agents of the Association have a right of entry onto each Lot, except those owned by Declarant, to the extent reasonably necessary to discharge any duty imposed, or exercise any right granted, by this Declaration or to investigate or enforce the provisions of this Declaration and the rules and regulations of the Association. Such right of entry must be exercised in a peaceful and reasonable manner at reasonable times and the entry may be only upon reasonable notice whenever circumstances permit. Entry into the interior of any Home may not be made for any purpose without the consent of its Homeowner or occupant, except pursuant to court order or other authority conferred by law. Such consent will not be unreasonably withheld or delayed.

4.61 Requirement for Declarant Consent for Amendments. No amendment to any provision contained in this Article 4 may be amended without the prior written consent of Declarant for so long as Declarant owns any portion of the Property.

## **Article 5: Membership and Voting Rights**

5.1 Membership. Every Homeowner of a Lot that is subject to assessment under Article 8 of this Declaration shall become a Member upon the recording of the instrument of conveyance. If title to a Lot is held by more than one person, each such person is a Member. A Homeowner of more than one Lot is entitled to one membership for each Lot owned. Each membership is appurtenant to the Lot upon which it is based and is transferred automatically by conveyance of title to that Lot whether or not mention thereof is made in such conveyance of title. No person other than a Homeowner may be a Member, and a membership in the Association may not be transferred except by the transfer of title to a Lot; provided, however, the foregoing does not prohibit the assignment of membership and voting rights by a Homeowner who is a contract seller to such Homeowner's vendee in possession.

5.2 Voting. The Association shall have two (2) classes of voting membership: Class A and Class B. So long as there is Class B membership, Class A Members are all Homeowners except Declarant. The Class B Member shall be Declarant. Upon termination of Class B membership, as provided below, Class A Members are all Homeowners, including Declarant so long as such Declarant is a Homeowner. Subject to the provisions of Section 5.3 of this Article, Members shall cast votes in accordance with the applicable provisions of the By-Laws, as there are different votes allocated to, Class

A and Class B members; however, as provided in the Articles of Incorporation and/or By-Laws, the Class B Members are entitled to elect not less than a majority of the Association's directors until termination of Class B membership.

5.3 Co-Ownership. If more than one person owns an interest in any Lot, all such persons are Members, but there may be only one vote cast with respect to such Lot. Such vote may be exercised as the co-owners determine among themselves, but no split vote is permitted. Prior to any meeting at which a vote is to be taken, each co-owner must file the name of the voting co-owner with the secretary of the Association to be entitled to vote at such meeting, unless such co-owners have filed a general voting authority with the secretary applicable to all votes until rescinded. Notwithstanding the foregoing, if title to any Lot is held in a tenancy by the entireties, either tenant is entitled to cast the vote for such Lot unless and until the Association is notified otherwise in writing.

5.4 Transfer of Control of the Association.

5.4.1 Transfer of Control shall occur upon which Class B membership ceases to exist and is converted into Class A membership, which shall be on the earlier of (a) a triggering event contained in Section 720.307(1) of the Act, or (b) the date that Declarant waives in writing its right to Class B membership, which waiver shall be evidenced by the recording of a certificate to such effect in the public records of the County.

5.4.2 Subsequent to Transfer of Control, Declarant shall be entitled to elect at least one member of the Board (and in fact shall be entitled to elect all members of the Board which will constitute one less than a majority of the members of the Board) as long as Declarant holds for sale in the ordinary course of business at least 5% of the Lots that may be constructed in all phases of the Community that will ultimately be operated by the Association.

5.4.3 After Declarant relinquishes control of the Association, Declarant may exercise the right to vote in the same manner as any other Member, except for purposes of reacquiring control of the Association by selecting the majority of the members of the Board of Directors.

5.5 Termination of Class B Membership. Upon Transfer of Control, Class B membership shall terminate and Declarant shall own portions of the Property in the same manner as a Class A Member.

**Article 6: Rights and Obligations of the Association**

6.1 Association. The Association shall govern, make Rules and Regulations, and control and manage the Lots and Common Properties located on the Property pursuant to the terms and provisions of this Declaration and the Articles of Incorporation and By-Laws. The Association shall at all times pay the real property ad valorem taxes on any Common Properties if said taxes are billed to the Association as differentiated from being billed to the Homeowner and pay any governmental liens assessed against the Common Properties. The Association shall further have the obligation and responsibility for the hiring of certain personnel and purchasing and maintaining such equipment as may be necessary for maintenance, repair, upkeep and replacement of any Common Properties and facilities which may be located thereon, the performance of any of its maintenance obligations and performance of such other duties as are set forth herein, as follows:

6.1.1 Notwithstanding the foregoing, the Association may, but is not obligated to, employ community access or patrol services or personnel. If community access or patrol services or personnel are employed by the Association, the Board shall determine, in its sole discretion, the schedule and cost of expense of such access or patrol services or personnel. Declarant, while in control of the Association, does not intend to hire or pay for access or patrol services or personnel. Each Homeowner, by virtue of taking title to a Lot, consents and agrees that Declarant is and shall be under no obligation to provide any access or patrol services or personnel within the Community, and shall hold Declarant harmless for any occurrences in such regard.

6.2 Declarant and/or the Association may, but shall not be obligated to, maintain or support certain activities within the Property and the Community designed to make the Property and the Community more secure than they otherwise might be. Neither the Association nor Declarant shall in any way be considered insurers or guarantors of security or safety within the Property. Neither the Association nor Declarant shall be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security or safety measures undertaken. All Homeowners and occupants of any Home or Lot, Residents, Authorized Users, tenants, guests and invitees of any Homeowner or Authorized User, as applicable, acknowledge that Declarant and the Association, and the officers, directors and supervisors of each of them, do not represent or warrant that any fire protection system, electronic monitoring system or other security system designated by or installed according to guidelines established by Declarant or the ARC may not be compromised or circumvented, that any fire protection or electronic monitoring systems or other security systems will prevent loss by fire, smoke, burglary, theft, hold-up, or otherwise, and that fire protection or electronic monitoring systems or other security systems will in all cases provide the detection or protection for which the system is designed or intended. Each Homeowner and occupant of any Home, and each Resident, Authorized User, tenant, guest and invitee of a Homeowner, as applicable, acknowledges and understands that each Homeowner and occupant of any Home and each Authorized User, tenant, guest and invitee of any Homeowner assumes all risks for loss or damage to persons, to Lots and Homes and to the contents of Homes and further acknowledges that the Association and Declarant have made no representations or warranties nor has any Homeowner, Authorized User, occupant, tenant, guest or invitee relied upon any representations or warranties, expressed or implied, including any warranty of merchantability or fitness for any particular purpose, relative to any fire and/or electronic monitoring systems or other security systems recommended or installed or any security measures undertaken within the Property and the Community.

6.2.1 The Association shall maintain the Common Properties and pay the real property ad valorem taxes and governmental liens assessed against the Common Properties and billed to the Association. Any Common Properties which are to be maintained by the Association as provided herein shall be maintained in good condition and repair. Should real property ad valorem taxes or governmental liens as to any Common Properties be assessed against the billed Lots, the Board shall have the right to determine, in its sole discretion, if the Association should pay all or any portion of said bill(s) for taxes or liens, and such amount as they determine should be paid by the Association shall be levied as a Special Assessment pursuant to Article 8 of this Declaration.

6.2.2 The Association shall maintain any and all landscaping islands and all landscaping and/or signage located, placed, installed or erected thereon, if any.

6.2.3 In the event the Association in the future acquires any Common Properties, the Association shall obtain, maintain and pay the premiums for the hazard insurance (if and to the extent required or otherwise determined to be applicable and necessary), flood insurance, liability insurance and fidelity bond coverage as set forth below and as consistent with state and local insurance laws, and such other types of insurance as the Board may deem advisable:

(a) Hazard insurance covering all Common Properties, except for land foundations and excavations, and all common personal property and supplies. The policy must protect against loss or damage by fire and all other hazards normally covered by the standard extended coverage endorsement and all other perils customarily covered for similar types of communities, including those covered by the standard "all risk" endorsement. The policy shall cover 100% of the current replacement cost of all covered facilities and shall include the following endorsements: agreed amount and inflation guard (if available); and construction code (if the local construction code requires changes to undamaged portions of buildings even when only part of the Property is destroyed by an insured hazard).

(b) Flood insurance covering the Common Property buildings and any other common personal property if any part of the Community is in a special flood hazard area as defined by the Federal Emergency Management Agency. The amount of flood insurance shall be for not less than

the lesser of (i) 100% of the current replacement cost of all buildings and insurable property within the flood hazard area, or (ii) the maximum coverage available for the Property under the National Flood Insurance Program.

(c) Comprehensive general liability insurance covering all Common Properties and any other areas under the Association's supervision, including public ways and commercial spaces owned by the Association. The policy must provide coverage of at least \$1,000,000.00 for bodily injury and property damage for any single occurrence. The policy must cover bodily injury and property damage resulting from the operation, maintenance or use of the Common Properties and other areas under the Association's control and any legal liability resulting from law suits related to employment contracts to which the Association is a party. The policy must provide for at least 10 days' written notice by the insurer to the Association prior to cancellation or substantial modification.

(d) Fidelity bond coverage for any person (including a management agent) who either handles or is responsible for funds held or administered by the Association, whether or not such persons are compensated for such services. The bond shall name the Association as an obligee and shall cover the greater of (i) the maximum funds that will be in the custody of the Association or its management agent while the bond is in force, and (ii) the sum of 3 months' General Assessments on all Lots (including reserves, if any). The bond shall provide for 10 days' written notice to the Association and all servicers of FNMA-owned mortgages in the Property prior to cancellation of or substantial modification to the bond.

6.2.4 The Association shall care for and maintain any entryway walls and signage intended for and/or identifying the Property and shall maintain any landscaping located within the Common Property, road right-of-way or any landscaping easement which is owned by or runs in favor of the Association, which maintenance activities may, but not necessarily will, include without limitation any of the following: replacement and/or replanting of existing landscaping, excavation, construction of berms, and installation, maintenance and repair of irrigation facilities.

6.2.5 The Association shall care for and maintain any lakes and associated drainage facilities located wholly on the Property. The Association shall have the power to contract with any other entity to share the expense of maintaining any lake and associated drainage facilities which is not located wholly on the Property but which is contiguous to any portion of the Property, and such contractual obligations shall be a valid expense of the Association.

The foregoing constitutes the basic and general expenses of the Association, and said expenses are to be paid by Members as hereinafter provided, except as otherwise provided herein. It shall be the duty and responsibility of the Association, through the Board, to fix and determine from time to time the sum or sums necessary and adequate to provide for the expenses of the Association. The procedure for the determination of such Assessments shall be as hereinafter set forth in this Declaration or the By-Laws or the Articles of Incorporation. The Board shall have the power and authority to levy a Special Assessment, should one become necessary, as determined by it in its sole discretion, and said Special Assessment shall be determined, assessed, levied and payable in the manner determined by the Board as hereinafter provided in this Declaration or the Articles of Incorporation or the By-Laws. A General Assessment shall be payable in advance or monthly, quarterly, or on a semi-annual or annual basis or otherwise as determined by the Board.

6.3 Management Contracts and Leases of Common Property. The Association shall expressly have the power to contract for the management of the Association and/or the Common Property, if any, further having the power to delegate to such contractor any or all of the powers and duties of the Association respecting the contract granted or property demised. The Association shall further have the power to employ administrative and other personnel to perform the services required for proper administration of the Association.

The undertakings and contracts authorized by the first Board shall be binding upon the Association in the same manner as though such undertakings and contracts had been authorized by the first Board duly elected by the membership of the Association.

#### 6.4 Easements.

6.4.1 Easements for installation and maintenance of utilities (including, but not limited to, those required for cable television service) and drainage facilities are reserved as shown on the Plat or as otherwise granted by Declarant and recorded by separate instrument in the public records of the County. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities or which may change the direction of flow of drainage channel in the easements, or which may obstruct or retard the flow of water through drainage channel in the easements, or which are or might be prohibited by the public authority to whom said easement is given.

6.4.2 Drainage easements have been declared and reserved as shown on and created by the Plat and as described herein. Each Homeowner of any Lot encumbered by a drainage easement upon which a drainage berm and/or swale is located shall be solely responsible for the repair, replacement and maintenance of such drainage berm and/or swale. Alteration, obstruction, modification, removal and/or any change of any kind to any drainage swale, drainage berm or drainage control facilities and/or structures is expressly prohibited. In the event any Homeowner fails to repair, replace and maintain any drainage swales and/or drainage berms, and/or alters or obstructs any piping, drainage swales, drainage berms, facilities and/or structures, the Association may repair, replace and maintain such drainage swales, drainage berms, facilities and structures and assess such Homeowner as a Specific Assessment for the costs and expenses incurred in order to accomplish the foregoing. Each Homeowner hereby grants an easement and license to Declarant and the Association over, upon, under, through and across such Homeowner's Lot in order to facilitate and accomplish the foregoing. Further, no Homeowner shall place, erect, install and/or construct any improvements of any kind or otherwise permit anything to occur within any drainage easement area which would in any way effect said drainage easement or any swale, berm, pipe or drainage control facility or structure located therein or thereon, unless, in the event of construction of any improvements, such improvements have been approved by the ARC.

6.4.3 Easements over, under, across and through each Lot and the Common Properties are hereby expressly granted to the Association for the purpose of making any repairs or performing any maintenance provided for or required by this Declaration, regardless of whether such repairs or maintenance directly benefit the Lot upon which they are performed.

6.4.4 The easement area of each Lot and all improvements in it shall be maintained by the Homeowner of the Lot, except for those Community improvements for which a public authority or utility company is responsible.

### **Article 7: Maintenance of Homes and Lots; Failure to Maintain**

#### 7.1 Homeowner Responsibilities.

7.1.1 Except as otherwise provided herein, each Homeowner shall be responsible for the maintenance, repair and replacement of all improvements on such Homeowner's Lot and such other areas as are provided herein. Any area or matter not specifically required to be maintained, repaired or replaced by the Association shall be maintained, repaired and replaced by the Homeowner.

7.1.2 Each Owner shall keep and maintain that Homeowner's Lot and the Home and Lot in good repair and in a neat and attractive condition at all times. The minimum, but not exclusive, standard for maintenance of improvements shall be consistency with the Community-Wide Standards and with the general appearance of the other occupied improvements or Lots in the Property as a whole when initially constructed and improved.

7.1.3 The maintenance obligation of each Homeowner as to the Home shall include, without limitation, maintenance of all exterior surfaces and roofs, fascias and soffits, awnings, trellises, decorative facades, gutters, screens, windows and doors. Homeowners shall clean, repaint and/or restain, as appropriate, the exterior portions and/or surfaces of the Home (with the same colors as initially approved or with other colors that have first been submitted to and approved by the ARC), including exterior surfaces of garage doors, as often as is necessary to comply with the foregoing standards. A Homeowner shall keep the roof of the Home in a neat and attractive condition at all times, including but not limited to, pressure washing, removal of mold, removal of mildew and removal of dirt.

7.1.4 A Homeowner shall keep, maintain and irrigate the trees, shrubbery, grass and any other landscape material located on the Homeowner's Lot in good repair and in a neat and attractive condition. The minimum, but not exclusive, standard for maintenance of landscaping shall be consistency with the Community-Wide Standards and with the general appearance of the other occupied Lots in the Property as a whole when initially landscaped (taking into account, however, the natural and orderly growth and maturation of applicable landscaping, as properly trimmed and maintained). Landscape maintenance shall include, without limitation, irrigation, fertilization, weeding, mowing, trimming, edging, spraying for insects and disease, and the periodic and timely replacement of any dead, damaged and/or diseased plantings and/or sod.

7.1.5 To the extent not included in the areas required to be maintained by the Association pursuant to this Declaration, a Homeowner shall, at such Homeowner's expense, grass over (with sod of the St. Augustine or Floratam variety or other grass or groundcover that have first been submitted to and approved by the ARC), mow and keep free of trash and debris, on a routine basis, those portions of the Surface Water Drainage and Management System located on such Homeowner's Lot (whether or not included in a platted drainage easement). When required, all major repairs to, and major maintenance and reconstruction of, all components of the Surface Water Drainage and Management System within the Property shall be performed by the Association, the costs of which shall be Common Expenses.

7.2 Mandatory Obligation. A Homeowner's exterior maintenance responsibility as set forth in Section 7.1 is mandatory and shall be complied with in its entirety even if a Homeowner does not reside on and/or occupy such Homeowner's Lot. A Homeowner may not waive or otherwise avoid this exterior maintenance responsibility by abandonment of such Homeowner's Lot.

7.3 Association Right to Maintain in the Event of Homeowner Default.

7.3.1 The Association shall have the right, but not the obligation, to provide for the repair, replacement, cleaning and/or maintenance on any Lot, and any Home, in the event of default by a Homeowner in the duties imposed by Section 7.1. Prior to the Association performing repair, replacement, cleaning and/or maintenance on any Lot that is the responsibility of a Homeowner, the Board shall determine that repair, replacement, cleaning and/or maintenance is needed, that such repair, replacement, cleaning and/or maintenance is the responsibility of the Homeowner, and that the failure of the Homeowner to perform such repair, replacement, cleaning and/or maintenance, in the sole opinion of the Board, detracts from the overall appearance or quality of the Property. All costs associated with activities taken under this Section 7.3.1 shall be charged to the Homeowner as a Specific Assessment, the nonpayment of which may lead to foreclosure of the lien for such Specific Assessment in accordance with the provisions of Article 8.

7.3.2 Except in emergency situations, prior to undertaking any action contemplated under Section 7.3.1. hereof, the Board must furnish written notice to the Homeowner to the effect that, unless specified repairs, replacement, cleaning and/or maintenance are commenced within 10 days from the date of the notice, and thereafter diligently pursued to completion, the Association may perform, or have performed, said repairs, replacement, cleaning and/or maintenance. Upon the Homeowner's failure to properly and timely commence and pursue diligently the required repairs, replacement, cleaning and/or maintenance, the Association and its agents, employees, servants and/or contractors shall have the right to enter in and/or upon the Lot to perform the repairs, replacement, cleaning and/or maintenance

specified in the notice to such Homeowner. For example and not as a limitation, the Association shall have the right to clean, remove debris, remove trash, paint, resurface, repair, replace and provide maintenance to any and all exterior surfaces, roofs, chimneys, gutters, downspouts, pools, pool enclosures, fences, walls, driveways, walks, sidewalks, parking areas, retaining walls, landscaping (including but not limited to mowing, edging, trimming, watering, fertilizing and caring for trees, shrubs, grass, repairing sprinkler systems and providing shoreline maintenance), swales, berms and other drainage improvements. Neither Declarant nor the Association, nor any of their respective directors, officers, employees, contractors, servants, invitees and/or agents, shall have any liability to the Homeowner, Authorized User or Benefited Party for any trespass, damages and/or injury to property or person(s) for any action taken hereunder unless caused by gross negligence or intentional wrongdoing. Any such entry upon that Homeowner's Lot shall not be considered a trespass and any corrections, repairs, replacements, cleaning, alterations, modifications and/or removals from that Lot shall not be considered criminal activity of any kind, including, but not limited to, theft, criminal mischief, and burglary, and shall not be considered the basis for any civil action, including, but not limited to, conversion and any tort claim.

7.3.3 The Association shall have the right, but not the obligation, to provide maintenance, mowing, trimming, edging and/or pruning of the landscaping of any yards, lawns and/or sod located on a Lot (specifically excluding any landscape beds located on a Lot, gated portions of a Lot and/or fenced portions of a Lot), exterior pest control and/or fertilizer. Any maintenance, repair, operation, cleaning, irrigation and/or replacement performed and/or assumed by the Association shall be part of the Common Expenses. Neither Declarant nor the Association, nor any of their respective directors, officers, employees, contractors, servants, invitees and/or agents, shall have any liability to the Homeowner, Authorized User or Benefited Party for any trespass, damages and/or injury to property or person(s) for any action taken hereunder unless caused by gross negligence or intentional wrongdoing. Any such entry upon a Homeowner's Lot shall not be considered a trespass and any corrections, repairs, replacements, cleaning, alterations, modifications and/or removals from that Lot shall not be considered criminal activity of any kind, including, but not limited to, theft, criminal mischief, and burglary, and shall not be considered the basis for any civil action, including, but not limited to, conversion and any tort claim.

#### **Article 8: Covenant for Assessments; Fines; Collection of Rents from Tenants**

8.1 Assessments Established. Each Homeowner of any Lot, by virtue of taking title to a Lot, whether or not expressed in the instrument of conveyance, is deemed to covenant to pay to the Association:

8.1.1 General Assessments, as defined in Section 8.2 hereof; and

8.1.2 Special Assessments, as defined in Section 8.6 hereof; and

8.1.3 Specific Assessments against any particular Lot that are established pursuant to any provision of this Declaration as provided in Section 8.7 hereof;

8.1.4 All taxes, if any, that from time to time may be imposed upon all or any portion of the Assessments established by this Article.

All of the foregoing, together with interest and all costs and expenses of collection, including reasonable attorneys' fees, are a continuing charge on the land secured by a continuing lien upon the Lot against which each Assessment is made as provided in Section 8.10 hereof.

8.2 Purpose of Assessments; General Assessment. The Assessments levied by the Association must be used exclusively to promote the common good and welfare of the residents, to operate and manage the Association and the Common Properties, if any, and to perform such duties or as otherwise may be required by this Declaration and the Articles of Incorporation and By-Laws. To effectuate the following, the Association may levy an annual general assessment ("General Assessment")

to provide and be used for the operation, management and all other general activities and expenses of the Association.

8.3 Current Amount of General Assessment. The current General Assessment is Five Hundred Fifty and 00/100 Dollars (\$550.00) per year, payable in equal quarterly installments of One Hundred Thirty Seven and 50/100 Dollars (\$137.50), and will remain in effect until a different General Assessment may be determined as provided in Section 8.4 hereof.

8.4 Determination of General Assessment. Except with regard to the current amount of the General Assessment referenced in Section 8.3 hereof, the amount of the General Assessment shall be fixed by the Board at least 30 days in advance of each General Assessment period, and shall be based upon an adopted budget. The General Assessment period shall coincide with the Association's fiscal year. Written notice of the amount of the General Assessment should be given to every Homeowner, but the failure to give or receive such notice, or both, shall not invalidate any otherwise valid Assessment. The General Assessment shall be paid in equal quarterly installments without interest until delinquent, and prepayable in whole at any time or times during the applicable Assessment period without penalty or other consideration; provided, however, at the discretion of the Board, the General Assessment may be collected on a monthly, semi-annual or annual basis rather than collected on a quarterly basis.

8.5 Declarant's Assessments; Deficit Funding.

8.5.1 Notwithstanding any provision of the Governing Documents to the contrary, prior to Transfer of Control, Declarant shall not be obligated to pay any Assessment for any Lot which it may own during any period of time that Declarant shall be responsible for paying the difference between the Association's operating expenses and the sum of the revenues of the Association from all sources. The term "all sources" used in the previous sentence includes, but is not limited to, interest earned on Association deposits, revenues from the operation of Common Property, Initial Working Capital Fund Payment (as defined hereinafter) and the Assessments levied against the Members other than Declarant. Such difference, herein called the "deficit funding," shall not include any reserve for replacements, operating reserves (if any), depreciation reserves (if any) or capital expenditures. Declarant shall be obligated for deficit funding for each year of operation until such time that Declarant shall give written notice to the Board terminating its responsibility for deficit funding during the next succeeding fiscal year. Upon giving such notice, each Lot owned by Declarant for which a certificate of occupancy has been issued for the Home constructed thereon shall thereafter be assessed in the same manner as Lots owned by Homeowners other than Declarant.

8.5.2 Notwithstanding any provision herein to the contrary, any deficit funding provided by Declarant pursuant to this Section shall automatically terminate as of Transfer of Control.

8.5.3 Any surplus may either be paid to Declarant after the conclusion of the fiscal year or carried forward to the next fiscal year at the sole option of Declarant. There is no limit to the number of years for which a surplus may be accumulated. Any surplus remaining at Transfer of Control shall be paid to Declarant. In conjunction with Transfer of Control, an audit will be conducted to determine the cumulative "due to" or "due from" Declarant for the term of the deficit funding.

8.5.4 Deficit funding by Declarant under this Section 8.5 shall not preclude the levying of Special Assessments against the Homeowners to defray the costs of Association expenses not contemplated under the Association's estimated operating budget for that fiscal year.

8.5.5 Subsequent to Transfer of Control, or upon such time as deficit funding is discontinued, Declarant shall be responsible for the payment of Assessments only upon Lots which it owns and on which a Home has been constructed for which a certificate of occupancy has been issued.

8.6 Special Assessments. In addition to the General Assessment, the Association may levy in any fiscal year a special assessment ("Special Assessment") applicable to that year only for the purpose of defraying, in whole or in part, known expenses which exceeded, or when mature will exceed,

the budget prepared and on which the General Assessment was based, or as described in Section 8.5 of this Article. Notwithstanding the foregoing, no Special Assessment against the Homeowners shall exceed 1/12 of the total of the General Assessments levied against the Homeowners for that fiscal year without the prior approval of 75% of the votes eligible to be cast in Association matters. In addition, prior to Transfer of Control, the Board shall only levy a Special Assessment with the approval of a majority of non-Declarant Members at a duly-called special meeting of the Members at which a quorum is present.

8.7 Specific Assessments. Any and all accrued liquidated indebtedness of any Homeowner to the Association arising under any provision of this Declaration also may be assessed by the Association against such Homeowner's Lot after such Homeowner fails to pay it when due and such default continues for 30 days after written notice.

8.8 Uniformity of Assessments. The General Assessment and any Special Assessment must be uniform for each Homeowner throughout the Community.

8.9 Commencement of General Assessment. The General Assessment as to each Lot owned by a Homeowner other than Declarant shall be prorated as of the day of closing for the current installment period, and thereafter the first full payment shall be due and owing on the first day of the next full installment period.

8.10 Effect of Nonpayment of Assessment; Lien.

8.10.1 If any Assessment is not paid on or before the past-due date specified herein, then such Assessment shall become delinquent and shall, together with interest thereon at the maximum rate allowed under law from the due date, late charges, attorney's fees, and the cost of collection thereof as hereinafter provided, thereupon become a charge and continuing lien on the land and all improvements thereon, against which each such Assessment is made.

8.10.2 Said lien shall be evidenced by a claim of lien recorded in the public records of the County, shall be effective from and as of the time of recording and shall relate back to the original date of recordation of this Declaration, and shall continue in effect until all amounts due to the Association are paid in full, except as specifically stated below in Section 8.15. Notwithstanding the foregoing to the contrary, neither the recording of, nor failure to record, any such claim of lien will affect the existence or priority of the Association's lien.

8.10.3 Any payment received by the Association and accepted shall be applied first to any interest accrued, then to any administrative late fee, then to any fines levied by the Association pursuant to the applicable provisions of this Declaration, the By-Laws and the Act, then to any costs and reasonable attorney's fees incurred in collection, and then to the delinquent and/or accelerated Assessment(s) or installment(s) thereof. This paragraph applies notwithstanding any restrictive endorsement, designation, or instruction placed on or accompanying a payment.

8.10.4 If any Assessment, or a portion thereof, is delinquent for more than 30 days, or if a mortgage foreclosure action is filed to foreclose a Mortgage against a Lot, then the Association may accelerate by general policy, administrative decision or otherwise the remainder of all Assessment installments for the fiscal year.

8.10.5 Except for liens for all sums validly secured by any First Mortgage, all other lienors acquiring liens on any Lot after this Declaration is recorded are deemed to consent that such liens are inferior to the lien established by this Article, whether or not such consent is specifically set forth in the instrument creating such lien. The recordation of this Declaration constitutes constructive notice to all subsequent purchasers and/or creditors of the existence of the Association's lien and its priority.

8.10.6 Sale or transfer of a Lot does not affect the Association's claim of lien.

8.11 Certificate. Upon demand, and for a reasonable charge, the Association will furnish to any interested person a certificate signed by an officer of the Association setting forth whether the Assessments have been paid and, if not, the unpaid balance(s).

8.12 Remedies of the Association. If any Assessment, or a Homeowner or tenant's other monetary obligation to the Association, is not paid within 30 days of its due date, the Association may proceed with all remedies available, including, but not limited to, suspending use and voting rights and bringing an action at law against the persons and entities personally obligated to pay the same, and proceeding with an action in equity to foreclose the lien against the Lot, and there shall be added to the amount of such Assessment the costs of preparing and filing the complaint in such action, interest following conclusion of the 30 day grace period at the rate of 15% per annum or such other rate as may be from time to time determined by the Board (provided, however, that such rate shall not exceed the maximum rate allowed by law not constituting usury), late charges, costs of collection and attorney's fees. The prevailing party in any such claim shall also be awarded attorney's fees and costs. No Homeowner may waive or otherwise escape liability for the Assessments. A suit to recover a money judgment for unpaid Assessments may be maintained without foreclosing, waiving, or otherwise impairing the security of the Association's lien or its priority.

8.13 Reimbursement of Fee for Worthless Check. In the event the Association incurs any bank service charge or fee as a result of depositing a worthless or otherwise uncollectible check issued to the Association for the payment of any Assessment or other sum due to the Association, the issuer of such worthless or otherwise uncollectible check shall reimburse the Association for such bank service charge or fee incurred, together with an administrative processing fee of \$25.00.

8.14 Foreclosure. The lien for sums assessed pursuant to this Article may be enforced by judicial foreclosure in the same manner in which mortgages on real property from time to time may be foreclosed in the State of Florida. In any such foreclosure, the Homeowner is required to pay all costs and expenses of foreclosure, including reasonable attorneys' fees. All such costs and expenses are secured by the lien foreclosed. The Homeowner also is required to pay to the Association any Assessments against the Lot that become due during the period of foreclosure, which Assessments also are secured by the lien foreclosed and accounted on a pro rata basis and paid as of the date the Homeowner's title is divested by foreclosure. The Association has the right and power to bid at the foreclosure or other legal sale to acquire the Lot foreclosed, or to acquire such Lot by deed or other proceeding in lieu of foreclosure, and thereafter to hold, convey, lease, rent, encumber, use, and otherwise deal with such Lot as its Homeowner for purposes of resale only. If any foreclosure sale results in a deficiency, the court having jurisdiction over the foreclosure may enter a personal judgment against the Homeowner for such deficiency.

8.15 Subordination of the Lien to First Mortgages.

8.15.1 The claim of lien filed by the Association shall be subordinate to the lien of any First Mortgage held by a First Mortgagee recorded and valid before the effective date of this provision.

8.15.2 If a Mortgage against a Lot (i) is properly recorded as a First Mortgage before the Association's claim of lien is recorded and (ii) maintains First Mortgage priority, then the liability of the Lot and the First Mortgagee (and its successor or assignee who acquires title to the Lot by foreclosure or by deed in lieu of foreclosure, but only if the successor or assignee is the subsequent holder of the First Mortgage) for the unpaid Assessments that became due before the First Mortgagee's acquisition of title is limited to the lesser of:

(a) The Lot's unpaid Assessments which accrued or came due during the 12 months immediately preceding the acquisition of title or for which payment in full has not been received by the Association; or,

(b) 1% of the original debt secured by the First Mortgage.

8.15.3 The limitation of liability for payment of Assessments contained in this Section applies only if the First Mortgagee joins the Association as a defendant in the foreclosure action; however, joinder of the Association is not required if, on the date the foreclosure complaint is filed, the Association was dissolved or did not maintain an office or agent for service of process at a location which was known to or reasonably discoverable by the First Mortgagee.

8.15.4 All unpaid Assessments as a result of this exception are Common Expenses, collectible from all of the Homeowners, including the new Homeowner and the Homeowner's successors and assigns. Such new Homeowner is not excused from liability for any Assessments against the Homeowner's Lot which accrue after the Homeowner's acquisition of title; provided, however, that if the Association is the grantee, it is excused from payment. Notwithstanding the foregoing, First Mortgagee shall be exempt from liability for Assessments coming due before the First Mortgagee receives title to the Lot as the result of a foreclosure or deed-in-lieu of foreclosure.

8.15.5 The Association may give any encumbrancer of record 30 days' notice within which to cure such delinquency before instituting foreclosure proceedings against the Lot. Any encumbrancer holding a lien on a Lot may pay, but is not required to pay, any amounts secured by the lien established by this Section; upon such payment, such encumbrancer will be subrogated to all rights of the Association with respect to such lien, including priority.

8.15.6 The liability limitations contained in this Section for First Mortgagees shall be expanded in the Association's favor to the fullest extent permitted by the Act, as amended from time to time.

8.16 Homesteads. By virtue of taking title to a Lot, each Homeowner is deemed to acknowledge conclusively and consent that all Assessments established pursuant to this Article are for the improvement and maintenance of any homestead thereon and that the Association's lien has priority over any such homestead.

8.17 Reserves. There is and shall be no requirement for the collection of any reserves for future or deferred maintenance. From time to time, the Association, through the Board, may elect to collect reserves, in which event such amounts shall be a Common Expense. If the Board determines that reserves are to be collected, (a) the Board shall determine the appropriate level of the reserves based on a periodic review of the useful life of the improvements to the Common Properties and equipment owned by the Association, as well as periodic projections of the cost of anticipated major repairs or improvements to the Common Properties, the purchase of equipment to be used by the Association in connection with its duties hereunder, and/or performance of required maintenance of Homes and Lots pursuant to this Declaration, and (b) the Association's budget shall disclose the exact monies collected and the reserve categories involved.

8.18 Initial Funding of Working Capital Fund. At the time the initial sale of each Lot is closed, the purchaser of the Lot shall pay to the Association an "Initial Working Capital Fund Payment". This sum shall be used and applied for start-up costs and as a working capital fund in connection with all initial operating expenses for the Association. This payment shall not be refundable or applied as a credit against the Homeowner's payment of Assessments. The amount of the Initial Working Capital Contribution shall be specified in the purchase contract between Declarant and the purchaser.

8.19 Master Association. In the event the Association, or its Members, become members of a master community association or umbrella association ("Master Association"), then and in that event the Association shall have the power to:

8.19.1 levy and collect on its own behalf as part of the General Assessment an amount equal to the amount levied upon the Association by the Master Association; or

8.19.2 collect on behalf of the Master Association as part of the General Assessment or as a separate charge an amount equal to the amount levied upon the Association's Members by the Master Association.

8.20 Suspensions and Fines.

8.20.1 In the event a Homeowner is more than ninety (90) days delinquent in the payment of a monetary obligation due to the Association, the Association shall have the power, but not the duty, to suspend (i) the right of a Homeowner, such Homeowner's tenant, guest, or invitee, and a Resident to use Common Property or facilities, and (ii) the voting rights pertaining to a Lot (the vote pertaining to such suspended Lot shall not be counted towards the total number of voting interests as defined in the Act). The notice and hearing requirements applicable to suspension of rights in Section 8.20.2 hereof are not applicable to this Section 8.20.1. Any imposed suspension pursuant to this Section 8.20.1 will end upon full payment of all obligations currently due or overdue to the Association.

8.20.2 Separate and apart from, but not in a manner inconsistent with, Section 8.20.1 hereof, the Association shall have the power to suspend, for a reasonable period of time, the rights of a Homeowner and/or such Homeowner's tenants, guests or invitees to use the Common Property, and to levy reasonable fines against same not to exceed the greater of \$100.00 per violation or the maximum amount allowed under the Act for activities which violate the provisions of the Declaration, the By-Laws or any Rules and Regulations duly promulgated by the Association. No fine or suspension (other than suspensions due to a monetary obligation delinquency of more than 90 days pursuant to Section 8.20.1 hereof) may be imposed except upon 14 days prior written notice to the person sought to be suspended or fined, and such person having an opportunity for a hearing before a committee of at least 3 Homeowners of the Association. A fine may be levied for each day of a continuing violation, with a single notice and opportunity for hearing, and fines of a continuing nature may be charged up to a maximum of \$10,000. A fine of more than \$1,000 may become a lien against the Lot. Such committee shall be appointed by the Board and shall not be composed of any officers, directors or employees of the Association, nor any spouse, parent, child, brother or sister of any officer, director or employee. No fine or suspension (other than suspensions due to a monetary obligation delinquency of more than 90 days pursuant to Section 8.19.1 hereof) may be imposed except upon majority approval of the Homeowners of such committee. Suspension of rights to use the Common Property shall not include any right to restrict vehicles and pedestrians ingress and egress to and from such offending person's Lot. The voting rights of a Homeowner may not be suspended by the Association (other than suspensions due to a monetary obligation delinquency of more than 90 days pursuant to Section 8.20.1 hereof).

8.21 Administrative Processing Fee. Upon each closing of the purchase and sale of a Home between Homeowners, the new Homeowner shall pay to the Association an administrative processing fee (the "Administrative Processing Fee") of \$75.00, which amount shall be utilized to process the new Homeowner into the Association's recordkeeping and other systems. The Administrative Processing Fee will not be considered an advance payment of Assessments by the Homeowner. Notwithstanding any provision herein to the contrary, the Administrative Processing Fee shall not apply to any conveyances made by Declarant to a third party purchaser.

8.22 Collection of Rents from Tenants.

8.22.1 If a Lot is occupied by a tenant and the Homeowner is delinquent in paying any monetary obligation due to the Association, the Association may demand that the tenant pay to the Association the subsequent rental payments and continue to make such payments until all the monetary obligations of the Homeowner related to the Lot have been paid in full to the Association and the Association releases the tenant or until the tenant discontinues tenancy in the Lot.

8.22.2 The Association must provide the tenant a notice, by hand delivery or United States mail, in substantially the following form:

Pursuant to section 720.3085(8), Florida Statutes, we demand that you make your rent payments directly to the homeowners' association and continue doing so until the association notifies you otherwise.

Payment due the homeowners' association may be in the same form as you paid your landlord and must be sent by United States mail or hand delivery to (full address) , payable to (name) .

Your obligation to pay your rent to the association begins immediately, unless you have already paid rent to your landlord for the current period before receiving this notice. In that case, you must provide the association written proof of your payment within 14 days after receiving this notice and your obligation to pay rent to the association would then begin with the next rental period.

Pursuant to section 720.3085(8), Florida Statutes, your payment of rent to the association gives you complete immunity from any claim for the rent by your landlord.

8.22.3 A tenant is immune from any claim by the Homeowner related to the rent timely paid to the Association after the Association has made written demand.

8.22.4 If the tenant paid rent to the landlord or Homeowner (if different) for a given rental period before receiving the demand from the Association and provides written evidence to the Association of having paid the rent within 14 days after receiving the demand, the tenant shall begin making rental payments to the Association for the following rental period and shall continue making rental payments to the Association to be credited against the monetary obligations of the Homeowner until the Association releases the tenant or the tenant discontinues tenancy in and of the Lot. The Association shall, upon request, provide the tenant with written receipts for payments made. The Association shall mail written notice to the Homeowner of the Association's demand that the tenant pay monetary obligations to the Association.

8.22.5 The liability of the tenant may not exceed the amount due from the tenant to the tenant's landlord. The tenant shall be given a credit against rents due to the landlord in the amount of the monies paid to the Association.

8.22.6 The Association may issue notice under Section 83.56, Florida Statutes, and sue for eviction under Sections 83.59-83.625, Florida Statutes, as if the Association were a landlord under part II of Chapter 83, Florida Statutes, if the tenant fails to pay a monetary obligation. However, the Association is not otherwise considered a landlord under Chapter 83, Florida Statutes, and specifically has no obligations under Section 83.51, Florida Statutes.

8.22.7 The tenant does not, by virtue of payment of monetary obligations, have any of the rights of a Homeowner to vote in any election or to examine the books and records of the Association.

8.22.8 A court may supersede the effect of this Section 8.22 by appointing a receiver.

#### **Article 9: Architectural Control**

9.1 **ARC Guidelines.** Until such time as Declarant no longer owns any portion of the Property, Declarant shall have the exclusive power and right to adopt from time to time the ARC Guidelines, which standards shall be applied by the ARC and the Board of Directors in their respective capacities as provided hereinafter. The ARC Guidelines are contained in Exhibit E attached hereto. No material alteration, modification or addition to a Home, or a material change in external appearance of a Home, or any modification, addition or deletion to or from the landscaping as contained on a Lot subsequent to initial installation by Declarant, shall be undertaken without the prior written approval of the ARC in accordance with this Article. The ARC Guidelines shall be created by Declarant and may be changed in the future by Declarant from time to time in its sole discretion. Upon such time as Declarant no longer owns any portion of the Property, the Association shall inure to the powers and rights of Declarant under this Article 9.

9.2 Role of the Board and the ARC. The purpose of the Board and the ARC is to insure the maintenance of the Property as an area of highest quality and standards and to insure that all improvements on each Lot shall present an attractive and pleasing appearance from all sides of view. All references to the ARC shall also reference the Board.

9.3 Composition of the ARC. Until such time as Declarant no longer owns any portion of the Property, Declarant shall be solely responsible for appointing the members of the ARC (it being Declarant's intention to ensure harmonious and consistent use of the various portions of the Property by the Homeowners), and the number of members shall be permitted to change from time to time in the sole discretion of Declarant. Subsequent to the time that Declarant no longer owns any portion of the Property, (a) the Board shall appoint the chairman and the members of the ARC, (b) the ARC shall consist of 3 members, (c) the Board may remove ARC member(s) if determined beneficial, and (d) where a vacancy or vacancies on the ARC occurs, a successor or successors shall be appointed by the Board.

9.4 Powers of the ARC. The ARC shall represent, act as directed by, and report to the Board; however, the Board shall retain final authority, as the ARC is a committee of the Board. The ARC shall evaluate, control and approve construction, remodeling, or additions to the buildings and structures and other improvements on each Lot in the manner and to the extent set forth herein. No building or other structure or improvement, regardless of size or purpose, whether attached to or detached from the main structure, shall be commenced, placed, erected or allowed to remain on any Lot, nor shall any addition to or exterior change (including repainting) or alteration thereto be made, nor shall any change in the landscaping, elevation or surface contour of a Lot be made, unless and until building plans and specifications covering same ("Plans and Specifications"), showing such information as may be required by the ARC and/or the Board, have been submitted to and approved in writing by the Board of Directors. Acceptance or rejection of Plans and Specifications shall be made by majority vote.

9.5 Plans and Specifications. The ARC shall require that all Plans and Specifications be accompanied by site plans showing the detail of the siting of the structure or improvement under consideration. As a prerequisite to consideration for approval, and prior to beginning the contemplated work, a minimum of 4 complete sets, or as many as requested by the ARC, of Plans and Specifications must be submitted to the ARC. In addition, if requested by the ARC, there shall be submitted to the ARC for consideration such samples of building materials proposed to be used as the ARC shall specify and require. All Plans and Specifications shall be prepared by an architect and/or professional engineer registered in the State of Florida. The architect and/or professional engineer submitting the Plans and Specifications must state in writing that he has visited the site and is familiar with all existing site conditions. These requirements pertaining to Plans and Specifications may be waived, in whole or in part, by the ARC or the Board of Directors upon application of the Homeowner showing good cause for waiving such requirement(s). All requests for improvements must be submitted on the most recently promulgated Association forms.

9.6 Recommendations of the ARC. Once the ARC has received and reviewed the Plans and Specifications submitted by a Homeowner, the ARC may either (a) approve or disapprove the proposal of the Homeowner, or (b) request additional information as the ARC deems necessary in its discretion to be able to render a decision.

9.7 Approval of Plans and Specifications. Upon written approval of the Plans and Specifications, construction may be commenced and shall be prosecuted to completion promptly and in strict conformity with such Plans and Specifications. The Board of Directors shall be entitled to stop any construction in violation of these restrictions, and any such exterior addition to or change or alteration made without application having first been made and approval obtained as provided above shall be deemed to be in violation of this covenant and may be required to be restored to the original condition at the Homeowner's expense. All costs and expenses of the Association (including attorney's and paraprofessional's fees) related to the enforcement of these covenants shall be paid by the Homeowner in violation thereof. All structures must be built to comply substantially with the Plans and Specifications as approved. Each Homeowner, by virtue of taking title to a Lot, understands and agrees, and shall be deemed to understand and agree, that approval of the ARC in no manner eliminates any obligation to

obtain governmental approval for the contemplated activity, or that upon proper application to such governmental authority the contemplated activity will be permitted. Any approval of a proposed activity by the ARC shall immediately and automatically become null and void upon a written rejection of an application to a governmental authority for authorization to undertake the proposed activity (e.g., denial of a building permit).

9.8 Rejection of Plans and Specifications. The ARC shall have the right to refuse to approve any Plans and Specifications which are not suitable or desirable in its opinion for any reason, including purely aesthetic reasons and reasons connected with Declarant's future development plans for the Property. In the event the ARC rejects such Plans and Specifications as submitted, the ARC shall so inform the Homeowner in writing, stating with reasonable detail the reason(s) for disapproval. In rejecting such Plans and Specifications, the ARC may take into consideration the suitability and desirability of proposed construction and the materials of which the same are proposed to be built, the Lot upon which such construction is proposed to be erected, the quality of the proposed workmanship and materials, the harmony of external design with the surrounding neighborhood and existing structures therein, and the effect and appearance of such construction as viewed from neighboring Lots.

9.9 Appeal by Aggrieved Homeowner.

9.9.1 Prior to Transfer of Control. Prior to Transfer of Control, if the ARC rejects such Plans and Specifications, the aggrieved Homeowner and/or any other interested Homeowner may appeal such adverse decision to the Board, and any decision by the Board shall be final and binding.

9.9.2 Subsequent to Transfer of Control. Subsequent to Transfer of Control, if after the Board's review the appealing Homeowner is still in disagreement with the Board's decision, such Homeowner may appeal such adverse decision by submitting in writing to the Board a request to call a special meeting of all Members to consider the propriety of the Board of Directors' decision within 10 days after receipt of such written request. The Board thereafter shall call a special meeting, and the costs pertaining to such special meeting shall be borne by the appealing Homeowner. At such special meeting, the proposal made by the Homeowner and the decision of the ARC and the Board, together with the stated reasons for the rejection of the proposal, shall be made available to all Homeowners. A vote of a majority of the votes eligible to be cast in Association matters which are present in person or by proxy of a duly-called and noticed meeting of the Members at which a quorum is present shall be necessary to overturn an adverse decision of the ARC and the Board against the Homeowner.

9.10 No Waiver of Future Approvals. The approval of the ARC of any proposals or Plans and Specifications for any work done or proposed, or in connection with any other matter requiring the approval and consent of the ARC, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings, or matter whatever subsequently or additionally submitted for approval or consent.

9.11 Variances. The ARC may authorize variances from compliance with any of its guidelines and procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require, but only in accordance with duly adopted rules and regulations. Such variances may only be granted, however, when unique circumstances dictate and no variance shall (a) be effective unless in writing, (b) be contrary to the restrictions set forth in the body of this Declaration, or (c) estop the ARC from denying a variance in other circumstances. For purposes of this Section, the inability to obtain the issuance of any permit, or the terms of any financing shall not necessarily be considered a hardship warranting a variance.

9.12 Compliance. Any contractor, subcontractor, agent, employee or other invitee of an Homeowner who fails to comply with the terms and provisions of the guidelines and procedures promulgated by the ARC may be excluded from doing further work within the Property by the Association without liability to any Person. Prior to exclusion of any contractor or subcontractor for violations of guidelines and procedures promulgated by the ARC, the contractor or subcontractor shall have the right to the notice and hearing procedures contained in the By-Laws.

9.13 Right to Inspect. Subject to reasonable advance notice for occupied Homes, there is specifically reserved unto the ARC the right of entry and inspection upon any Lot for the purpose of determination by the ARC whether there exists any construction or any improvements which violate the terms of any approval by the ARC or the terms of this Declaration or of any other covenant, conditions and restrictions to which a deed or other instrument of conveyance or plat makes reference. The ARC 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 shall be entitled to recovery of all court costs, expenses, reasonable attorney's and paraprofessional's fees in connection therewith and the same shall be assessable and collectible in the same manner as any Specific Assessment provided for herein. The Association shall indemnify and hold harmless each member of the ARC from all costs, expenses, and liabilities, including attorney's and paraprofessional's fees, incurred by virtue of any service by a member of the ARC. A perpetual, non-exclusive easement over, across and through the private roadways of the Community and a right of entry upon any Lot is hereby granted to the County and other applicable governmental entities for the limited purpose of permitting code inspectors to inspect and examine the construction of improvements, additions, or modifications on such Lot.

9.14 Exemption. Notwithstanding anything to the contrary contained herein, improvements and construction activities of Declarant on any portion of the Property and from time to time shall be exempt from the provisions of this Article.

9.15 Amendment. This Article may not be amended without Declarant's written consent in its sole and absolute discretion so long as Declarant owns any portion of the Property or until Declarant has elected not to add any additional property to the scope of this Declaration.

9.16 Compliance with Governmental Requirements. In addition to the foregoing requirements, any alteration, addition, improvement or change must be in compliance with the requirements of all controlling governmental authorities, and the Homeowner shall be required to obtain an appropriate building permit from the applicable governmental authorities when required by controlling governmental requirements. Any consent or approval by the Association to any addition, alteration, improvement, or change may be conditioned upon the Homeowner requesting such approval obtaining a building permit for same, or providing the Association with written evidence from the controlling governmental authority that such permit will not be required, and in that event the Homeowner requesting architectural approval shall not proceed with any addition, alteration, improvement, or change until such building permit or evidence that a building permit is not required is submitted to the Association.

9.17 No Liability. Notwithstanding anything contained herein to the contrary, Declarant or the ARC, as applicable, shall merely have the right, but not the duty, to exercise architectural control, and shall not be liable to any Homeowner or any other Person due to the exercise or non-exercise of such control, or the approval or disapproval of any improvement. Furthermore, the approval of any plans or specifications or any improvement shall not be deemed to be a determination or warranty that such plans or specifications or improvement are complete or do not contain defects, or in fact meet any applicable standards, guidelines and/or criteria or are in fact architecturally or aesthetically appropriate, or comply with any applicable governmental requirements, and Declarant, the ARC or the Association, as applicable, shall not be liable for any defect or deficiency in such plans or specifications or improvement, or any injury resulting therefrom.

#### **Article 10: Surface Water Drainage and Management System**

10.1 Homeowner Acknowledgment. Due to groundwater elevations underneath the Property, priorities established by governmental authorities, and other causes outside of the reasonable control of Declarant and the Association, water levels may fluctuate at certain times during the year and such fluctuations may be material. Neither Declarant nor the Association shall have any liability for aesthetic conditions, damage to plantings or direct or consequential damages of any nature caused by the fluctuation of water levels.

10.2 System Defined. The "Surface Water Drainage and Management System" shall be the portions of the Property including improvements thereon which are designed and constructed or implemented to control discharges which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use or reuse water or prevent or reduce flooding, overdrainage, environmental degradation, and water pollution or otherwise effect the quantity and quality of discharges from such system as contemplated or provided in the applicable permits, development orders or other authorizations pertaining to the development of the Property. The Surface Water Drainage and Management System shall be governed by the County and the WMD construction plans for the Property, which are on file with the County and the WMD, as well as the WMD Permit.

10.3 Maintenance by the Association. The Surface Water Drainage and Management System shall be owned and maintained by the Association in compliance with all approvals, codes and regulations of governmental authorities. Maintenance of the Surface Water Drainage and Management System shall mean the exercise of practices which allow the systems to provide drainage, water storage, conveyance or other surface water or stormwater management capabilities as permitted by the County and the WMD and shall specifically include, but not be limited to, maintenance of aquatic vegetation, lake beds, lake banks, lake liners, littoral planting and lake maintenance easements which pursuant to the terms of this Declaration, plat or agreement are not the responsibility of others, as well as water quality and wetland monitoring or testing. Any repair or reconstruction of the Surface Water Drainage and Management System shall be as permitted by the County and the WMD.

10.4 Prohibited Actions. Neither the Association nor any Homeowner shall take any action which modifies the Surface Water Drainage and Management System in a manner which changes the flow of drainage of surface water, except to the extent the same is approved by the requisite governmental or quasi-governmental authorities, Declarant so long as Declarant owns any portion of the Property, and the party who has the obligation to maintain the Surface Water Drainage and Management System.

10.5 Easements. The Property shall be burdened with easements for drainage and flow of surface water in a manner consistent with the approved and constructed Surface Water Drainage and Management System. The Association and the Governmental Entities shall have non-exclusive easements for use of the Surface Water Drainage and Management System, and an easement for ingress, egress and access to enter upon any portion of the Property in order to construct, maintain or repair, as necessary, any portion of the Surface Water Drainage and Management System, provided such easement rights shall be exercised in a manner which does not unreasonably disturb use or condition of the Property.

10.6 Conveyance by Declarant. Declarant may convey its ownership interest in the lakes, preserves, conservation areas, or other surface water drainage and management systems within the Property to the Association, together with easements for maintenance and other drainage improvements, such as by way of example and without limitation, weirs and underground pipes.

10.7 Amendments Impacting the Surface Water Drainage and Management System. Any amendment of this Declaration which would affect the Surface Water Drainage and Management System or the responsibility of the Association to maintain or cause to be maintained the Surface Water Drainage and Management System must have prior written approval by the County and the WMD.

10.8 Enforcement. Declarant, the Governmental Entities, the Association and each Homeowner shall have the right to enforce, by a proceeding at law or in equity, the provisions contained in this Declaration which relate to the maintenance, operation, monitoring, repair and replacement of the Surface Water Drainage and Management System and maintenance of all easements and rights-of-way.

10.9 Maintenance by Homeowners. Declarant may have constructed a drainage swale and/or drainage berm, as part of the Surface Water Drainage and Management System, upon one or more Lots for the purpose of managing and containing the flow of excess surface water, if any, found upon such Lot(s) from time to time. Each Homeowner, including builders, shall be responsible for the maintenance,

operation and repair of the swales and/or berms on such Homeowner's Lot. "Maintenance, operation and repair" shall mean the exercise of practices, such as mowing and erosion repair, which allow the swales and/or berms to provide drainage, water storage, conveyance or other stormwater management capabilities as permitted by the WMD. Filling, excavation, construction of fences, placement of any improvement, placement of any structure or otherwise obstructing the surface water flow in any swale and/or berm is prohibited. No alteration of any drainage swale and/or drainage berm shall be authorized and any damage to any drainage swale and/or drainage berm, whether caused by natural or human-induced phenomena, shall be promptly repaired and the drainage swale and/or drainage berm returned to its former condition as soon as possible by the Homeowner of the Lot upon which that drainage swale and/or drainage berm is located.

#### **Article 11: Miscellaneous Provisions Respecting Mortgages**

The following provisions are intended for the benefit of a First Mortgagee and to the extent, if at all, that any other provisions of this Declaration conflict with the following provisions, the following provisions shall control:

11.1 Notices of Overdue Assessments; Foreclosure. If any First Mortgagee or other person, persons, or entity that is its successor or assign as a subsequent holder of the First Mortgage (the "Acquiring Party") either (a) obtains title to a Lot as a result of a foreclosure of a recorded First Mortgage or (b) receives a deed in lieu of foreclosure of a recorded First Mortgage, that Acquiring Party shall, to the extent permitted by law, take such property free of any claims for unpaid Assessments or charges in favor of the Association against that became due prior to the earlier of the following: (i) the date of the transfer of title to the Acquiring Party, or (ii) the date on which the Acquiring Party comes into possession of the Lot. Notwithstanding anything herein to the contrary, the provisions of this Section 11.1 may not be interpreted or applied in a manner that impairs or otherwise diminishes, in any manner, any preexisting rights of Declarant's lender or its successors or assigns.

11.2 Rights of First Mortgagees, Insurers and Guarantors. Upon request in writing, each First Mortgagee, Insurer or Guarantor shall have the right:

11.2.1 to examine current copies of this Declaration, the By-Laws, all rules and regulations, and the books and records of the Association during normal business hours;

11.2.2 to receive, without charge and within a reasonable time after such request, any annual audited or unaudited financial statements which are prepared and distributed by the Association to the Homeowners at the end of each of its respective fiscal years; provided, however, that in the event an audited financial statement is not available, any First Mortgagee shall be entitled to have such an audited statement prepared at its expense;

11.2.3 to receive written notices of all meetings of the Association and to designate a representative to attend all such meetings;

11.2.4 to receive written notice of any decision by the Homeowners to make a material amendment to this Declaration, the By-Laws or the Articles of Incorporation;

11.2.5 to receive written notice of any lapse, cancellation or modification of an insurance policy or fidelity bond maintained by the Association; and

11.2.6 to receive written notice of any action which would require the consent of a specified percentage of First Mortgagees.

11.3 Distribution of Proceeds. No provision of this Declaration or the Articles of Incorporation or any similar instrument pertaining to the Property or the Lots therein shall be deemed to give a Homeowner or any other party priority over the rights of the First Mortgagees pursuant to their mortgages in the case of distribution to Homeowners of insurance proceeds or condemnation awards for losses to or

a taking of the Lots, and/or the Common Property, or any portion thereof or interest therein. In such event, the First Mortgagees, Insurers or Guarantors of the Lots affected shall be entitled, upon specific written request, to timely written notice of any such loss.

11.4 Termination of the Community. Unless the First Mortgagees of the individual Lots representing at least 67% of the votes in the Association have given their prior written approval, neither the Association nor the Homeowners shall be entitled to terminate the legal status of the Community for reasons other than substantial destruction or condemnation thereof.

11.5 Notice of Damage, Destruction or Condemnation. Upon specific written request to the Association, a First Mortgagee, Insurer or Guarantor of a Lot shall be furnished notice in writing by the Association of any damage to or destruction or taking of the Common Property if such damage or destruction or taking exceeds \$10,000.00. If damages shall occur to such Lot in excess of \$1,000.00, notice of such event shall also be given.

11.6 Condemnation; Priority of Awards. If any Lot or portion thereof or the Common Property or any portion thereof is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, then the First Mortgagee, Insurer or Guarantor of said Lot will be entitled to timely written notice, upon specific written request, of any such proceeding or proposed acquisition, and no provisions of any document will entitle the Homeowner of such Lot or other party to priority over such First Mortgagee with respect to the distribution to such Lot of the proceeds of any award or settlement.

11.7 Rights of First Mortgagees. Any First Mortgagee has the following rights:

11.7.1 Inspection. During normal business hours, and upon reasonable notice and in a reasonable manner, to inspect the books, records, and papers of the Association.

11.7.2 Copies. Upon payment of any reasonable, uniform charge that the Association may impose to defray its costs, to receive copies of the Association's books, records, or papers, certified upon request.

11.7.3 Financial Statements. Upon written request to the secretary of the Association, to receive copies of the annual financial statements of the Association; provided, however, the Association may make a reasonable charge to defray its costs incurred in providing such copies.

11.7.4 Meetings. To designate a representative to attend all meetings of the membership of the Association, who is entitled to a reasonable opportunity to be heard in connection with any business brought before such meeting but in no event entitled to vote thereon.

By written notice to the secretary of the Association, and upon payment to the Association of any reasonable annual fee that the Association from time to time may establish for the purpose of defraying its costs, any First Mortgagee also is entitled to receive any notice that it required to be given to the Class A Members of this Association under any provision of this Declaration or the Articles of Incorporation or By-Laws.

## **Article 12: Damage, Destruction, Condemnation and Restoration of Improvements**

12.1 Damage, Destruction and Restoration. In the event the improvements forming a part of the Common Property, or any portion thereof, shall suffer damage or destruction from any cause and the proceeds of any policy or policies insuring against such loss or damage, and payable by reason thereof, plus reserves (if any), shall be sufficient to pay the cost of repair or restoration or reconstruction, then such repair, restoration or reconstruction shall be undertaken and the insurance proceeds and the reserves (if any), shall be applied by the Board or the payee of such insurance proceeds in payment therefore; provided, however, that in the event, within 180 days after said damage or destruction, the Homeowners shall elect to withdraw the Property from the provisions of this Declaration, or if the

insurance proceeds and the reserves (if any) are insufficient to reconstruct the damaged or destroyed improvements to the Common Property and the Homeowners and all other parties in interest do not voluntarily make provision for reconstruction within 180 days from the date of damage or destruction, then such repair, restoration, or reconstruction shall not be undertaken. In the event such repair, restoration, or reconstruction is not undertaken, the net proceeds of insurance policies shall be divided by the Board or the payee of such insurance proceeds among all Homeowners, after first paying from the share of each Homeowner the amount of any unpaid liens on his or her Lot, in the order of the priority of such liens.

12.2 Withdrawal of Property From Declaration. In the case of damage or other destruction, upon the unanimous affirmative vote of the Homeowners voting at a meeting called for that purpose, any portion of the Property affected by such damage or destruction may be withdrawn from this Declaration. The payment of just compensation, or the allocation of any insurance or other proceeds to any withdrawing or remaining Homeowners, shall be on an equitable basis. Any insurance or other proceeds available in connection with the withdrawal of any portion of the Common Property shall be allocated to the Homeowners on the basis of an equal share for each Lot. Upon the withdrawal of any Lot or portion thereof, the responsibility for the payment of Assessments on such Lot or portion thereof by the Homeowner shall cease.

12.3 Eminent Domain. In the event any portion of the Property is taken by condemnation or eminent domain proceedings, provision for withdrawal of the portion so taken from the provisions of this Declaration may be made by the Board. The allocation of any condemnation award or other proceeds to any withdrawing or remaining Homeowner shall be on an equitable basis. Any condemnation award or other proceeds available in connection with the withdrawal of any portion of the Common Property shall be allocated to the Homeowners on the basis of an equal share for each Lot. Upon the withdrawal of any Lot or portion thereof, the responsibility for the payment of Assessments on such Lot or portion thereof by the Homeowner shall cease. The Association shall represent the Homeowners in any condemnation proceedings or in negotiations, settlements and agreements with the condemning authority for the acquisition of the Common Property or any part thereof. In the event of the total taking of the Property by eminent domain, the condemnation award available in that connection shall be divided by the Association among all Homeowners on the basis of an equal share for each Lot, after first paying from the share of each Homeowner the amount of any unpaid liens on his Lot, in the order of the priority of such liens.

### **Article 13: Termination of the Community**

At a meeting called for such purpose and attended by all Homeowners, the Homeowners, by affirmative vote of 90% of the votes eligible to be cast in Association matters, may elect to terminate the legal status of the Community (via termination of this Declaration) and sell the Common Property as a whole. Within 10 days after the date of the meeting at which such sale was approved, the Board shall give written notice of such action to all First Mortgagees, Insurers and Guarantors entitled to notice under Article 11 of this Declaration, and the termination shall only be effective upon the affirmative vote required under Section 11.4 hereof. Such action shall be binding upon all Homeowners, and it shall thereupon become the duty of every Homeowner to execute and deliver such instruments and to perform all acts in manner and form as may be necessary to effect such termination and sale. The Association shall represent the Homeowners in any negotiations, settlements and agreements in connection with termination of the Community and sale of the Common Property, and any proceeds obtained therefrom shall be first used to pay all expenses and outstanding obligations of the Association and the remainder, if any, shall be divided among all Homeowners on the basis of an equal share for each Lot.

### **Article 14: Operation**

The provisions of this Declaration are self-executing and will run with the land and be binding upon all persons having any right, title, or interest therein, or any part, their respective heirs, successors, and assigns.

## **Article 15: General Provisions**

15.1 **Enforcement.** Unless expressly provided otherwise, the Association, or any Homeowner, has the right to enforce, by any appropriate proceeding at law or in equity, all restrictions, conditions, covenants, easements, reservations, liens, charges, rules, and regulations now or hereafter imposed by, or pursuant to, the provisions of this Declaration. If the Association or any person entitled to enforce any of the provisions of this Declaration is the prevailing party in any litigation involving this Declaration or any rule or regulation, such party may recover from the losing party all costs and expenses incurred, including reasonable attorneys' fees for all trial and appellate proceedings, if any. If the Association is the losing party against any Homeowner, such costs and expenses, including reasonable attorneys' fees, payable to the prevailing party and those incurred by the Association itself, may be assessed against such Homeowner's Lot, as provided in Article 8 of this Declaration. Failure by the Association or by any Homeowner to enforce any covenant, restriction, rule, or regulation will not constitute a waiver of the right to do so at any time.

### **15.2 Amendment.**

15.2.1 Except as may be otherwise provided herein, Declarant may amend this Declaration by an instrument executed with the formalities of a deed without the approval or joinder of any other party at any time prior to the date on which Declarant shall have conveyed 90% of the Lots on the Property. Except as may be otherwise provided herein, commencing on the date that Declarant shall have conveyed 90% of the Lots on the Property, this Declaration may be amended by an instrument so executed by the Association and approved by not less than two-thirds (2/3) of the votes eligible to be cast in Association matters. No amendment is effective until recorded, and the Association's proper execution will entitle it to public record, notwithstanding the informal execution by the requisite percentage of Homeowners. For purposes of this Section, a Lot shall be considered conveyed when the deed is duly recorded. Notwithstanding the foregoing, amendments undertaken solely by Declarant shall comply with Section 720.307(5) of the Act.

15.2.2 Notwithstanding the provisions of Section 15.2.1 to the contrary, (a) no instrument of amendment or termination shall be effective while there are Class B memberships unless 100% of the Class B Members shall approve and join in such instrument, and (b) no amendment which will affect any aspect of the Surface Water Drainage and Management System located on the Property shall be effective without the prior written approval of the WMD. For purposes of this Section, a Lot shall be considered conveyed when the deed to such Lot is duly recorded.

15.2.3 Notwithstanding the provisions of Section 15.2.1 to the contrary, for so long as Declarant owns any portion of the Property, no amendment or modification to this Declaration will be effective without the prior written consent of Declarant if that amendment or modification, in Declarant's sole opinion, impairs, alters, or otherwise modifies, in whole or in part, the marketability, viability, usability, or salability of any portion of the Property owned by Declarant. For purposes of example only, and without limitation as to the types of amendments or modifications requiring Declarant consent pursuant to this Section 15.2.3, an amendment which (i) requires Association approval for the sale or transfer of an interest in a Lot in whole or in part; (ii) modifies the Assessment structure pertaining to any Lot; or (iii) impairs, alters, or otherwise modifies construction, sales, or marketing activities (including placement, size, and design of signage, etc.), would be considered an impairment to the marketability, viability, usability, or salability of the Property for which prior written consent of Declarant would be required.

15.3 **Special Amendment.** Anything herein to the contrary notwithstanding, and subject to the requirement of First Mortgagee approval set forth herein where applicable, Declarant reserves the right and power to record a special amendment ("Special Amendment") to this Declaration, at any time and from time to time, which amends this Declaration and any provision therein: (i) to comply with requirements of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development, the Consumer Finance Protection Bureau of the Department of the Treasury, the Federal Housing Administration, the Veteran's Administration, or any other governmental agency or any other

public, quasi-public or private entity which performs (or may in the future perform) functions similar to those currently performed by such entities; (ii) to induce any of such agencies or entities to make, purchase, sell, insure, guarantee or otherwise deal with first mortgages covering Lots; (iii) to correct clerical or typographical errors in this Declaration; (iv) to bring this Declaration into compliance with applicable laws, ordinances or governmental regulations; or (v) to minimize any federal or state income tax liability of the Association. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to Declarant to make or consent to a Special Amendment on behalf of each Homeowner and the Association. Each deed, mortgage, trust deed, other evidence of obligation, or other instrument affecting a Lot and the acceptance thereof shall be deemed to be a grant and acknowledgment of, and a consent to the reservation of, the power of Declarant to make, execute and record Special Amendments. The right and power of Declarant to make Special Amendments hereunder shall terminate on December 31, 2025, or on the date of the conveyance of all Lots in the Community by Declarant to third parties, whichever occurs last.

#### 15.4 Additions to or Deletions from the Property.

15.4.1 Additions to the Property. Additional land (which shall not necessarily be required to be contained within the general concepts of the Community, and in fact may be lands located in the general vicinity of the Community as owned by Declarant) may be made subject to all the terms hereof and brought within the jurisdiction and control of the Association in the manner specified in this Article. Such additional property may constitute additional Common Property or a portion of the Property. Notwithstanding the foregoing, however, under no circumstances shall Declarant be required to make such additions, and until such time as such additions are made to the Property in the manner hereinafter set forth, no other real property shall in any way be affected by or become subject to this Declaration. All additional land which is brought within the jurisdiction and control of the Association and made subject to this Declaration, pursuant to this Article, shall thereupon and thereafter be included within the term "Property" as used in this Declaration. Notwithstanding anything contained in this Section, Declarant neither commits to, nor warrants or represents, that any such additional land will be made subject to and brought within the jurisdiction and control of the Association.

15.4.2 Mergers. Upon a merger or consolidation of the Association with another non-profit corporation, its property (whether real or personal or mixed) may, by operation of law, be transferred to the surviving or consolidated corporation or, alternatively, the property of the other non-profit corporation may, by operation of law, be added to the property of the Association as the surviving corporation pursuant to a merger. The surviving or consolidated corporation shall thereafter operate as the Association under this Declaration and administer the covenants and restrictions established by this Declaration upon the Property. No such merger or consolidation, however, shall effect any revocation, change or addition to the covenants established by this Declaration.

15.4.3 Deletions from the Property only by Declarant. Except as otherwise provided herein pertaining to deletions from the Property, only Declarant may delete and withdraw a portion of the Property from being subject to this Declaration.

15.4.4 Procedure for Making Additions to or Deletions from the Property. Additions to or deletions from the Property may be made, and thereby become subject to this Declaration by, and only by, the following procedure:

(a) Addition of Lands by Declarant. Except as otherwise provided in herein where applicable and to the contrary, Declarant shall have the right from time to time, in its discretion and without need for consent or approval by either the Association or any Homeowner or Member, or other third party to make additional lands owned by Declarant subject to the scheme of this Declaration and to bring such land within the jurisdiction and control of the Association; provided, however, in the event any portion of such additional land is encumbered by one or more mortgages, Declarant must obtain the consent and approval of each holder of such Mortgage(s). In Declarant's sole discretion, portions of such additional land may be designated as Common Property.

(b) Procedure for Adding Lands. The addition shall be accomplished by Declarant filing of record in the public records of the County a supplement to this Declaration with respect to the additional land is made subject to this. Except as otherwise provided herein where applicable, such supplement need only be executed by Declarant and shall be accompanied by the consent(s) and joinder(s) of any holder(s) of Mortgage(s) on such additional land. Such supplement may contain such additional provisions and/or modifications of the covenants and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the added land or permitted uses thereof. In no event, however, shall such supplement revoke, modify, or add to the covenants and restrictions established by this Declaration affecting the land already constituting the Property unless such supplement also constitutes an amendment accomplished in accordance with the provisions of this Declaration.

15.4.5 Continued Use of Common Property. No addition shall revoke or diminish the rights of the Homeowners of the Property to the utilization of the Common Property as established hereunder, except to grant to the owners of the land being added to the Property the right to use the Common Property according to the terms and conditions as established hereunder, and the right to vote and be assessed as hereinafter provided.

15.4.6 Withdrawal of Lands by Declarant. Declarant may delete and withdraw one or more portions of the Property from being subject to this Declaration by a supplement to this Declaration recorded in the public records of the County which specifically and legally describes the property being withdrawn. Declarant must own the property being withdrawn. Such supplement need only be executed by Declarant and shall not require the joinder and consent of the Association or any Homeowner or Member, or other third party.

15.4.7 No Obligation to Add or Withdraw Lands. Nothing contained in this Article shall obligate Declarant to make additions to or deletions from the Property.

15.4.8 Voting Rights of Declarant as to Additions to the Property. Declarant shall have no voting rights as to the land to be added to the Property or any portion thereof until such land is actually added to the Property in accordance with the provisions of this Article. Upon such land being added to the Property, Declarant shall have the voting rights as set forth in the instrument amending or supplementing this Declaration.

15.4.9 Assessment Obligations of Declarant as to Additions to the Property. Declarant shall have no Assessment obligations as to the land added to the Property until such land or portion thereof is actually added to the Property in accordance with the provisions of this Article, following which Declarant shall have Assessment obligations as set forth in this Declaration (unless Declarant is providing deficit funding in accordance with Section 8.5 hereof).

15.5 Disclaimer of Representations or Warranties. EXCEPT AS EXPRESSLY PROVIDED IN THIS DECLARATION, NO REPRESENTATION OR WARRANTY OF ANY KIND, WHETHER EXPRESS OR IMPLIED, HAS BEEN GIVEN OR MADE BY DECLARANT OR ITS AGENTS OR EMPLOYEES IN CONNECTION WITH THE PROPERTY, ITS PHYSICAL CONDITION, ZONING, COMPLIANCE WITH APPLICABLE LAWS, MERCHANTABILITY, HABITABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR IN CONNECTION WITH THE COMMUNITY, SALE, OPERATION, MAINTENANCE, COST OF MAINTENANCE, TAXES OR REGULATION THEREOF. IF ANY SUCH WARRANTY CANNOT BE DISCLAIMED, AND AS TO ANY CLAIMS WHICH CAN BE MADE AS TO THE AFORESAID MATTERS, ALL INCIDENTAL AND CONSEQUENTIAL DAMAGES ARISING THEREFROM ARE HEREBY DISCLAIMED.

15.6 Notices and Disclaimers as to Signal Reception. In recognition of the fact that interruptions in cable television, radio and satellite television will occur from time to time, neither Declarant nor the Association shall in any manner be liable for, and no Homeowner shall be entitled to a refund, rebate, discount, or offset in applicable fees, for any interruption in any such services, regardless of whether or not such interruption is caused by reasons within the service provider's control. Declarant or

Association shall be entitled to retain any rebate, discount, or other compensation received from the provider of any such services in connection with the installation and/or operation of such systems within the Property.

15.7 Construction Activities. All Homeowners, occupants, and users of Lots are hereby placed on notice that Declarant and/or its agents, contractors, subcontractors, licensees, and other designees, successors, or assigns, shall continue, from time to time, to conduct construction activities within the Property. By the acceptance of a deed or other conveyance or mortgage, leasehold, license, or other interest in a Lot, and/or by using any portion of a Lot or the Property generally, Homeowners, Residents and Authorized Users of Lots acknowledge, stipulate, and agree: (a) such activities shall not be deemed nuisances, or noxious or offensive activities, under any applicable covenants or at law generally; (b) not to enter upon, or allow their children or other persons under their control or direction to enter upon (regardless of whether such entry is a trespass or otherwise), any property within or in proximity to the Lot or any other portion of the Property where such activities are being conducted (even if not being actively conducted at the time of entry, such as at night, a holiday or otherwise during non-working hours); (c) that Declarant and all of its agents, contractors, subcontractors, licensees, and other designees, successors, and assigns, shall not be liable for any losses, damages (compensatory, consequential, punitive, or otherwise), injuries, or deaths arising from and/or relating to any breach of this covenant; (d) that any purchase or use of any portion of a Lot has been and will be made with full knowledge of the foregoing; and (e) this acknowledgment and agreement is a material inducement to Declarant to sell, convey, lease, and/or allow the use of Lots within the Property.

15.8 Natural Conditions. The Property may contain a number of manmade, natural, and/or environmentally sensitive areas that may serve as habitats for a variety of native plants and wildlife, including, without limitation, insects, venomous and non-venomous snakes, alligators, other reptiles, raccoons, foxes, wild dogs, wild cats, and other animals, some of which may pose hazards to persons and/or pets coming in contact with them. Each Homeowner and occupant of any Lot, and every Person entering the Property: (a) acknowledges and agrees that such plants and wildlife are indigenous to the area and are not restrained or restricted in their movements within and/or through the Property; and (b) knowingly and voluntarily assumes all risk of property damage, personal injury and/or death arising from the presence of such plants and wildlife within the Property. Neither the Association, Declarant, nor the members, partners, affiliates, officers, directors, shareholders, attorneys, agents, and/or employees of any of the foregoing, shall have any duty to take action to control, remove, or eradicate any plant or wildlife within the Property, nor shall they have any liability for any property damage, personal injury and/or death resulting from the presence, movement, and/or propagation of any plant or wildlife within or through the Property. The areas described in this Section 15.8 may also contain ponds, lakes, retention ponds, detention ponds, dry detention areas, intermittent pools of water, muddy areas and/or buffer areas, among other things, all of which are important to the ecological balance and maintenance of the area as a wildlife habitat. No Homeowner or occupant of a Lot shall enter upon, or permit their guests, family members, invitees, agents, tenants, employees, contractors, subcontractors, visitors or any other Person acting on that Homeowner's behalf to enter upon and/or disturb any such areas in any way without the prior written approval of the Association.

15.9 Severability. Invalidity of any particular provision of this Declaration by judgment or court order will not affect any other provision, all of which shall remain in full force and effect; provided, however, any court of competent jurisdiction is hereby empowered, to the extent practicable, to reform any otherwise invalid provision contained in this Declaration when necessary to avoid a finding of invalidity while effectuating Declarant's intent of providing a comprehensive plan for the use, development, sale, and beneficial enjoyment of the Community.

15.10 Joinder. Should title to any Lot of the Community have been conveyed by Declarant prior to the recording of this Declaration, such Homeowners of Lots by their signature to a Joinder shall be deemed to have joined with the Homeowner in the recording of this Declaration and shall have subordinated their right, title and interest in the Lot to the terms hereof and declare that their property shall be subject to this Declaration as fully as if title had been taken by them subsequent to the recording hereof.

15.11 Covenant Running with the Property. Except as otherwise provided herein, the covenants and restrictions of this Declaration shall run with and be binding upon the Property, and shall remain in force and be enforced by the Board and the Homeowners, their heirs, successors and assigns, for a term of 30 years after the date this Declaration is recorded in the public records of the County, and shall be automatically renewed for successive periods of 10 years, unless the Homeowners, upon the affirmative vote of the holders of 70% of the votes eligible to be cast in Association matters decide within 6 months of such renewal date, not to renew these covenants and restrictions, and a certificate executed by the president or the vice-president and secretary of the Association certifying to such vote is recorded in the public records of the County.

Each Homeowner, by virtue of taking title to a Lot, hereby agrees that the deed of conveyance of the Lot to a third party shall specifically state that the Lot is subject to the terms of this instrument and shall state the recording book and page information for this instrument as recorded in the public records of the County. The intent of this provision is to defeat any potential argument or claim that Chapter 712, Florida Statutes, has extinguished the application of this instrument to each of the Lots.

15.12 Amendment Pertaining to Surface Water Drainage and Management System. Notwithstanding any provisions to the contrary contained in this Declaration, any amendment which will affect the Surface Water Drainage and Management System, including the management portion of the Common Property, serving the Community, must have the prior written approval of the WMD in order to be effective and binding.

15.13 Compliance. Every Homeowner and Authorized User shall comply with all lawful provisions of this Declaration, the By-Laws and the Rules and Regulations. Failure to comply shall be grounds for an action to recover sums dues, for damages or injunctive relief, or for any other remedy available at law or in equity, maintainable by the Association or, in a proper case, by any aggrieved party. Further, in the event of any violation of any ordinances, rules or restrictions imposed by the Governmental Entities with respect to the Property, the Governmental Entities may, without the consent of the Association or any Person, seek judicial enforcement of such ordinances, rules or restrictions and if such enforcement shall be required by a court of competent jurisdiction, then the Governmental Entities shall be entitled, in addition to all other awards or directions of enforcement, to all reasonable attorneys' fees and paraprofessional fees at all levels, including appeals, collections and bankruptcy, and court costs incurred by the Governmental Entities relative to its enforcement of the foregoing.

15.14 Litigation. No judicial or administrative proceeding shall be commenced or prosecuted by the Association, nor shall any legal services be provided with respect to preparing for such judicial or administrative proceedings unless approved by a vote of (a) 75% of the Class A Members eligible to vote, and (b) the Class B Member (if Class B membership has not been terminated). The Association shall prepare a budget of the total estimated cost of the litigation which shall be submitted to the Members for a vote along with the notice of the proposed litigation. The budget shall be based upon an estimate of the total cost and fees of the litigation made by the attorney being retained by the Association for the litigation. The Association shall assess all Homeowners whose interests are being sought to be protected through such litigation in accordance with the Assessment process provided herein; provided, however, that no funds from General Assessments or other sources may be used for such purpose. Prior to preparation for and institution of legal proceedings, any Assessment levied in such regard must be more than 75% collected. This Section shall not apply, however, to (a) actions brought by the Association against parties other than Declarant to enforce the provisions of this Declaration (including without limitation, the foreclosure of liens), (b) the imposition and collection of assessments as provided herein, (c) proceedings involving challenges to ad valorem taxation, (d) counterclaims brought by the Association in proceedings instituted against it, or (e) any dispute in which the amount in question is \$10,000 or less, as adjusted for inflation from year to year. This Section shall not be amended unless such amendment is made by Declarant or is approved by the percentage votes, and pursuant to the same procedures, necessary to institute proceedings as provided above.

15.15 Disclaimer of Association Liability. As used in this Section, "Association" shall mean the Association and all committee and Board members, employees, agents, contractors (including

management companies), subcontractors, successors and assigns of any of the foregoing. Notwithstanding anything contained herein or in the Articles, By-Laws, any rules or regulations of the Association or any other document governing or binding the Association (collectively, the "Association Documents"), the Association shall not be liable or responsible for, or in any manner a guarantor or insurer of, the health, safety or welfare of any Homeowner, Member, occupant or user of any portion of the Community, other tenants, guests, invitees, agents, servants, contractors or subcontractors or for any property of any such persons. Without limiting the generality of the foregoing: (a) it is the express intent of the Association Documents that the various provisions thereof which are enforceable by the Association and which govern or regulate the uses of the Community, have been written, and are to be interpreted and enforced, for the sole purpose of enhancing and maintaining the enjoyment of the Community and the value thereof; and (b) the Association is not empowered, and has not been created, to act as an agency which enforces or insures compliance with the laws of the State of Florida or the Governmental Entities or the prevention of tortious activities. Each Member (by virtue of his or her acquisition of a Lot and each other Person having an interest in or lien upon, or making any use of, any portion of the Community (by virtue of accepting such interest or lien or making such use) shall be bound by this Article and shall be deemed to have automatically waived any and all rights, claims, demands and causes of action against which the liability of the Association has been disclaimed in this Article. Each Member does hereby release Declarant and the Association from all liability from injury and/or accidental death due to adverse weather and all effects and results thereof.

15.16 Amplification; Priority of Governing Documents.

15.16.1 The provisions of this Declaration are amplified by the Articles of Incorporation and By-Laws, but no such amplification will alter or amend substantially any of the rights or obligations of the Homeowners set forth in this Declaration.

15.16.2 Declarant intends the provisions of this Declaration, on the one hand, and the Articles of Incorporation and By-Laws, on the other, to be interpreted, construed, applied, and enforced to avoid inconsistencies or conflicting results.

15.16.3 In the event of a conflict between two or more provisions of the Governing Documents, the provisions of this Declaration shall control over conflicting provisions of the Articles of Incorporation, the By-Laws and the Rules and Regulations; the provisions of the Articles shall control over conflicting provisions of the By-Laws and the Rules and Regulations; and the provisions of the By-Laws shall control over conflicting provisions of the Rules and Regulations.

15.16.4 The terms defined in this Declaration shall have same meanings in the Articles of Incorporation and By-Laws, unless otherwise provided.

15.17 Logos and Trademarks. All logos, trademarks, and designs used in connection with the Community are the property of Declarant, and the Association shall have no right to use the same after Transfer of Control except with the express written consent of Declarant.

15.18 Flood Zones. Flood zone determinations are made by the Federal Emergency Management Agency. Declarant makes no assurance, with regard to any portion of the Property, that any flood zone designation for a Lot existing as of a particular date will remain the same. Declarant further advises that any such flood designation could be changed due to re-grading of the land as a result of the land development process. Each Homeowner, by virtue of taking title to a Lot, acknowledges and agrees, and shall be deemed to have acknowledged and agreed, that Declarant has no involvement in the determination or designation of flood zone designations for any portion of the Property.

15.19 Homeowner Cooperation. No person shall use the Property, or any part thereof, in any manner contrary to or not in accordance with the rules and regulations set forth in the By-Laws or properly pertaining thereto and promulgated from time to time by the Association. The Homeowner shall not permit or suffer anything to be done or kept in such Homeowner's Home and/or Lot which will increase the rate of any insurance purchased by the Association for the Property or any portion thereof,

or which will obstruct or interfere with the rights of other Homeowners, or annoy them by unreasonable noises, or otherwise, nor shall the Homeowners commit or permit any nuisance, immoral or illegal acts in or about the Property.

15.20 Resolution of Disputes. All issues or disputes which are recognized by the Act or by administrative rules promulgated under the Act as being appropriate or required for dispute resolution shall be submitted to such dispute resolution procedures contained in the Act prior to institution of civil litigation.

15.21 Association Electronic Voting. Notwithstanding any provisions in the By-Laws to the contrary, electronic voting may occur in and for the Association under the terms and provisions of the following:

15.21.1 In order for electronic voting to occur on any Association matter, the Board must first pass a resolution authorizing same, which resolution must:

- (a) provide that Members receive notice of the opportunity to vote through an online voting system;
- (b) establish reasonable procedures and deadlines for Members to consent, in writing, to online voting; and
- (c) establish reasonable procedures and deadlines for Members to opt out of online voting after giving consent.

15.21.2 Once such a resolution has been passed, elections and other membership votes may be conducted through an internet-based online voting system if a Member consents, in writing, to online voting and if the following requirements are met:

- (a) The Association shall provide each Member with a method or means:
  - (i) to authenticate the Member's identity to or within the online voting system;
  - (ii) to confirm, at least 14 days prior to the date of the vote or the voting deadline, that the Member's electronic device can successfully communicate with the online voting system; and
  - (iii) that is consistent with the election and voting procedures in the Governing Documents; and
- (b) The Association utilizes an online voting system that is able to:
  - (i) authenticate the Member's identity;
  - (ii) authenticate the validity of each electronic vote to ensure that the vote is not altered in transit;
  - (iii) transmit a receipt from the online voting system to each Member who casts an electronic vote;
  - (iv) permanently separate any authentication or identifying information from the electronic election ballot, rendering it impossible to tie an election ballot to a specific Member (this provision only applies if the Governing Documents provide for secret ballots for the election of Directors); and

(v) store and keep electronic ballots accessible to election officials for recount, inspection, and review.

(c) A Member voting electronically pursuant to or as a result of this Section 23.25 shall be counted as being in attendance at the meeting for purposes of determining a quorum.

(d) A Member's consent to online voting is and shall remain valid until the Member opts out of online voting pursuant to the procedures established by the Board.

(e) This Section 15.21 shall apply to any matter that requires a vote of the Members.

IN WITNESS WHEREOF, Declarant has duly executed this instrument on this 2nd day of December, 2015.

WITNESSES:

Rachelle Hoover  
Name: Rachelle Hoover  
Lisa Bianchi  
Name: Lisa Bianchi

KB HOME JACKSONVILLE LLC,  
a Delaware limited liability company

By: [Signature]  
Wes Hinton, Director, Land Development

(SEAL)

STATE OF FLORIDA  
COUNTY OF Duval

The foregoing instrument was acknowledged before me this 2nd day of December, 2015, by Wes Hinton, Director, Land Development of KB Home Jacksonville LLC, a Delaware limited liability company, on behalf of the corporation, as Declarant of Pine Trace. He is personally known to me.

My Commission Expires:

(AFFIX NOTARY SEAL)



Lisa Bianchi  
NOTARY PUBLIC  
STATE OF FLORIDA  
Comm# FF178447  
Expires 12/14/2018

Lisa Bianchi  
(Signature)  
Name: Lisa Bianchi  
(Legibly Printed)

Notary Public, State of Florida

FF178447  
(Commission Number, if any)

**EXHIBIT "A" TO AMENDED AND RESTATED  
DECLARATION OF CONDITIONS, COVENANTS, EASEMENTS  
AND RESTRICTIONS**

**Legal Description of the Property**

PINE TRACE, P.U.D., according to the map or plat thereof recorded in Plat Book 49, Page 5, public records of Saint Lucie County, Florida.

**TOGETHER WITH**

PINE TRACE PHASE II, P.U.D., according to the map or plat thereof recorded in Plat Book 52, Page 32, public records of Saint Lucie County, Florida.

**TOGETHER WITH**

PINE TRACE SECOND REPLAT, P.U.D., according to the map or plat thereof recorded in Plat Book 62, Page 10, public records of Saint Lucie County, Florida.

**TOGETHER WITH**

PINE TRACE THIRD REPLAT, according to the map or plat thereof recorded in Plat Book 71, Page 16, public records of Saint Lucie County, Florida.

**EXHIBIT "B" TO AMENDED AND RESTATED  
DECLARATION OF CONDITIONS, COVENANTS, EASEMENTS  
AND RESTRICTIONS**

**Amended and Restated Articles of Incorporation of the Association**

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**AMENDED AND RESTATED  
ARTICLES OF INCORPORATION  
OF  
P TRACE PROPERTY OWNERS  
ASSOCIATION, INC.  
a Florida not-for-profit corporation**

Pursuant to Sections 617.1001, 617.1006 and 617.1007 of the Florida Statutes, P Trace Property Owners Association, Inc., a Florida not-for-profit corporation (the "Corporation"), certifies that:

1. The Amended and Restated Articles of Incorporation set forth herein were duly recommended by unanimous written consent of the Board of Directors dated February 13, 2006.
2. The Amended and Restated Articles of Incorporation set forth herein were approved by the sole Member of the Corporation on February 13, 2006, and the number of votes cast were sufficient for approval.
3. The duly adopted Amended and Restated Articles of Incorporation supersede the original Articles of Incorporation and all amendments to them.

Pursuant to Section 617.1007 of the Florida Statutes, the Articles of Incorporation of P Trace Property Owners Association, Inc., a Florida not-for-profit corporation, are hereby amended and restated as follows:

**ARTICLE 1**

**NAME AND ADDRESS**

1. **Name and Address.** The name and address of the corporation is: P TRACE PROPERTY OWNERS ASSOCIATION, INC. Hereinafter referred to as the "ASSOCIATION". The address of the corporation's principal office and mailing address is: 8075 20th Street, Vero Beach, FL 32986.

**ARTICLE 2**

**DEFINITIONS**

2. **Definitions.** Unless defined in these Articles or the Bylaws all terms used in the Articles and the Bylaws shall have the same meanings as used in the DECLARATION OF

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Articles of Incorporation of  
P TRACE PROPERTY OWNERS ASSOCIATION, INC.

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PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS FOR PINE TRACE (the  
"Declaration").

ARTICLE 3

PURPOSE

3. Purpose. The purposes for which the ASSOCIATION is organized are as follows:

3.1 To operate as a corporation not-for-profit pursuant to Chapter 617, Florida Statutes, and as a homeowners' association pursuant to Chapter 720, Florida Statutes (2002).

3.2 To administer, enforce and carry out the terms and provisions of the Declaration as same may be amended or supplemented from time to time.

3.3 To administer, enforce and carry out the terms and provisions of any other Declaration of Covenants and Restrictions or similar document, submitting property to the jurisdiction of or assigning responsibilities, rights or duties to the ASSOCIATION and accepted by the Board of Directors of the ASSOCIATION (the "BOARD").

3.4 To promote the health, safety, comfort and social and economic welfare of the MEMBERS of the ASSOCIATION and the OWNERS and the users of Lots in PINE TRACE, as authorized by the Declaration, by these Articles, and by the Bylaws.

3.5 To operate, maintain and manage the surface water or stormwater management system(s) in a manner consistent with the South Florida Water Management District permit applicable to PINE TRACE, a copy of which is attached to the Declaration as an Exhibit and made a part thereof, as well as all requirements and applicable District rules, and shall assist in the enforcement of the Declaration which relate to the surface water or stormwater management system, as well as to levy and collect adequate assessments against MEMBERS of the ASSOCIATION for the costs of maintenance and operation of the surface water or stormwater management system(s) in a manner consistent with the South Florida Water Management District permit requirements and applicable District rules.

ARTICLE 4

POWERS

4. Powers. The ASSOCIATION shall have the following powers:

4.1 All of the common-law and statutory powers of a corporation not-for-profit and a homeowners' association under the laws of Florida, specifically, Chapters 617 and 720, Florida Statutes (2002), which are not in conflict with the terms of these Articles.

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Articles of Incorporation of  
PINE TRACE PROPERTY OWNERS ASSOCIATION, INC.

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4.2 To sue and be sued and appear and defend in all actions and proceedings in its corporate name to the same extent as a natural person.

4.3 To enter into, make, establish and enforce, rules, regulations, Bylaws, covenants, restrictions and agreements to carry out the purposes of the ASSOCIATION.

4.4 To make and collect Assessments for Common Expenses from OWNERS to defray the costs, expenses, reserves and losses incurred or to be incurred by the ASSOCIATION and to use the proceeds thereof in the exercise of the ASSOCIATION'S powers and duties.

4.5 To own, purchase, sell, convey, mortgage, lease, administer, manage, operate, maintain, improve, repair and/or replace real and personal property.

4.6 To hold funds for the exclusive benefit of the MEMBERS of the ASSOCIATION as set forth in these Articles and as provided in the Declaration and the Bylaws.

4.7 To purchase insurance for the protection of the ASSOCIATION, its officers, directors and MEMBERS, and such other parties as the ASSOCIATION may determine to be in the best interests of the ASSOCIATION.

4.8 To operate, maintain, repair, and improve all Common Areas and such other portions of PINE TRACE as may be determined by the BOARD from time to time.

4.9 To honor and perform under all contracts and agreements entered between third parties and the ASSOCIATION or third parties and the DEVELOPER which are assigned to the ASSOCIATION.

4.10 To exercise architectural control, either directly or through appointed committees, over all buildings, structures and improvements to be placed or constructed upon any portion of PINE TRACE. Such control shall be exercised pursuant to the Declaration.

4.11 To provide for private security, fire safety and protection, and similar functions and services within PINE TRACE as the BOARD in its discretion determines necessary or appropriate.

4.12 To provide, purchase, acquire, replace, improve, maintain and/or repair such buildings, structures, streets (to the extent not maintained by St. Louis County), pathways, and other structures, landscaping, paving and equipment, both real and personal, related to the health, safety and social welfare of the MEMBERS of the ASSOCIATION and the OWNERS and Residents of PINE TRACE as the BOARD in its discretion determines necessary or appropriate.

4.13 To employ personnel necessary to perform the obligations, services and duties required of or to be performed by the ASSOCIATION and/or to contract with others for

Archives of Interposition of  
PINE TRACE PROPERTY OWNERS ASSOCIATION, INC.

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the performance of such obligations, services and/or duties and to pay the cost thereof in accordance with whatever contractual arrangements the BOARD shall enter.

4.14 To operate, maintain and manage the surface water or stormwater management system(s) in a manner consistent with the South Florida Water Management District permit applicable to FINE TRACE, a copy of which is attached to the Declaration as an Exhibit and made a part thereof, as well as all requirements and applicable District rules, and shall assist in the enforcement of the Declaration which relate to the surface water or stormwater management system, as well as to levy and collect adequate assessments against MEMBERS of the ASSOCIATION for the costs of maintenance and operation of the surface water or stormwater management system(s) in a manner consistent with the South Florida Water Management District permit requirements and applicable District rules.

#### ARTICLE 5

#### MEMBERS

5.1 **Membership.** Except as is set forth in this Article 5, every Person who is a record titleholder of a fee or undivided interest in any Lot which is subject by covenants of record to assessment by the ASSOCIATION shall be a MEMBER of the ASSOCIATION, provided that any such Person which holds such interest merely as a security for the performance of any obligation shall not be a MEMBER. The DEVELOPER shall retain the right of membership including, but not limited to, the Voting Rights, to all Lots owned by Persons not entitled to Membership as herein defined.

5.2 **Transfer of Membership.** Transfer of membership in the ASSOCIATION shall be established by the recording in the Public Records of St. Johns County, Florida of a deed or other instrument establishing a transfer of record title to any Lot for which membership has already been established. The OWNER designated by such instrument of conveyance thereby becomes a MEMBER, and the prior MEMBER's membership thereby is terminated. In the event of death of a MEMBER, his membership shall be automatically transferred to his heirs or successors in interest. Notwithstanding the foregoing, the ASSOCIATION shall not be obligated to recognize such a transfer of membership until such time as the ASSOCIATION receives a true copy of the recorded deed or other instrument establishing the transfer of membership of the Lot, and shall be the responsibility and obligation of both the former and the new OWNER of the Lot to provide such true copy of said recorded instrument to the ASSOCIATION.

5.3 **Prohibition Against Transfer.** The share of a MEMBER in the funds and assets of the ASSOCIATION cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to the Lot associated with the membership of that MEMBER, nor may a membership be separately assigned, hypothecated or transferred in any manner except as an appurtenance to the Lot.

5.4 **Designation of Voting Rights.** The ASSOCIATION shall have two (2) classes of membership:

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FINE TRACE PROPERTY OWNERS ASSOCIATION, INC.

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**Class A.** The Class A Member shall be all OWNERS with the exception of the DEVELOPER, and shall be entitled to one (1) vote for each Lot owned. When more than one Person holds an interest in any Lot, all such Persons shall be MEMBERS. The vote for such Lot shall be exercised as they determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

**Class B.** The Class B Member shall be the DEVELOPER and the DEVELOPER shall be entitled to three (3) votes for each Lot owned. The Class B Membership shall cease and be converted to Class A Membership on the happening of either of the following events, whichever occurs earlier:

- (a) Three (3) months after ninety percent (90%) of all the Lots that will ultimately be operated by the ASSOCIATION have been conveyed to the Class A Membership (other than the DEVELOPER); or
- (b) As an earlier date at the sole discretion of the DEVELOPER; provided, however, Developer shall, at all times, comply with Section 720.307, Florida Statutes (2002) relative to transition and control.

From and after the happening of these events, whichever occurs earlier, the Class B Members shall be deemed Class A Members entitled to one (1) vote for each Lot in which it holds the interest required under this Article.

**5.5 Voting by CO-OWNERS.** If the Lot associated with the membership of a MEMBER is owned by more than one person, the vote(s) of the MEMBER may be cast at any meeting by any CO-OWNER of the Lot. If when the vote(s) is (are) to be cast, a dispute arises between the CO-OWNERS as to how the vote(s) shall be cast, they shall lose the right to cast their vote(s) on the matter being voted upon, but their vote(s) continue to be counted for purposes of determining the existence of a quorum.

**5.6 Proxies.** Every MEMBER entitled to vote at a meeting of the MEMBERS, or to express consent or dissent without a meeting, may authorize another person to act on the MEMBER'S behalf by a proxy signed by such MEMBER. Any proxy shall be delivered to the Secretary of the ASSOCIATION or the person acting as Secretary at the meeting, at or prior to the time designated in the order or business for so delivering such proxies. No proxy shall be valid after the expiration of ninety (90) days from the date of the meeting for which the proxy was given. Every proxy shall be revocable at any time at the pleasure of the MEMBER executing it.

**5.7 Calculation of Votes.** Any question concerning the number of votes which may be cast by a MEMBER shall be decided by the BOARD.

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# ARTICLE 6

## PERSONS SERVING ON THE BOARD

6.1 Persons Serving on the BOARD. The affairs of the ASSOCIATION shall be managed by a BOARD consisting of not less than three (3) persons, nor more than seven (7) persons, and which shall always be an odd number. The number of persons on the BOARD shall be determined in accordance with the Bylaws. In the absence of such determination, there shall be three (3) persons on the BOARD.

6.2 Developer shall have the right to retain control of the ASSOCIATION as more particularly outlined in the Bylaws of the ASSOCIATION and in accordance with Section 720.307, Florida Statutes (2002), or until such earlier time as is determined by DEVELOPER, in DEVELOPER's sole discretion. DEVELOPER shall have the right to appoint all Class B Members of the BOARD and to otherwise govern the affairs of the ASSOCIATION in accordance with the Bylaws of the ASSOCIATION. The Class A Members appointment to the BOARD shall be at the times and by the procedures outlined in the Bylaws of the ASSOCIATION; provided, however, that such appointment shall at all times comply with Section 720.307, Florida Statutes (2002); provided, further however, that DEVELOPER is entitled to elect at least one (1) member of the BOARD as long as DEVELOPER holds for sale in the ordinary course of business at least five percent (5.00%) of all the LOTS owned.

6.3 All of the duties and powers of the ASSOCIATION existing under Chapters 617 and 720, Florida Statutes (2002), the Declaration, these Articles and the Bylaws shall be exercised exclusively by the BOARD, its agents, contractors or employees, subject to approval by the MEMBERS only when specifically required.

6.4 A member of the BOARD may be removed and vacancies on the BOARD shall be filled in the manner provided by the Bylaws. However, any member of the BOARD appointed by the DEVELOPER may only be removed by the DEVELOPER, and any vacancy on the BOARD of a member appointed by the DEVELOPER shall be filled by the DEVELOPER.

6.5 The names and addresses of the members of the BOARD who shall hold office until their successors are elected or appointed, or until removed, are as follows:

William Orsini	8075 20th Street Vero Beach, FL 32966
Patricia Gornik	8075 20th Street Vero Beach, FL 32966
Peter Placardelli	8075 20th Street Vero Beach, FL 32966

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# ARTICLE 7

## OFFICERS

7. OFFICERS. The Officers of the ASSOCIATION shall be a President, Vice President, Secretary, Treasurer and such other officers as the BOARD may from time to time by resolution create. The Officers shall serve at the pleasure of the BOARD, and the Bylaws may provide for the removal from office of Officers, for filling vacancies, and for the duties of the Officers. The names of the Officers who shall serve until their successors are designated by the BOARD are as follows:

President:	William Oates
Vice President:	Patricia Gornic
Secretary:	Peter Emmerich
Treasurer:	Jeff Bryant

# ARTICLE 8

## INDEMNIFICATION

8. Indemnification of Officers, Members of the BOARD or Agents. The ASSOCIATION shall indemnify any Person who was or is a party or is threatened to be made a party, to any threatened, pending or contemplated action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that he is or was a member of the BOARD, employee, Officer or agent of the ASSOCIATION, against expenses (including attorneys' fees and appellate attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding if he acted in good faith and in a manner he reasonably believed to be in or not opposed to, the best interest of the ASSOCIATION; and with respect to any criminal action or proceeding, if he had no reasonable cause to believe his conduct was unlawful or to which such Person shall have been adjudged to be liable for gross negligence or willful misconduct or malfeasance in the performance of his duty to the ASSOCIATION; and only to the extent that the court in which such action or suit was brought shall determine, upon application, that despite the adjudication of liability, but in view of all the circumstances of the case, such Person is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, in and of itself, create a presumption that the Person did not act in good faith and in a manner which he reasonably believed to be in, or not opposed to, the best interest of the ASSOCIATION; and with respect to any criminal action or proceeding that he had no reasonable cause to believe that his conduct was unlawful.

8.1 To the extent that a member of the BOARD, Officer, employee or agent of the ASSOCIATION is entitled to indemnification by the ASSOCIATION in accordance with this

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Article 8, he shall be indemnified against expenses (including attorneys' fees and appellate attorneys' fees) actually and reasonably incurred by him in connection therewith.

8.2 Expenses incurred in defending a civil or criminal action, suit or proceeding shall be paid by the ASSOCIATION in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of the members of the BOARD, Officer, employee or agent of the ASSOCIATION to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the ASSOCIATION as authorized in this Article.

8.3 The indemnification provided by this Article shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under the laws of the State of Florida, any Bylaw, agreement, vote of MEMBERS or otherwise. As to action taken in an official capacity while holding office, the indemnification provided by this Article shall continue as to a Person who has ceased to be a member of the BOARD, Officer, employee, or agent of the ASSOCIATION and shall inure to the benefit of the heirs, executors and administrators of such a Person.

8.4 The ASSOCIATION shall have the power to purchase and maintain insurance on behalf of any Person who is or was a member of the BOARD, Officer, employee or agent of the ASSOCIATION or the Master Association, or is or was serving at the request of the ASSOCIATION as a member of the BOARD, Officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against any liability asserted against him and incurred by him in any such capacity, as arising out of his status as such, whether or not the ASSOCIATION would have the power to indemnify him against such liability under the provisions of this Article.

#### ARTICLE I

##### BYLAWS

9. Initial Bylaws. The initial Bylaws shall be adopted by the BOARD, and may be altered, amended or rescinded in the manner provided by the Bylaws.

#### ARTICLE II

##### AMENDMENTS

10. Amendments. Amendments to these Articles shall be proposed and adopted in the following manner:

10.1 Initiation. A resolution to amend these Articles may be proposed by a majority of the members of the BOARD, or by MEMBERS holding not less than ten percent (10%) of the votes of the entire membership of the ASSOCIATION.

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10.2 Notice. Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which a proposed amendment is to be considered.

10.3 Adoption of Amendments.

10.3.1 A resolution for the adoption of the proposed amendment shall be adopted by MEMBERS having not less than a majority of the votes of the entire membership of the ASSOCIATION.

10.3.2 Amendment of the Articles shall require the assent of two-thirds of the votes of the MEMBERS.

10.3.3 Upon the approval of an amendment to these Articles, Articles of Amendment shall be executed and delivered to the Department of State as provided by law, and a copy certified by the Department of State shall be recorded in the Public Records of St. Louis County, Florida, as an amendment to the Declaration.

ARTICLE 11

TERM

11. The ASSOCIATION shall have perpetual existence. If, for whatever reason, the ASSOCIATION is dissolved by the MEMBERS, any Common Act, expressly including, the operation and maintenance of the surface water or stormwater management system, shall be conveyed to an appropriate agency of the local government for eventual and maintenance purposes. If an agency of the local government will accept such conveyance and responsibility, such property may be conveyed to a not-for-profit corporation similar to the ASSOCIATION. Notwithstanding the above, in the event of termination, dissolution or final liquidation of the ASSOCIATION, the responsibility for the operation and maintenance of the surface water or stormwater management system must be transferred to and accepted by an entity which would comply with Section 40C-42.027, F.A.C., and be approved by the South Florida Water Management District prior to such termination, dissolution or liquidation.

ARTICLE 12

INCORPORATOR

12. The name and street address of the Incorporator is:

Steven L. Perry  
2400 SE Federal Highway, Fourth Floor  
Stuart, FL 34994

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TRACE PROPERTY OWNERS ASSOCIATION, INC.

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ARTICLE 13

**REGISTERED OFFICE ADDRESS  
AND NAME OF INITIAL REGISTERED AGENT**

The street address of the initial registered office of the ASSOCIATION is 2400 SE Federal Highway, Fourth Floor, Stuart, Florida 34994. The Registered Agent of the ASSOCIATION at that address is Kenneth A. Norman.

IN WITNESS WHEREOF, the President and Registered Agent have executed these Articles.

WITNESSES:

*Catharina M. Gorter*  
*WILLIAM M. GORTER*  
*Rose Gorter*  
*ROSE GORTER*

*WILLIAM GORTER*, President

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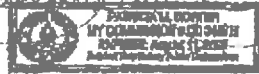
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STATE OF FLORIDA  
COUNTY OF Indian River

The foregoing instrument was acknowledged before me this 15 day of February, 2006, by WILLIAM CRAZI, who: [X] is personally known to me, or [ ] has produced him as identification, and who did not take an oath.

(NOTARY SEAL)



Patricia M. Carter  
Name: Patricia M. Carter  
Typed, printed or stamped  
I am a Notary Public of the State of Florida  
having a commission number of 08345915  
and my commission expires 8-11-2008

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TRACE PROPERTY OWNERS ASSOCIATION, INC.

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**CERTIFICATE DESIGNATING REGISTERED AGENT FOR  
THE SERVICE OF PROCESS WITHIN THIS STATE**

Pursuant to Chapter 48, Florida Statutes, the following is submitted in compliance with  
said Act:

P TRACE PROPERTY OWNERS ASSOCIATION, INC., desiring to organize as a not-  
for-profit corporation under the laws of the State of Florida with its registered office at 2400 SE  
Federal Highway, Fourth Floor, Suite FL 34994, located at the above registered office, as its  
Registered Agent to accept service of process within this state.

**ACKNOWLEDGMENT:**

Having been named to accept service of process for the above stated corporation, at place  
designated in this Certificate, I hereby agree to act in this capacity, and further agree to comply  
with the provisions of said Act relative to keeping open said office.

*Kenneth A. Newman*  
KENNETH A. NEWMAN  
Registered Agent

Date: Feb. 13, 2006

[PRINTED OR PUNED (ISSUED) OR ARTICLES INCORPORATION]

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P TRACE PROPERTY OWNERS ASSOCIATION, INC.

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**EXHIBIT "C" TO AMENDED AND RESTATED  
DECLARATION OF CONDITIONS, COVENANTS, EASEMENTS  
AND RESTRICTIONS**

**By-Laws of the Association**

AMENDED AND RESTATED BYLAWS  
OF  
P TRACE PROPERTY OWNERS  
ASSOCIATION, INC.,  
a Florida not-for-profit corporation

1. General.

1.1 Identity. These are the Bylaws of P TRACE PROPERTY OWNERS ASSOCIATION, INC., a Florida not-for-profit corporation and homeowners' association formed under the laws of the State of Florida. The ASSOCIATION has been organized for the purposes stated in the Articles of Incorporation (the "Articles"), and the DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS FOR Pine Trace (the "Declaration"). The ASSOCIATION shall have all of the powers provided in these Bylaws, the Articles, the Declaration (collectively, the "Governing Documents"), and any other statute or law of the State of Florida or any other power incident to any of the above powers.

1.2 Principal Office. The principal office of the ASSOCIATION shall be at such place as the BOARD may determine from time to time.

1.3 Fiscal Year. The fiscal year of the ASSOCIATION shall be the calendar year.

1.4 Seal. The seal of the ASSOCIATION shall have inscribed upon it P TRACE PROPERTY OWNERS ASSOCIATION, INC., the year "2005" and the words "Corporation Not-For-Profit". The seal may be used by causing it, or a facsimile thereof, to be impressed, affixed or otherwise reproduced upon any instrument or document executed in the name of the ASSOCIATION.

1.5 Inspection of Books and Records. The records of the ASSOCIATION shall be open to inspection by any MEMBER of the ASSOCIATION, upon request, during normal business hours or under other reasonable circumstances. The records of the ASSOCIATION shall include current copies of the Declaration, the Articles, the Bylaws, any Rules and Regulations of the ASSOCIATION, any contracts entered into by the ASSOCIATION, and the books, records and financial statements of the ASSOCIATION. The ASSOCIATION shall be required to make available to perspective purchasers of any Lot, current copies of the Governing Documents, the most recent annual financial statement of the ASSOCIATION and any further records as may be required by Chapter 720, Florida Statutes.

1.6 Definitions. Unless the context otherwise requires, all terms used in these Bylaws shall have the same meaning as are attributed to them in the Declaration and the Articles.

2. Membership in General.

2.1 Qualification. The qualification of MEMBERS, the manner of their admission to membership, changes in membership, and the termination of such membership, shall be as set forth in the Declaration and the Articles.

2.2 MEMBER Register. The Secretary of the ASSOCIATION shall maintain a register in the office of the ASSOCIATION showing the names and addresses of the MEMBERS of the ASSOCIATION. Each MEMBER shall at all times advise the Secretary of any change of address of the MEMBER or of any change of ownership of the MEMBER's Lot. The ASSOCIATION shall not be responsible for reflecting any changes until notified of such change in writing.

3. Membership Voting.

3.1 Majority Vote. The acts approved by a majority of the votes present in person or by proxy at a meeting at which a quorum is present, shall be binding upon all MEMBERS for all purposes, except where otherwise provided by law or in the Governing Documents.

3.2 Determination of Voting Rights. The ASSOCIATION shall have two (2) classes of membership:

Class A. Class A Members shall be all OWNERS with the exception of the DEVELOPER, and shall be entitled to one (1) vote for each Lot owned. When more than one Person holds an interest in any Lot, all such Persons shall be MEMBERS. The vote for such Lot shall be exercised as they determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

Class B. The Class B Member shall be the DEVELOPER and the DEVELOPER shall be entitled to three (3) votes for each Lot owned. The Class B Membership shall cease and be converted to Class A Membership on the happening of either of the following events, whichever occur earlier:

(a) Three (3) months after ninety percent (90%) of all the Lots that will ultimately be operated by the ASSOCIATION have been conveyed to the Class A Membership (other than the DEVELOPER); or

(b) At an earlier date at the sole discretion of the DEVELOPER; provided, however, Developer shall, at all times, comply with Section 720.307, Florida Statutes (2002) relative to transition and control.

From and after the happening of these events, whichever occur earlier, the Class B Members shall be deemed Class A Members entitled to one (1) vote for each Lot in which it holds the interest required under this Article; provided, however, that such appointment shall at all times comply with Section 720.307, Florida Statutes, (2002); provided, further however, that DEVELOPER is entitled to elect at least one (1) member of the BOARD as long as DEVELOPER holds for sale in the ordinary course of business at least five percent (5.00%) of all the LOTS owned.

3.3 Voting by CO-OWNERS. If the Lot associated with the membership of a MEMBER is owned by more than one individual or by an entity, the vote(s) of the MEMBER may be cast at any meeting by any CO-OWNER of the Lot. If when the vote(s) is (are) to be cast, a dispute arises between the CO-OWNERS as to how the vote(s) will be cast, they shall lose the right to cast their vote(s) on the matter being voted upon, but their vote(s) shall continue to be counted for purposes of determining the existence of a quorum.

3.4 Proxies. Every MEMBER entitled to vote at a meeting of the MEMBERS, or to express consent or dissent without a meeting, may authorize another Person to act on the MEMBER's behalf by a proxy signed by such MEMBER. Any proxy shall be delivered to the Secretary of the ASSOCIATION or the Person acting as Secretary at the meeting, at or prior to the time designated in the order of business for so delivering such proxies. The proxy shall be dated, and shall state the date, time and place of the meeting for which it is given, and shall be signed by the authorized person giving the proxy. No proxy shall be valid after the expiration of ninety (90) days from the date of the meeting for which it was originally given. Every proxy shall be revocable at any time at the pleasure of the MEMBER executing it.

3.5 Calculation of Votes. Any question concerning the number of votes which may be cast by a MEMBER shall be decided by the BOARD.

#### 4. Membership Meetings.

4.1 Who May Attend. Any Person entitled to cast the votes of the MEMBER, and in the event any Lot is owned by more than one Person, all CO-OWNERS of the Lot may attend any meeting of the MEMBERS. However, the votes of any MEMBER shall be cast in accordance with the provisions of Section 3 above. Any Person not expressly authorized to attend a meeting of the MEMBERS, as set forth above, may be excluded from any meeting of the MEMBERS by the presiding officer of the meeting.

4.2 Place. All meetings of the MEMBERS shall be held at the principal office of the ASSOCIATION or at any other location as designated by the BOARD and stated in the notice of meeting.

4.3 Quorum Requirements. Except as set forth hereinafter or unless otherwise so provided, at any regular or special meeting of the MEMBERS, the presence in person or by

proxy of MEMBERS entitled to cast thirty (30%) percent of the votes of the entire membership at the time of such vote shall constitute a quorum. If any meeting of the MEMBERS cannot be organized because a quorum is not present, a majority of the votes of the MEMBERS present, either in person or by proxy, may adjourn the meeting to a time not less than five (5) days nor more than thirty (30) days from the time the original meeting was called, at which meeting the quorum requirement shall be the presence in person or by proxy of MEMBERS holding at least twenty-five percent (25%) of the votes of the entire membership. Such an adjourned meeting may be held without notice thereof as provided in subsection 4.4, provided that notice is given by announcement at the meeting at which such adjournment is taken. If a meeting of MEMBERS is adjourned for more than thirty (30) days from the originally scheduled meeting date, or if the MEMBERS adjourn a meeting without specifying a date for holding the adjourned meeting, the quorum and notice requirements for the holding of such adjourned meeting shall then be the same as the notice and quorum requirements prescribed for special meetings.

4.4 Notices. Written notice stating the location, day and hour of any meeting and in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be mailed, delivered or electronically transmitted to each MEMBER not less than five (5) nor more than sixty (60) days before the date of the meeting, by or at the direction of the President, the Secretary, or the Officer or persons calling the meeting. The notice may set forth time limits for speakers and nominating procedures for the meeting. The notice of any meeting at which members of the BOARD are to be elected shall include the names of all those who are nominees at the time the notice is given to the MEMBERS. If mailed, such notice shall be deemed to be delivered when deposited in the United States Mail, addressed to the MEMBER at the MEMBER'S address as it appears on the records of the ASSOCIATION, unless such MEMBER shall have filed a written request with the Secretary of the ASSOCIATION stating that notices to him be mailed to some other address. All notices shall be dated and shall be mailed, delivered or electronically transmitted to the MEMBERS as soon after the date of the notice as is practical. The date of the notice shall be the date used for the purpose of determining MEMBERS entitled to notice of, or to vote at, any meeting of the MEMBERS of the ASSOCIATION, or in order to make a determination of the MEMBERS for any other purpose. The BOARD shall not be required to take into account any changes in membership occurring after that date but may, in their sole and absolute discretion, do so. If the Lot of a MEMBER is owned by more than one Person, only one notice shall be required to be sent with respect to the MEMBER, which shall be made to the person designated in the records of the ASSOCIATION.

4.5 Waiver of Notice. Whenever any notice is required to be given to any MEMBER under the provisions of the Articles or these Bylaws, or as otherwise provided by law, a waiver in writing signed by the Person or Persons entitled to such notice whether before or after the time stated therein, shall be equivalent to the giving of such notice. Attendance of a MEMBER at a meeting shall constitute a waiver of notice of such meeting except when the MEMBER objects at the beginning of the meeting to the transaction of any business because the meeting is not lawfully called or convened.

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4.6 Annual Meeting. The annual meeting for the purpose of electing members of the BOARD and transacting any other business shall be held at 7:00 p.m. on the first Monday in February or at such other time during the first quarter of a calendar year as shall be selected by the BOARD. If the BOARD fails to call the annual meeting during the first quarter of a calendar year, then within thirty (30) days after the written request of any MEMBER, Officer or member of the BOARD of the ASSOCIATION, the Secretary shall call the annual meeting.

4.7 Special Meetings. Special meetings of the MEMBERS may be requested by written notice to the Secretary by any member of the BOARD, the President, or any MEMBERS having not less than ten percent (10%) of the votes of the entire membership, or as otherwise provided by law. Such request shall state the purpose of the proposed meeting. Business transacted at all special meetings shall be confined to the subjects stated in the notice of meeting. Notice of any special meeting shall be given in accordance with subsection 4.3 to all of the MEMBERS within thirty (30) days after a special meeting is duly requested.

4.8 Adjournments. Any meeting may be adjourned or continued by a majority of the votes present at the meeting in person or by proxy, regardless of a quorum, or if no MEMBER entitled to vote is present at a meeting, then any Officer of the ASSOCIATION may adjourn the meeting. If any meeting is adjourned or continued to another time or place, it shall not be necessary to give any notice of the adjourned meeting, if the time and place to which the meeting is adjourned are announced at the meeting at which the adjournment is taken, and any business may be transacted at the adjourned meeting that might have been transacted at the original meeting. If the time and place to which the meeting is adjourned are announced at the meeting at which the adjournment is taken, notice of the adjourned meeting may be given to MEMBERS not present at the original meeting, without giving notice to the MEMBERS who were present at such meeting.

4.9 Organization. At each meeting of the MEMBERS, the President, or in his absence, the Vice President shall act as chairman of the meeting. The Secretary, or in his absence or inability to act, any person appointed by the chairman of the meeting shall act as Secretary of the meeting.

4.10 Minutes. The minutes of all meetings of the MEMBERS shall be kept in a book available for inspection by the MEMBERS or their authorized representatives, and the members of the BOARD, at any reasonable time.

4.11 Actions Without a Meeting. While the DEVELOPER is in control of the Association, any action required or permitted to be taken at any annual or special meeting of the MEMBERS may be taken without a meeting, without prior notice, and without a vote if a consent in writing, setting forth the action so taken, shall be signed by the MEMBERS having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all MEMBERS entitled to vote thereon were present and voted. Within ten (10) days after obtaining such authorization by written consent, notice shall be given

to those MEMBERS who have not consented in writing. The notice shall fairly summarize the material features of the authorized action. If the Lot(s) for which membership is established in the ASSOCIATION is owned by more than one Person or by an entity, the consent for such Lot(s) need only be signed by one Person who would be entitled to cast the vote(s) for the Lot(s).

5. BOARD.

5.1 Number of Members of the BOARD.

5.1.1 The affairs of the ASSOCIATION shall be managed by a BOARD comprised of not less than three (3) nor more than seven (7) members. So long as the DEVELOPER is entitled to appoint all members of the BOARD pursuant to the Articles, the number of members of the BOARD will be determined, and may be changed from time to time, by the DEVELOPER by written notice to the BOARD. In the absence of such notification, there shall be three (3) members of the BOARD.

5.1.2 When the DEVELOPER is no longer entitled to appoint all members of the BOARD, the number of members of the BOARD shall be increased to at least five (5).

5.1.3 Notwithstanding the foregoing, in no event shall there be less than three (3) members of the BOARD, and the number of members of the BOARD shall always be an odd number. The MEMBERS shall not have the right to change the number of members of the BOARD so long as the DEVELOPER has the right to determine the number of members of the BOARD as set forth above.

5.2 Election of Members of the BOARD. Election to the BOARD by the MEMBERS of the ASSOCIATION shall be conducted in the following manner:

5.2.1 At any time after the DEVELOPER no longer has the right to appoint one or more members of the BOARD or upon the earlier voluntary relinquishment by the DEVELOPER of its right to appoint any of all members of the BOARD, the existing BOARD shall appoint a nominating committee composed of MEMBERS. The BOARD shall send a notice to all MEMBERS advising of the impending election of members to the BOARD, the names and addresses of members of the nominating committee, and the date the committee will make decisions concerning nominations for election to the BOARD, which date shall be no less than fifteen (15) days after the date of the notice. MEMBERS may then submit names in writing of proposed members of the BOARD to members of the nominating committee.

5.2.2 The nominating committee shall make as many nominations for election to the BOARD as it shall in its discretion determine, but not less than the number of vacancies that are to be filled (see subsection 5.1.2). Such nominations may be made from among MEMBERS or nonmembers as the committee in its discretion shall determine.

Nominations shall be placed on a written ballot provided in subsection 5.2.3 for the mailing of such ballots to the MEMBERS.

5.2.3 All elections to the BOARD shall be made by written ballot which shall:

- COPY
- (a) indicate the number of vacancies to be filled;
  - (b) set forth the names of those nominated by the nominating committee;
  - (c) contain a space for write-in vote by the MEMBERS; and
  - (d) contain a requirement that the MEMBER must cast the same number of votes as the number of vacancies on the BOARD. For example, if the MEMBER has one (1) vote, there are five (5) nominees and three (3) vacancies, the MEMBER must vote for no more and no less than three (3) nominees or the ballot will not be counted. If the MEMBER is entitled to, for instance, five (5) votes, in the example in the previous sentence, the MEMBER must vote his five (5) votes as a block for no more and no less than three (3) nominees or the ballot will not be counted. That is, three (3) nominees on that ballot will receive exactly five (5) votes each.

Such ballots shall be prepared and mailed by the Secretary to the MEMBERS at least fourteen (14) days in advance of the date set forth therein for a return (which shall be a date not later than the day before the annual meeting). The Secretary shall include with the ballot a brief summary and description of each Person nominated by the BOARD.

5.2.4 The completed ballot shall be returned as follows:

- (a) Each ballot shall be placed in a sealed envelope which shall bear on its face the name and signature of the MEMBER or his proxy, the number of votes of that MEMBER and such other information as the BOARD may determine will serve to establish his right to cast the vote or votes presented in the ballot or ballots contained therein. The ballots shall be returned to the Secretary at the address of the ASSOCIATION.

5.2.5 Upon receipt of each return, the Secretary shall immediately place it in a safe or other locked place until the day set for the return of all ballots. On that day the envelopes containing the ballot(s) shall be turned over, unopened, to a separate Election Committee which shall consist of three (3) Persons appointed by the BOARD. The Election Committee shall then adopt a procedure which shall:

(a) establish that the number of votes set forth on the envelope and on the ballot corresponds to the number of votes allowed to the MEMBER or his proxy; and

(b) that the signature of the MEMBER or his proxy on the outside envelope is genuine; and

(c) if the vote is by proxy that a proxy has been filed with the Secretary as provided herein, and that such proxy is valid.

The Election Committee shall proceed to the opening of the envelopes and the counting of the votes. The Election Committee shall immediately send written notice to all MEMBERS advising of the results of the election. The ballots and the outside envelopes shall be returned to the Secretary to be kept in a safe or other locked place for a minimum of thirty (30) days. If no MEMBER requests a review of the procedures and vote within said thirty (30) days, the ballots and outside envelopes shall be destroyed.

**5.3 Term of Office.** On the first occasion that the MEMBERS, other than the DEVELOPER, have the opportunity to elect any members of the BOARD, the MEMBERS shall have the right to elect at least two (2) members of the BOARD. The term of office of the member of the BOARD receiving the highest number of votes shall be two (2) years and the term of office of the member(s) of the BOARD receiving the next highest number of votes shall be one (1) year. Each member of the BOARD shall hold office until his successor has been elected or until his death, resignation, removal or judicial adjudication of mental incompetence. Just prior to each annual meeting thereafter, new members of the BOARD shall be elected to fill vacancies created by the death, resignation, removal, judicial adjudication of mental incompetence or expiration of the terms of past members of the BOARD and the term of each such member of the BOARD shall be two (2) years.

On the first occasion that the MEMBERS, other than the DEVELOPER, have the opportunity to elect all members of the BOARD, the new members of the BOARD shall be elected to replace the members of the BOARD appointed by the DEVELOPER as provided in these Bylaws. The term of office of the two (2) members of the BOARD receiving the highest number of votes shall be two (2) years and the term of office of the other member of the BOARD shall be one (1) year. It is the intention of this provision to create staggered terms so that at least one-third (1/3) of the members of the BOARD shall be elected each year. The term of office of each member of the BOARD elected to fill a vacancy created by the expiration of the term of office of the respective past member of the BOARD shall be two (2) years. The term of office of each member of the BOARD elected or appointed to fill a vacancy created by the resignation, death or removal of his predecessor shall be the balance of the unserved term of his predecessor. Any Person serving as a member of the BOARD may be re-elected, and there shall be no limitation on the number of terms during which he may serve.

5.4 Organizational Meeting. The newly elected BOARD shall meet for the purposes of organization, the election of officers and the transaction of other business immediately after their election or within ten (10) days of same at such place and time as shall be fixed by the members of the BOARD, and no further notice of the organizational meeting shall be necessary.

5.5 Regular Meetings. Regular meetings of the BOARD may be held at such time and place as shall be determined, from time to time, by a majority of the members of the BOARD.

5.6 Special Meetings. Special meetings of the BOARD may be called by any member of the BOARD, or by the President if not otherwise a member of the BOARD, at any time.

5.7 BOARD Action Without a Meeting. While the Association is under the control of the DEVELOPER, any action required to be taken at a meeting of the members of the BOARD, or any action which may be taken at a meeting of the members of the BOARD, may be taken without a meeting if a consent in writing setting forth the action so to be taken is signed by all members of the BOARD and is filed in the minutes of the proceedings of the BOARD. Such consent shall have the same effect as a unanimous vote.

5.8 Notice of Meetings. Notice of each meeting of the BOARD shall be given by the Secretary, or by any other officer or member of the BOARD, stating the day, location and time of the meeting. Notices of all BOARD meetings shall be posted in a conspicuous place in Pine Trace at least forty-eight (48) hours in advance of such meeting, except in case of emergency. Alternatively, notice of each meeting of the BOARD shall be mailed or delivered to each MEMBER at least seven (7) days before the meeting of the BOARD, except in case of emergency. Notice of such meeting shall be delivered to each member of the BOARD either personally or by telephone or e-mail, at least forty-eight (48) hours before the time at which such meeting is to be held, or by first class mail, postage prepaid, at least seven (7) days before the day on which such meeting is to be held. Notice of a meeting of the BOARD need not be given to any member of the BOARD who signs a waiver of notice either before or after the meeting. Attendance of a member of the BOARD at a meeting shall constitute a waiver of notice of such meeting and a waiver of any and all objections to the place, the time or the manner in which the meeting has been called or convened, except when a member of the BOARD states, at the beginning of the meeting, an objection to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the BOARD need be specified in any notice or waiver of notice of such meeting.

5.9 Attendance at BOARD Meetings. All meetings of the BOARD shall be open to all MEMBERS. A member of the BOARD may appear at a BOARD meeting by telephone conference, but in that event a telephone speaker shall be attached so that any discussion may be heard by the members of the BOARD and any MEMBERS present as in an open meeting.

5.10 Quorum and Manner of Acting. A majority of the BOARD shall constitute a quorum for the transaction of any business at a meeting of the BOARD. The act of the majority of the members of the BOARD present at a meeting at which a quorum is present shall be the act of the BOARD unless the act of a greater number of members of the BOARD is required by statute or the Governing Documents.

5.11 Adjourned Meetings. A majority of the members of the BOARD present at a meeting, whether or not a quorum exists, may adjourn any meeting of the BOARD to another location and time. Notice of any such adjourned meeting shall be given to the members of the BOARD who are not present at the time of the adjournment and, unless the time and place of the adjourned meeting are announced at the time of the adjournment, to the other members of the BOARD. Any business that might have been transacted at the meeting as originally called may be transacted at any adjourned meeting without further notice.

5.12 Presiding Officer. The presiding officer of the meetings of the BOARD shall be the Chairman of the BOARD if such an officer is elected; and if none, the President of the ASSOCIATION shall preside if the President is a member of the BOARD. In the absence of the presiding officer, the members of the BOARD shall designate one of their members to preside.

5.13 Minutes of Meetings. The minutes of all meetings of the BOARD shall be kept in a book available for inspection by the MEMBERS or members of the BOARD.

5.14 Committees. The BOARD may by resolution appoint committees. Any committee may exercise such powers, duties and functions as may be determined by the BOARD which may include any powers which may be exercised by the BOARD.

5.15 Resignation. Any member of the BOARD may resign at any time by giving written notice of his resignation to the Secretary. Any resignation shall take effect at the time specified therein or, if the time when such resignation is to become effective is not specified therein, immediately upon its receipt. Unless otherwise specified therein, the acceptance of a resignation shall not be necessary to make it effective.

5.16 Removal of Members of the BOARD. Members of the BOARD may be removed as follows:

5.16.1 Any member of the BOARD other than a member appointed by the DEVELOPER may be removed by majority vote of the remaining members of the BOARD if such member has been absent for the last three consecutive BOARD meetings, and/or adjournments and continuances of such meetings.

5.16.2 Any member of the BOARD other than a member appointed by the DEVELOPER may be removed with or without cause by a majority of the votes the MEMBERS cast at a special meeting of the MEMBERS called by MEMBERS having not less than twenty-five percent (25%) of the votes of the entire membership expressly for that purpose. The vacancy on the BOARD caused by any such removal may be filled by the MEMBERS at such meeting or, if the MEMBERS shall fail to fill such vacancy, by the BOARD as in the case of any other vacancy on the BOARD. Any member of the BOARD may also be recalled by an agreement in writing or a written ballot without a membership meeting as provided in Section 720.303, Florida Statutes.

5.17 Vacancies. Vacancies on the BOARD of any member of the BOARD appointed by the DEVELOPER shall be filled by appointment by the DEVELOPER. Unless the vacancy is filled by the MEMBERS in accordance with subsection 5.16.2, vacancies on the BOARD of any member of the BOARD elected by MEMBERS may be filled by a majority vote of the members of the BOARD then in office, though less than a quorum, or by a sole remaining member of the BOARD. If there are no members of the BOARD in office, then a special election shall be held to elect members of the BOARD to fill the vacancies.

5.18 Members of the BOARD Appointed by the DEVELOPER. Notwithstanding anything contained herein to the contrary, the DEVELOPER shall always have the right to appoint the maximum number of members of the BOARD in accordance with the privileges granted to the DEVELOPER pursuant to the Articles; provided, however, that such appointment shall at all times comply with Section 720.307, Florida Statutes, (2002); provided, further however, that DEVELOPER shall always be entitled to elect at least one (1) member of the BOARD as long as DEVELOPER holds for sale in the ordinary course of business at least five percent (5.00%) of all the LOTS owned. All members of the BOARD appointed by the DEVELOPER shall serve at the pleasure of the DEVELOPER, and the DEVELOPER shall have the absolute right at any time, and in its sole discretion, to remove any member of the BOARD appointed by him, and to replace such member with another Person to serve on the BOARD. Replacement of any member of the BOARD appointed by the DEVELOPER shall be made by written notice to the ASSOCIATION which shall specify the name of the Person designated as successor member of the BOARD. The removal of any member of the BOARD and the designation of his successor by the DEVELOPER shall become effective immediately upon delivery of such written notice by the DEVELOPER. The DEVELOPER may waive its right to appoint one or more members of the BOARD which it has the right to appoint at any time upon written notice to the ASSOCIATION, and thereafter such member(s) of the BOARD shall be elected by the MEMBERS.

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5.19 Compensation. The BOARD shall not be entitled to any compensation unless the MEMBERS elect to pay them compensation and set the amount of such compensation, at any meeting of the MEMBERS.

5.20 Power and Duties. The BOARD shall have the right to exercise all of the powers and duties of the ASSOCIATION, express or implied, existing under these Bylaws, the Articles, the Declaration, or as otherwise provided by statute or law. Such powers and duties of the BOARD shall include without limitation (except as limited elsewhere herein), the following:

5.20.1 The operation, care, upkeep and maintenance of the Common Areas, and any other portion of Pine Trace determined to be maintained by the ASSOCIATION.

5.20.2 The determination of the expenses required for the operation of the ASSOCIATION.

5.20.3 The collection of Assessments for Common Expenses from MEMBERS required to pay same.

5.20.4 The employment and dismissal of personnel.

5.20.5 The adoption and amendment of Rules and Regulations covering the details of the operation and use of property owned and/or maintained by the ASSOCIATION.

5.20.6 Maintaining bank accounts on behalf of the ASSOCIATION and designating signatories required therefor.

5.20.7 Obtaining and reviewing insurance for property owned and/or maintained by the ASSOCIATION.

5.20.8 The making of repairs, additions and improvements to, or alterations of, property owned and/or maintained by the ASSOCIATION.

5.20.9 Borrowing money on behalf of the ASSOCIATION provided however, that the consent of the MEMBERS having at least two-thirds (2/3) of the votes of the entire membership, obtained at a meeting duly called and held for such purpose in accordance with the provisions of these Bylaws, shall be required for the borrowing of any sum in excess of \$50,000.00.

5.20.10 Contracting for the management and maintenance of property owned and/or maintained by the ASSOCIATION. Authorizing a management agent or company to assist the ASSOCIATION in carrying out its powers and duties by performing such functions as the submission of proposals, collection of Assessments, preparation of records, enforcement of

rules, and maintenance, repair and replacement of the Common Areas with such funds as shall be made available by the ASSOCIATION for such purposes. The ASSOCIATION and its Officers shall, however, retain at all times the powers and duties granted by all Governing Documents, including but not limited to, the making of Assessments, promulgation of rules, and execution of contracts on behalf of the ASSOCIATION.

5.20.11 Exercising all powers specifically set forth in the Governing Documents, and as otherwise provided by statute or law, and all powers incidental thereto or implied therefrom.

5.20.12 Entering into and upon any portion of the Property, including the Lot(s), when necessary to maintain, care and preserve any property in the event the respective OWNER fails to do so.

5.20.13 Collecting delinquent Assessments by suit or otherwise, abating nuisances, and enjoining or seeking damages from the MEMBERS and/or OWNERS for violations of these Bylaws and the terms and conditions of the Declaration or of the Rules and Regulations of the ASSOCIATION.

5.20.14 Acquiring and entering into agreements whereby the ASSOCIATION acquires leaseholds, memberships, and other possessory or use interests in lands or facilities, whether or not contiguous to the lands operated by the ASSOCIATION, intended to provide for the enjoyment, recreation, or other use and benefit of the MEMBERS and/or OWNERS and declaring expenses in connection therewith to be Common Expenses; all in such form and in such manner as may be deemed by the BOARD to be in the best interest of the ASSOCIATION; and the participation in the acquisition of any interest in lands or facilities for the foregoing purposes may be direct or indirect, meaning, without limiting the generality of the foregoing, by direct ownership of land or acquisition of stock in a corporation owning land.

## 6. Officers.

6.1 Positions and Qualifications. The Officers of the ASSOCIATION shall include a President, a Vice President, a Treasurer and a Secretary, all of whom shall be elected by the BOARD and may be preemptively removed from office with or without cause by vote of the BOARD at any meeting by concurrence of a majority of the members of the BOARD. Any Person may hold two or more offices except that the President shall not also be the Secretary. The BOARD may, from time to time, elect such other officers and designate their powers and duties as the BOARD shall find to be appropriate to manage the affairs of the ASSOCIATION. Each Officer shall hold office until his successor shall have been elected, qualified, or until his death, resignation, or removal.

6.2 Resignation. Any Officer of the ASSOCIATION may resign at any time by giving written notice of his resignation to any member of the BOARD, the President or the Secretary. Any resignation shall take effect at the time specified therein, or if there is no time specified therein, immediately upon its receipt; and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make such resignation effective.

6.3 Vacancies. A vacancy in any office, whether arising from death, resignation, removal or any other cause may be filled for the unexpired portion of the term of the office which shall be vacant in the manner prescribed in these Bylaws for the regular election or appointment of such office.

6.4 The President. The President shall be the chief executive officer of the ASSOCIATION. He shall have all of the powers and duties which are usually vested in the office of president of an association or corporation including, but not limited to, the power to appoint committees to assist in the conduct of the affairs of the ASSOCIATION.

6.5 The Vice President. The Vice President shall, in the absence or disability of the President, exercise the powers and perform the duties of the President. He shall also assist the President generally and exercise such other powers and perform such other duties as may be prescribed by the BOARD.

6.6 The Secretary. The Secretary shall be responsible for preparing and keeping the minutes of all proceedings of the BOARD and the MEMBERS. He shall be responsible for attending to the giving and serving of all notices to the MEMBERS and the members of the BOARD and other notices required by law. He shall have custody of the seal of the ASSOCIATION and affix the same to instruments requiring a seal. He shall keep the records of the ASSOCIATION, except those of the Treasurer, and shall perform or direct performance of all other duties incident to the office of Secretary of the ASSOCIATION, and as may be required by the BOARD or the President.

6.7 The Treasurer. The Treasurer shall have custody of all property of the ASSOCIATION, including funds, securities, and evidences of indebtedness. He shall oversee the keeping of books of account for the ASSOCIATION in accordance with good accounting practices, which, together with substantiating papers, shall be made available to the BOARD for examination at reasonable times. He shall cause a Treasurer's Report to be submitted to the BOARD at reasonable intervals and shall perform or cause to be performed all other duties incident to the office of Treasurer. He shall collect, or direct collection of, all Assessments and shall report promptly to the BOARD the status of collections.

6.8 Compensation. The Officers of the ASSOCIATION shall not be entitled to compensation unless the BOARD specifically votes to compensate them. However, neither this provision, nor the provision that members of the BOARD will not be compensated unless

otherwise determined by the MEMBERS, shall preclude the BOARD from employing a member of the BOARD or an Officer as an employee of the ASSOCIATION and compensating such employee, nor shall they preclude the ASSOCIATION from contracting with a member of the BOARD for the management of the Common Property or any portion thereof, or for the provision of services to the ASSOCIATION, including, but not limited to, engineering, architectural, planning, landscape planning, accounting or legal services, and in either such event to pay such member of the BOARD a reasonable fee for such management or provision of services.

7. Finances and Assessments.

7.1 Adoption of the Budget.

7.1.1 By October 31st of each year, or as soon thereafter as is reasonably possible, the BOARD shall adopt a budget for the next fiscal year, necessary to defray the Common Expenses of the ASSOCIATION for such fiscal year as set out in the Declaration. The Common Expenses of the ASSOCIATION shall include all expenses of any kind or nature whatsoever anticipated to be incurred, by the ASSOCIATION for the next fiscal year. In the event the BOARD fails to adopt an annual budget for any year, the prior year's budget shall remain in effect until a new budget is adopted or the existing budget is amended or revised.

7.1.2 If, after the adoption of any budget, it shall appear that the adopted budget is insufficient to provide adequate funds to defray the Common Expenses of the ASSOCIATION for the fiscal year in which the adopted budget applies, the BOARD may adopt an amended budget to provide such funds. All of the above provisions shall apply to the adoption of an amended budget.

7.2 Assessments and Assessment Roll.

7.2.1 Pursuant to the terms of the Declaration, the BOARD shall fix and determine the amount and frequency of the MEMBERS' Assessments for Common Expenses. Such Assessments shall be due not more frequently than monthly, and shall each be in an amount no less than required to provide funds in advance for payment of all of the anticipated current operating expenses and for all of the unpaid operating expenses previously incurred. Any periodic Assessments for Common Expenses, whether quarterly, monthly, or otherwise, shall be equal unless the BOARD determines unequal Assessments are required to provide funds in advance for the expenses of the ASSOCIATION. As soon as practicable after the determination of the Assessments for Common Expenses, the ASSOCIATION shall notify each MEMBER, in writing, of the amount, frequency and due date of such MEMBERS' Assessments, provided, however, that no Assessment shall be due in less than ten (10) days from the date of such notification.

7.2.2 In the event the expenditure of funds by the ASSOCIATION is required that cannot be paid from the Assessments for Common Expenses, the BOARD may make Special Assessments in the manner as set out in the Declaration.

7.2.3 The ASSOCIATION shall maintain an Assessment roll for each MEMBER, designating the name and current mailing address of the MEMBER, the amount of each Assessment payable by such MEMBER, the dates and amounts in which the Assessments come due, the amounts paid upon the account of the MEMBER, and the balance due.

7.3 Depositories. The funds of the ASSOCIATION shall be deposited in such banks and depositories as may be determined and approved by appropriate resolutions of the BOARD from time to time. Funds shall be withdrawn only upon checks and demands for money signed by such officers, members of the BOARD or other persons as may be designated by the BOARD.

7.4 Application of Payments and Commingling of Funds. All sums collected by the ASSOCIATION from Assessments may be commingled in a single fund or divided into more than one fund, as determined by the BOARD. Reserve Funds shall be deposited in separate interest bearing accounts.

8. Parliamentary Rules.

8.1 Roberts' Rules of Order (latest edition) shall govern the conduct of the meetings of MEMBERS when not in conflict with the Governing Documents.

9. Amendments.

9.1 Initiation. A resolution to amend these Bylaws may be proposed by any member of the BOARD, or by MEMBERS holding not less than ten percent (10%) of the votes of the entire membership of the ASSOCIATION.

9.2 Notice. Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which a proposed amendment is to be considered.

9.3 Adoption of Amendments.

9.3.1 As long as the DEVELOPER appoints a majority of the members of the BOARD, the DEVELOPER shall have the right to unilaterally amend these Bylaws without the joinder or approval of any member of the BOARD or any MEMBER. No amendment to these Bylaws shall be effective without the written approval of the DEVELOPER as long as the DEVELOPER owns any portion of the Property.

9.3.2 A resolution for the adoption of the proposed amendment shall be adopted by MEMBERS having not less than a majority of the votes of the entire membership of the ASSOCIATION.

9.4 No amendment shall make any changes in the qualification for membership nor in the voting rights or property rights of MEMBERS without approval by all of the MEMBERS. So long as the DEVELOPER owns any portion of the Property, no amendment shall make any changes which would in any way affect any of the rights, privileges, powers or options herein provided in favor of, or reserved to, the DEVELOPER, unless the DEVELOPER shall join in the execution of the amendment.

9.5 No modification of, or amendment to, these Bylaws shall be valid without the express written joinder and consent of the Master Association.

10 Rules and Regulations. The BOARD may, from time to time, adopt or amend previously adopted, Rules and Regulations concerning the use of the Common Areas and concerning the use, operation and maintenance of other portions of the Property in order to further implement and carry out the intent of the Governing Documents. The BOARD shall make available to any MEMBER, upon request, a copy of the Rules and Regulations adopted from time to time by the BOARD.

11. Miscellaneous.

11.1 Tenses and Genders. The use of any gender or of any tense in these Bylaws shall refer to all genders or to all tenses, wherever the context so requires.

11.2 Partial Invalidity. Should any of the provisions hereof be void or become unenforceable at law or in equity, the remaining provisions shall, nevertheless, be and remain in full force and effect.

11.3 Conflicts. In the event of any conflict, any applicable Florida statute, the Declaration, Articles, and Bylaws, and the Rules and Regulations of the ASSOCIATION shall govern, in that order.

11.4 Captions. Captions are inserted herein only as a matter of convenience and for reference, and in no way are intended to or shall define, limit or describe the scope of these Bylaws or the intent of any provisions hereof.

11.5 Waiver of Objections. The failure of the BOARD or any Officers of the ASSOCIATION to comply with any terms and provisions of the Governing Documents which relate to time limitations shall not, in and of itself, invalidate the act done or performed. Any

such defect shall be waived if it is not objected to by a MEMBER within thirty (30) days after the MEMBER is notified, or becomes aware of the defect. Furthermore, if such defect occurs at a general or special meeting, the defect shall be waived as to all MEMBERS who received notice of the meeting and failed to object to such defect at the meeting.

IN WITNESS WHEREOF, the President of the Association has executed these Bylaws  
this 2<sup>nd</sup> day of JULY, 2006  
2010

*William Criss, President*  
**JEREMY CAMP**

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Bylaws of P Trace Property Owners Association, Inc. Page 18  
COPY

**EXHIBIT "D" TO AMENDED AND RESTATED  
DECLARATION OF CONDITIONS, COVENANTS, EASEMENTS  
AND RESTRICTIONS**

**Water Management District Permit**



**SOUTH FLORIDA WATER MANAGEMENT DISTRICT  
SURFACE WATER MANAGEMENT  
GENERAL PERMIT NO. 56-00466-S-23  
DATE ISSUED: March 14, 2005**

Form #0942  
08/95

**PERMITTEE:** K B HOME TREASURE COAST L L C  
901 SW MARTIN DOWNS ROAD  
PALM CITY, FL 34990

**PROJECT DESCRIPTION:** Construction and operation of a surface water management system to serve a 35.71 acre project known as Pine Trace.

**PROJECT LOCATION:** ST LUCIE COUNTY, SEC 17 TWP 36S RGE 40E

**PERMIT DURATION:** See Special Condition No.1. See attached Rule 40E-4.321, Florida Administrative Code.

This is to notify you of the District's agency action concerning Permit Application No. 040422-4, dated April 22, 2004. This action is taken pursuant to Rule 40E-1.606 and Chapter 40E-40, Florida Administrative Code (F.A.C.).

Based on the information provided, District rules have been adhered to and a Surface Water Management General Permit is in effect for this project subject to:

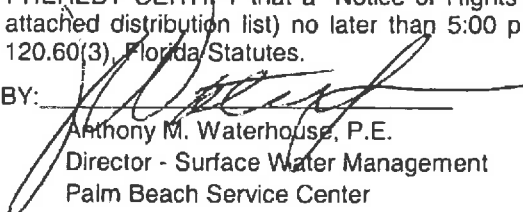
1. Not receiving a filed request for a Chapter 120, Florida Statutes, administrative hearing.
2. the attached 19 Standard Limiting Conditions (See Pages : 2 - 3 of 4 ),
3. the attached 15 Special Conditions (See Pages : 4 - 4 of 4 ) and
4. the attached 2 Exhibit(s).

Should you object to these conditions, please refer to the attached "Notice of Rights" which addresses the procedures to be followed if you desire a public hearing or other review of the proposed agency action. Please contact this office if you have any questions concerning this matter. If we do not hear from you in accordance with the "Notice of Rights," we will assume that you concur with the District's action.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a "Notice of Rights" has been mailed to the Permittee (and the persons listed in the attached distribution list) no later than 5:00 p.m. on this 14th day of March, 2005, in accordance with Section 120.60(3), Florida Statutes.

BY:

  
Anthony M. Waterhouse, P.E.  
Director - Surface Water Management  
Palm Beach Service Center

Certified mail number 7002 3150 0000 8126 6007

### STANDARD LIMITING CONDITIONS

1. The permittee shall implement the work authorized in a manner so as to minimize any adverse impact of the works on fish, wildlife, natural environmental values, and water quality. The permittee shall institute necessary measures during the construction period, including full compaction of any fill material placed around newly installed structures, to reduce erosion, turbidity, nutrient loading and sedimentation in the receiving waters.
2. Water quality data for the water discharged from the permittee's property or into surface waters of the State will be submitted to the District as required by Section 5.9, "Basis of Review for Surface Water Management Permit Applications within South Florida Water Management District". Parameters to be monitored may include those listed in Chapter 62-302, F.A.C.. If water quality data is required, the permittee shall provide data on volumes of water discharged, including total volume discharged during the days of sampling and total monthly discharges from the property or into surface waters of the State.
3. This permit shall not relieve the permittee of any obligation to obtain necessary federal, State, local or special district approvals.
4. The operation phase of this permit will not become effective until the District's acceptance of certification of the completed surface water management system. The permittee shall request transfer of the permit to the responsible operation entity accepted by the District, if different from the permittee. The transfer request can be submitted concurrently with the construction completion certification.
5. All road elevations shall be set in accordance with the criteria set forth in Section 6.5, "Basis of Review for Surface Water Management Permit Applications within South Florida Water Management District".
6. All building floor elevations shall be set in accordance with the criteria set forth in Section 6.4, "Basis of Review for Surface Water Management Permit Applications within South Florida Water Management District".
7. Off-site discharges during construction and development will be made only through the facilities authorized by this permit.
8. A permit transfer to the operation phase shall not occur until a responsible entity meeting the requirement in Section 9.0, "Basis of Review for Surface Water Management Permit Applications within South Florida Water Management District" has been established to operate and maintain the system. The entity must be provided with sufficient ownership or legal interest so that it has control over all water management facilities authorized herein.
9. The permit does not convey to the permittee any property rights or privileges other than those specified in the permit and Chapter 40E-4, F.A.C..
10. The permittee shall hold and save the District harmless from any and all damages, claims, or liabilities which may arise by reason of the construction, operation, maintenance or use of any facility authorized by the permit.
11. This permit is issued based on the applicant's submitted information which reasonably demonstrates that adverse water resource related impacts will not be caused by the completed permit activity. Should any adverse impacts caused by the completed surface water management system occur, the District will require the permittee to provide appropriate mitigation to the District or other impacted party. The District will require the permittee to modify the surface water management system, if necessary, to eliminate the cause of the adverse impacts.
12. Within 30 days of issuance of this permit, the permittee or authorized agent shall notify the District (via the supplied construction commencement notice or equivalent) of the actual or anticipated construction start date and the expected completion date.
13. When the duration of construction exceeds one year, the permittee or authorized agent shall submit

### STANDARD LIMITING CONDITIONS

construction status reports on an annual basis (via the supplied annual status report or equivalent) beginning one year after the initial commencement of construction.

14. Within 30 days after completion of construction of the surface water management system, the permittee or authorized agent shall file a written statement of completion and certification by a Florida registered professional engineer. These statements must specify the actual date of construction completion and must certify that all facilities have been constructed in substantial conformance with the plans and specifications approved by the District (via the supplied construction completion/certification or equivalent). The construction completion certification must include, at a minimum, existing elevations, locations and dimensions of the components of the water management facilities. Additionally, if deviations from the approved drawings are discovered during the certification process, the certification must be accompanied by a copy of the approved permit drawings with deviations noted.
15. Within 30 days of any sale, conveyance or other transfer of any of the land which is proposed for development under the authorization of this permit, the permittee shall notify the District of such transfer in writing via either Form 0483, Request for Permit Transfer; or Form 0920, Request for Transfer of Surface Water Management Construction Phase to Operation Phase (to be completed and submitted by the operating entity), in accordance with Sections 40E-1.6105 AND 40E-4.351, F.A.C..
16. A prorated share of surface water management retention/detention areas, sufficient to provide the required flood protection and water quality treatment, must be provided prior to occupancy of any building or residence.
17. A stable, permanent and accessible elevation reference shall be established on or within one hundred (100) feet of all permitted discharge structures no later than the submission of the certification report. The location of the elevation reference must be noted on or with the certification report.
18. It is the responsibility of the permittee to insure that adverse off-site water resource related impacts do not occur during construction.
19. The permittee must obtain a Water Use permit prior to construction dewatering, unless the work qualifies for a general permit pursuant to Subsection 40E-20.302(4), F.A.C..

### SPECIAL CONDITIONS

1. The construction phase of this permit shall expire on March 14, 2010.
2. Operation of the surface water management system shall be the responsibility of PINE TRACE PROPERTY OWNERS ASSOCIATION. Within one year of permit issuance or concurrent with the engineering certification of construction completion, whichever comes first, the permittee shall submit a copy of the recorded deed restrictions (or declaration of condominium, if applicable), a copy of the filed articles of incorporation, and a copy of the certificate of incorporation for the association.
3. Discharge Facilities:  
  
1-44" W X 20" H SHARP CRESTED weir with crest at elev. 15.6' NGVD.  
1-1.5' WIDE SHARP CRESTED weir with crest at elev. 17.27' NGVD.  
1-5.58" dia. CIRCULAR ORIFICE with invert at elev. 14.5' NGVD.  
1-drop inlet with crest at elev. 17.5' NGVD.  
  
Receiving body : City of PSL C-106  
Control elev : 14.5 feet NGVD.
4. The permittee shall be responsible for the correction of any erosion, shoaling or water quality problems that result from the construction or operation of the surface water management system.
5. Measures shall be taken during construction to insure that sedimentation and/or turbidity violations do not occur in the receiving water.
6. The District reserves the right to require that additional water quality treatment methods be incorporated into the drainage system if such measures are shown to be necessary.
7. Lake side slopes shall be no steeper than 4:1 (horizontal:vertical) to a depth of two feet below the control elevation. Side slopes shall be nurtured or planted from 2 feet below to 1 foot above control elevation to insure vegetative growth, unless shown on the plans.
8. Facilities other than those stated herein shall not be constructed without an approved modification of this permit.
9. A stable, permanent and accessible elevation reference shall be established on or within one hundred (100) feet of all permitted discharge structures no later than the submission of the certification report. The location of the elevation reference must be noted on or with the certification report.
10. The permittee shall provide routine maintenance of all of the components of the surface water management system in order to remove all trapped sediments/debris. All materials shall be properly disposed of as required by law. Failure to properly maintain the system may result in adverse flooding conditions.
11. Minimum building floor elevation: BASIN: Site - 18.50 feet NGVD.
12. Minimum road crown elevation: Basin: Site - 17.00 feet NGVD.
13. Prior to the commencement of construction and pursuant to Subsection 40E-4.101(2), F.A.C., the permittee shall submit proof of ownership of the project area to the District's Environmental Resource Compliance staff.
14. All special conditions and exhibits previously stipulated by permit number 56-00466-S remain in effect unless otherwise revised and shall apply to this modification.
15. All commercial/industrial parcels shall provide a minimum dry pre-treatment volume of 1/2 inch of runoff prior to discharge into the master surface water management system.

## SURFACE WATER MANAGEMENT

## CHAPTER 40E-4 (4/94)

### 40E-4.321 Duration of Permits

(1) Unless revoked or otherwise modified pursuant to Rules 40E-4.331 and 40E-4.441, F.A.C., the duration of a surface water management permit issued under this chapter is as follows:

(a) Two years from the date of issuance for Conceptual Approval, unless within that period an application for a construction and operation permit is filed for any portion of the project. If an application for a construction and operation permit is filed, then the Conceptual Approval remains valid until final action is taken on the application. If the application is granted, then the Conceptual Approval is valid for an additional two years from the date of issuance of the construction and operation permit. Conceptual Approvals which have no applications for construction and operation filed for a period of two years will expire automatically.

(b) Five years from the date of issuance for a construction permit.

(c) Perpetual for an operation permit.

(2) The Governing Board shall issue permit extensions provided that a permittee files a written request with the District showing good cause. For the purpose of this rule, good cause shall mean a set of extenuating circumstances outside of the control of the permittee. Requests for extensions, which shall include documentation of the extenuating circumstances and how they have delayed this project, will not be accepted more than 180 days prior to the expiration date.

(3) For a Conceptual Approval filed concurrently with a development of regional impact (DRI) application for development approval (ADA) and a local government comprehensive amendment, the duration of the Conceptual Approval shall be two years from whichever one of the following occurs at the latest date:

(a) the effective date of the local government's comprehensive plan amendment,

(b) the effective date of the local government development order, or

(c) the date on which the district issues the Conceptual Approval, or

(d) the latest date of the resolution of any Chapter 120 or other legal appeals.

(4) Substantial modifications to Conceptual Approvals will extend the duration of the Conceptual Approval for two years from the date of issuance of the modification. For the purposes of this section, the term "substantial modification" shall mean a modification which is reasonably expected to lead to substantially different water resource or environmental impacts which require a detailed review.

(5) Modifications to construction permits issued pursuant to a formal permit application extend the duration of the permit for three years from the date of issuance of the modification. Construction permit modifications do not extend the duration of a Conceptual Approval.

(6) Permit modifications issued pursuant to subsection 40E-4.331(2)(b), F.A.C. (letter modifications) do not extend the duration of a permit.

Specific authority 373.044, 373.113 F.S. Law Implemented 373.413, 373.416(1) F.S. History—New 9-3-81, Amended 1-31-82, 12-1-82, Formerly 16K-4.07(4), Amended 7-1-86, 4/20/94.

Included with this letter/permit is a brochure from the Florida Department of Environmental Protection (DEP) on Florida's National Pollutant Discharge Elimination System (NPDES) program for construction activities. As the brochure indicates, the U.S. Environmental Protection Agency authorized the DEP in October 2000 to implement the NPDES stormwater permitting program in Florida. The District is assisting DEP by distributing this information to entities which may be subject to regulation under the NPDES program. No response to the District is required.

**A "Generic Permit for Stormwater Discharge from Construction Activities that Disturb Five or More Acres of Land" is required for a construction activity which contributes stormwater discharges to surface waters of the State or into a municipal separate storm sewer system and disturbs five or more acres of land. A permit is required for less than five acres if the activity is part of a larger common plan of development or sale that will meet or exceed the five acre threshold.**

**The permit required under DEP's NPDES stormwater permitting program is separate from the Environmental Resource Permit required by the District. Receiving a permit from the District does not exempt you from meeting the NPDES program requirements.**

If you have any questions on the NPDES program, there are DEP phone numbers, mailing addresses and internet web page addresses in the brochure. The DEP web site, at [www.dep.state.fl.us/water/stormwater/npdes/](http://www.dep.state.fl.us/water/stormwater/npdes/), provides information associated with the NPDES program including all regulations and forms cited in the brochure.

## NOTICE OF RIGHTS

Section 120.569(1), Fla. Stat. (1999), requires that "each notice shall inform the recipient of any administrative hearing or judicial review that is available under this section, s. 120.57, or s. 120.68; shall indicate the procedure which must be followed to obtain the hearing or judicial review, and shall state the time limits which apply." Please note that this Notice of Rights is not intended to provide legal advice. Not all the legal proceedings detailed below may be an applicable or appropriate remedy. You may wish to consult an attorney regarding your legal rights.

### **Petition for Administrative Proceedings**

1. A person whose substantial interests are affected by the South Florida Water Management District's (SFWMD) action has the right to request an administrative hearing on that action. The affected person may request either a formal or an informal hearing, as set forth below. A point of entry into administrative proceedings is governed by Rules 28-106.111 and 40E-1.511, Fla. Admin. Code, (also published as an exception to the Uniform Rules of Procedure as Rule 40E-0.109), as set forth below. Petitions are deemed filed upon receipt of the original documents by the SFWMD Clerk.

a. Formal Administrative Hearing: If a genuine issue(s) of material fact is in dispute, the affected person seeking a formal hearing on a SFWMD decision which does or may determine their substantial interests shall file a petition for hearing pursuant to Sections 120.569 and 120.57(1), Fla. Stat. or for mediation pursuant to Section 120.573, Fla. Stat. within 21 days, except as provided in subsections c. and d. below, of either written notice through mail or posting or publication of notice that the SFWMD has or intends to take final agency action. Petitions must substantially comply with the requirements of Rule 28-106.201(2), Fla. Admin. Code, a copy of the which is attached to this Notice of Rights.

b. Informal Administrative Hearing: If there are no issues of material fact in dispute, the affected person seeking an informal hearing on a SFWMD decision which does or may determine their substantial interests shall file a petition for hearing pursuant to Sections 120.569 and 120.57(2), Fla. Stat. or for mediation pursuant to Section 120.573, Fla. Stat. within 21 days, except as provided in subsections c. and d. below, of either written notice through mail or posting or publication of notice that the SFWMD has or intends to take final agency action. Petitions must substantially comply with the requirements of Rule 28-106.301(2), Fla. Admin. Code, a copy of the which is attached to this Notice of Rights.

c. Administrative Complaint and Order: If a Respondent objects to a SFWMD Administrative Complaint and Order, pursuant to Section 373.119, Fla. Stat. (1997), the person named in the Administrative Complaint and Order may file a petition for a hearing no later than 14 days after the date such order is served. Petitions must substantially comply with the requirements of either subsection a. or b. above.

d. State Lands Environmental Resource Permit: Pursuant to Section 373.427, Fla. Stat., and Rule 40E-1.511(3), Fla. Admin. Code (also published as an exception to the Uniform Rules of Procedure as Rule 40E-0.109(2)(c)), a petition objecting to the SFWMD's agency action regarding consolidated applications for Environmental Resource Permits and Use of Sovereign Submerged Lands (SLERPs), must be filed within 14 days of the notice of consolidated intent to grant or deny the SLERP. Petitions must substantially comply with the requirements of either subsection a. or b. above.

e. Emergency Authorization and Order: A person whose substantial interests are affected by a SFWMD Emergency Authorization and Order, has a right to file a petition under Sections 120.569, 120.57(1), and 120.57(2), Fla. Stat., as provided in subsections a. and b. above. However, the person, or the agent of the person responsible for causing or contributing to the emergency conditions shall take whatever action necessary to cause immediate compliance with the terms of the Emergency Authorization and Order.

f. Order for Emergency Action: A person whose substantial interests are affected by a SFWMD Order for Emergency Action has a right to file a petition pursuant to Rules 28-107.005 and 40E-1.611, Fla. Admin. Code, copies of which are attached to this Notice of Rights, and Section 373.119(3), Fla. Stat., for a hearing on the Order. Any subsequent agency action or proposed agency action to initiate a formal revocation proceeding shall be separately noticed pursuant to section g. below.

g. Permit Suspension, Revocation, Annulment, and Withdrawal: If the SFWMD issues an administrative complaint to suspend, revoke, annul, or withdraw a permit, the permittee may request a hearing to be conducted in accordance with Sections 120.569 and 120.57, Fla. Stat., within 21 days of either written notice through mail or posting or publication of notice that the SFWMD has or intends to take final agency action. Petitions must substantially comply with the requirements of Rule 28-107.004(3), Fla. Admin. Code, a copy of the which is attached to this Notice of Rights.

2. Because the administrative hearing process is designed to formulate final agency action, the filing of a petition means that the SFWMD's final action may be different from the position taken by it previously. Persons whose substantial interests may be affected by

Revised August, 2000

any such final decision of the SFWMD shall have, pursuant to Rule 40E-1.511(2), Fla. Admin. Code (also published as an exception to the Uniform Rules of Procedure as Rule 40E-0.109(2)(c)), an additional 21 days from the date of receipt of notice of said decision to request an administrative hearing. However, the scope of the administrative hearing shall be limited to the substantial deviation.

3. Pursuant to Rule 40E-1.511(4), Fla. Admin. Code, substantially affected persons entitled to a hearing pursuant to Section 120.57(1), Fla. Stat., may waive their right to such a hearing and request an informal hearing before the Governing Board pursuant to Section 120.57(2), Fla. Stat., which may be granted at the option of the Governing Board.

4. Pursuant to Rule 28-106.111(3), Fla. Admin. Code, persons may file with the SFWMD a request for extension of time for filing a petition. The SFWMD, for good cause shown, may grant the extension. The request for extension must contain a certificate that the petitioner has consulted with all other parties, if any, concerning the extension and that the SFWMD and all other parties agree to the extension.

#### **CIRCUIT COURT**

5. Pursuant to Section 373.617, Fla. Stat., any substantially affected person who claims that final agency action of the SFWMD relating to permit decisions constitutes an unconstitutional taking of property without just compensation may seek judicial review of the action in circuit court by filing a civil action in the circuit court in the judicial circuit in which the affected property is located within 90 days of the rendering of the SFWMD's final agency action.

6. Pursuant to Section 403.412, Fla. Stat., any citizen of Florida may bring an action for injunctive relief against the SFWMD to compel the SFWMD to enforce the laws of Chapter 373, Fla. Stat., and Title 40E, Fla. Admin. Code. The complaining party must file with the SFWMD Clerk a verified complaint setting forth the facts upon which the complaint is based and the manner in which the complaining party is affected. If the SFWMD does not take appropriate action on the complaint within 30 days of receipt, the complaining party may then file a civil suit for injunctive relief in the 15<sup>th</sup> Judicial Circuit in and for Palm Beach County or circuit court in the county where the cause of action allegedly occurred.

7. Pursuant to Section 373.433, Fla. Stat., a private citizen of Florida may file suit in circuit court to require the abatement of any stormwater management system, dam, impoundment, reservoir, appurtenant work or works that violate the provisions of Chapter 373, Fla. Stat.

#### **DISTRICT COURT OF APPEAL**

8. Pursuant to Section 120.68, Fla. Stat., a party who is adversely affected by final SFWMD action may seek judicial review of the SFWMD's final decision by filing a notice of appeal pursuant to Florida Rule of Appellate Procedure 9.110 in the Fourth District Court of Appeal or in the appellate district where a party resides and filing a second copy of the notice with the SFWMD Clerk within 30 days of rendering of the final SFWMD action.

#### **LAND AND WATER ADJUDICATORY COMMISSION**

9. A party to a "proceeding below" may seek review by the Land and Water Adjudicatory Commission (FLAWAC) of SFWMD's final agency action to determine if such action is consistent with the provisions and purposes of Chapter 373, Fla. Stat. Pursuant to Section 373.114, Fla. Stat., and Rules 42-2.013 and 42-2.0132, Fla. Admin. Code, a request for review of (a) an order or rule of the SFWMD must be filed with FLAWAC within 20 days after rendition of the order or adoption of the rule sought to be reviewed; (b) an order of the Department of Environmental Protection (DEP) requiring amendment or repeal of a SFWMD rule must be filed with FLAWAC within 30 days of rendition of the DEP's order, and (c) a SFWMD order entered pursuant to a formal administrative hearing under Section 120.57(1), Fla. Stat., must be filed no later than 20 days after rendition of the SFWMD's final order. Simultaneous with filing, a copy of the request for review must be served on the DEP Secretary, any person named in the SFWMD or DEP final order, and all parties to the proceeding below. A copy of Rule 42-2.013, Fla. Admin. Code is attached to this Notice of Rights.

#### **PRIVATE PROPERTY RIGHTS PROTECTION ACT**

10. A property owner who alleges a specific action of the SFWMD has inordinately burdened an existing use of the real property, or a vested right to a specific use of the real property, may file a claim in the circuit court where the real property is located within 1 year of the SFWMD action pursuant to the procedures set forth in Subsection 70.001(4)(a), Fla. Stat.

#### **LAND USE AND ENVIRONMENTAL DISPUTE RESOLUTION**

11. A property owner who alleges that a SFWMD development order (as that term is defined in Section 70.51(2)(a), Fla. Stat. to include permits) or SFWMD enforcement action is unreasonable, or unfairly burdens the use of the real property, may file a request for relief with the SFWMD within 30 days of receipt of the SFWMD's order or notice of agency action pursuant to the procedures set forth in Subsections 70.51(4) and (6), Fla. Stat.

#### **MEDIATION**

12. A person whose substantial interests are, or may be, affected by the SFWMD's action may choose mediation as an alternative remedy under Section 120.573, Fla. Stat. Pursuant to Rule 28-106.111(2), Fla. Admin. Code, the petition for mediation shall be filed within 21 days of either written notice through mail or posting or

publication of notice that the SFWMD has or intends to take final agency action. Choosing mediation will not affect the right to an administrative hearing if mediation does not result in settlement.

Pursuant to Rule 28-106.402, Fla. Admin. Code, the contents of the petition for mediation shall contain the following information:

(1) the name, address, and telephone number of the person requesting mediation and that person's representative, if any;

(2) a statement of the preliminary agency action;

(3) an explanation of how the person's substantial interests will be affected by the agency determination; and

(4) a statement of relief sought.

As provided in Section 120.573, Fla. Stat. (1997), the timely agreement of all the parties to mediate will toll the time limitations imposed by Sections 120.569 and 120.57, Fla. Stat., for requesting and holding an administrative hearing. Unless otherwise agreed by the parties, the mediation must be concluded within 60 days of the execution of the agreement. If mediation results in settlement of the dispute, the SFWMD must enter a final order incorporating the agreement of the parties. Persons whose substantial interest will be affected by such a modified agency decision have a right to petition for hearing within 21 days of receipt of the final order in accordance with the requirements of Sections 120.569 and 120.57, Fla. Stat., and SFWMD Rule 28-106.201(2), Fla. Admin. Code. If mediation terminates without settlement of the dispute, the SFWMD shall notify all parties in writing that the administrative hearing process under Sections 120.569 and 120.57, Fla. Stat., remain available for disposition of the dispute, and the notice will specify the deadlines that then will apply for challenging the agency action.

#### VARIANCES AND WAIVERS

13. A person who is subject to regulation pursuant to a SFWMD rule and believes the application of that rule will create a substantial hardship or will violate principles of fairness (as those terms are defined in Subsection 120.542(2), Fla. Stat.) and can demonstrate that the purpose of the underlying statute will be or has been achieved by other means, may file a petition with the SFWMD Clerk requesting a variance from or waiver of the SFWMD rule. Applying for a variance or waiver does not substitute or extend the time for filing a petition for an administrative hearing or exercising any other right that a person may have concerning the SFWMD's action. Pursuant to Rule 28-104.002(2), Fla. Admin. Code, the petition must include the following information:

(a) the caption shall read:

Petition for (Variance from) or (Waiver of) Rule (Citation)

(b) The name, address, telephone number and any facsimile number of the petitioner;

(c) The name, address telephone number and any facsimile number of the attorney or qualified representative of the petitioner, (if any);

(d) the applicable rule or portion of the rule;

(e) the citation to the statute the rule is implementing;

(f) the type of action requested;

(g) the specific facts that demonstrate a substantial hardship or violation of principals of fairness that would justify a waiver or variance for the petitioner;

(h) the reason why the variance or the waiver requested would serve the purposes of the underlying statute; and

(i) a statement of whether the variance or waiver is permanent or temporary. If the variance or waiver is temporary, the petition shall include the dates indicating the duration of the requested variance or waiver.

A person requesting an emergency variance from or waiver of a SFWMD rule must clearly so state in the caption of the petition. In addition to the requirements of Section 120.542(5), Fla. Stat. pursuant to Rule 28-104.004(2), Fla. Admin. Code, the petition must also include:

a) the specific facts that make the situation an emergency; and

b) the specific facts to show that the petitioner will suffer immediate adverse effect unless the variance or waiver is issued by the SFWMD more expeditiously than the applicable timeframes set forth in Section 120.542, Fla. Stat.

#### WAIVER OF RIGHTS

14. Failure to observe the relevant time frames prescribed above will constitute a waiver of such right.

#### 28-106.201 INITIATION OF PROCEEDINGS (INVOLVING DISPUTED ISSUES OF MATERIAL FACT)

(2) All petitions filed under these rules shall contain:

(a) The name and address of each agency affected and each agency's file or identification number, if known;

(b) The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding, and an explanation of how the petitioner's substantial interests will be affected by the agency determination;

(c) A statement of when and how the petitioner received notice of the agency decision;

(d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;

(e) A concise statement of the ultimate facts alleged, as well as the rules and statutes which entitle the petitioner to relief; and

(f) A demand for relief.

**28-106.301 INITIATION OF PROCEEDINGS**  
(NOT INVOLVING DISPUTED ISSUES OF MATERIAL FACT)

- (2) All petitions filed under these rules shall contain:
- (a) The name and address of each agency affected and each agency's file or identification number, if known;
  - (b) The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding, and an explanation of how the petitioner's substantial interests will be affected by the agency determination;
  - (c) A statement of when and how the petitioner received notice of the agency decision;
  - (d) A concise statement of the ultimate facts alleged, as well as the rules and statutes which entitle the petitioner to relief; and
  - (e) A demand for relief.

**28-107.004 SUSPENSION, REVOCATION, ANNULMENT, OR WITHDRAWAL**

- (3) Requests for hearing filed in accordance with this rule shall include:
- (a) The name and address of the party making the request, for purposes of service;
  - (b) A statement that the party is requesting a hearing involving disputed issues of material fact, or a hearing not involving disputed issues of material fact; and
  - (c) A reference to the notice, order to show cause, administrative complaint, or other communication that the party has received from the agency.

**42-2.013 REQUEST FOR REVIEW PURSUANT TO SECTION 373.114 OR 373.217**

(1) In any proceeding arising under Chapter 373, F.S., review by the Florida Land and Water Adjudicatory Commission may be initiated by the Department or a party by filing a request for such review with the Secretary of the Commission and serving a copy on any person named in the rule or order, and on all parties to the proceeding which resulted in the order sought to be reviewed. A certificate of service showing completion of service as required by this subsection shall be a requirement for a determination of sufficiency under Rule 42-2.0132. Failure to file the request with the Commission within the time period provided in Rule 42-2.0132 shall result in dismissal of the request for review.

(2) The request for review shall identify the rule or order requested to be reviewed, the proceeding in which the rule or order was entered and the nature of the rule or order. A copy of the rule or order sought to be reviewed shall be attached. The request for review shall state with particularity:

- (a) How the order or rule conflicts with the requirements, provisions and purposes of Chapter 373, F.S., or rules duly adopted thereunder;

- (b) How the rule or order sought to be reviewed affects the interests of the party seeking review;

- (c) The oral or written statement, sworn or unsworn, which was submitted to the agency concerning the matter to be reviewed and the date and location of the statement, if the individual or entity requesting the review has not participated in a proceeding previously instituted pursuant to Chapter 120, F.S., on the order for which review is sought;

- (d) If review of an order is being sought, whether and how the activity authorized by the order would substantially affect natural resources of statewide or regional significance, or whether the order raises issues of policy, statutory interpretation, or rule interpretation that have regional or statewide significance from a standpoint of agency precedent, and all the factual bases in the record which the petitioner claims support such determination(s); and

- (e) The action requested to be taken by the Commission as a result of the review, whether to rescind or modify the order, or remand the proceeding to the water management district for further action, or to require the water management district to initiate rulemaking to adopt, amend or repeal a rule.

**28-107.005 EMERGENCY ACTION**

(1) If the agency finds that immediate serious danger to the public health, safety, or welfare requires emergency action, the agency shall summarily suspend, limit, or restrict a license.

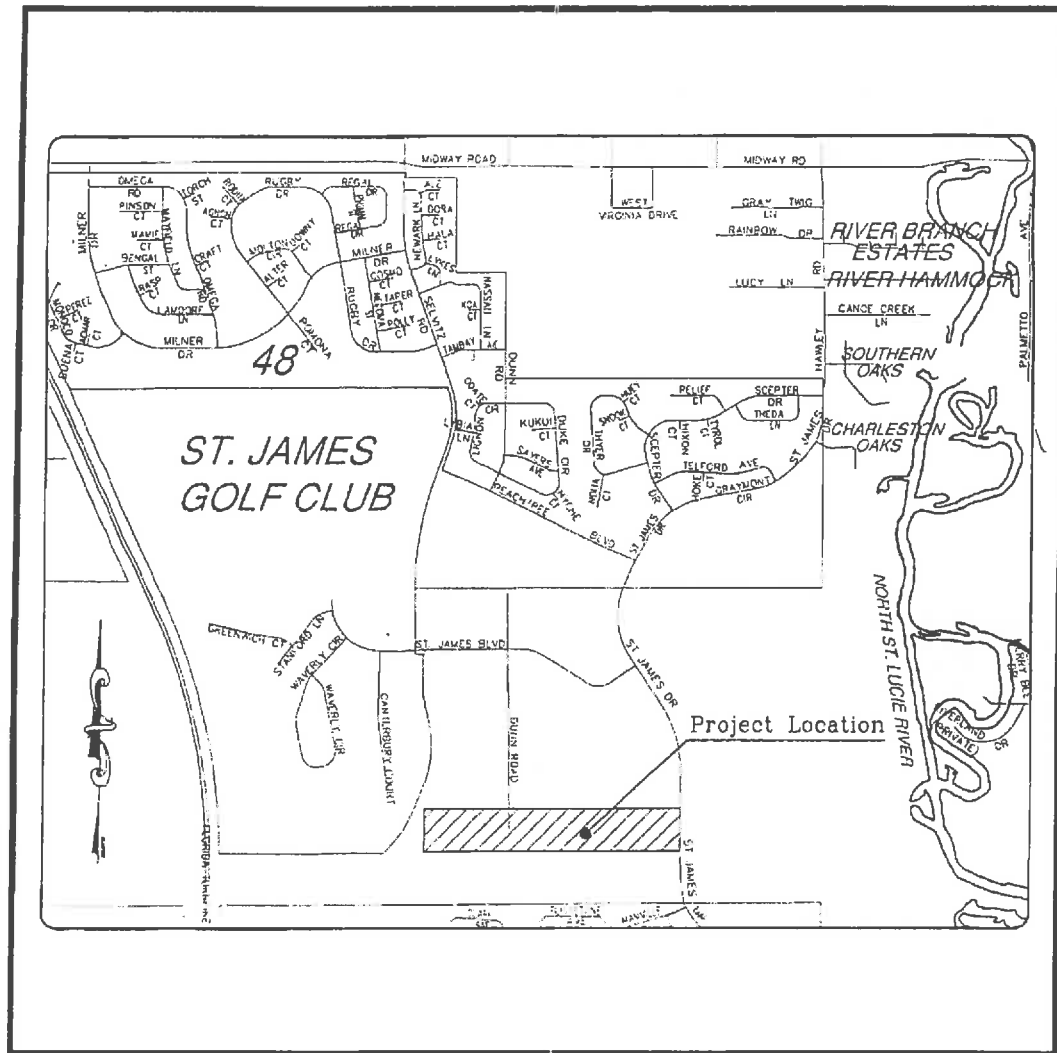
(2) The 14-day notice requirement of Section 120.569(2)(b), F. S., does not apply and shall not be construed to prevent a hearing at the earliest time practicable upon request of an aggrieved party.

(3) Unless otherwise provided by law, within 20 days after emergency action taken pursuant to paragraph (1) of this rule, the agency shall initiate a formal suspension or revocation proceeding in compliance with Sections 120.569, 120.57, and 120.60, F.S.

**40E-1.611 EMERGENCY ACTION**

(1) An emergency exists when immediate action is necessary to protect public health, safety or welfare; the health of animals, fish or aquatic life; the works of the District; a public water supply, or recreational, commercial, industrial, agricultural or other reasonable uses of land and water resources.

(2) The Executive Director may employ the resources of the District to take whatever remedial action necessary to alleviate the emergency condition without the issuance of an emergency order, or in the event an emergency order has been issued, after the expiration of the requisite time for compliance with that order.



↑  
 N  
 (no scale)

## Pine Trace LOCATION MAP

Application 040422-4

Exhibit 1

Land Use Table									
	Permitted Totals Permit No.	Ultimate					Actual Totals	This Phase	Future
		Pine Tract	FPL	Clubhouse**	Commercial*	Utility Tract***			
Building Footprint Area	14.00	7.27	--	0.08	0.58	0.05	7.98	7.27	0.71
Pavement Area	6.50	6.42	--	0.43	1.15	0.30	8.30	4.39	3.91
Concrete Area	--	1.88	--	0.03	0.04	--	1.95	1.88	0.07
Pond Area (CE)	3.09	2.83	--	--	--	--	2.83	2.83	0.00
Pervious Area	61.11	18.67	44.70	0.10	0.44	0.67	62.58	67.27	(4.69)
	84.70	35.07	44.70	0.64	2.21	1.02	83.64	83.64	0.00

\* Commercial tract is assumed to have 30% building coverage and 80% total impervious coverage.

\*\* Clubhouse tract is assumed to have 12.5% building coverage and 85% total impervious coverage.

\*\*\* Utility tract is assumed to have 5% building coverage and 35% total impervious coverage.

APPLICATION 040422-4  
EXHIBIT 2.01

# **Pine Trace**

**APPLICATION 040422-4**

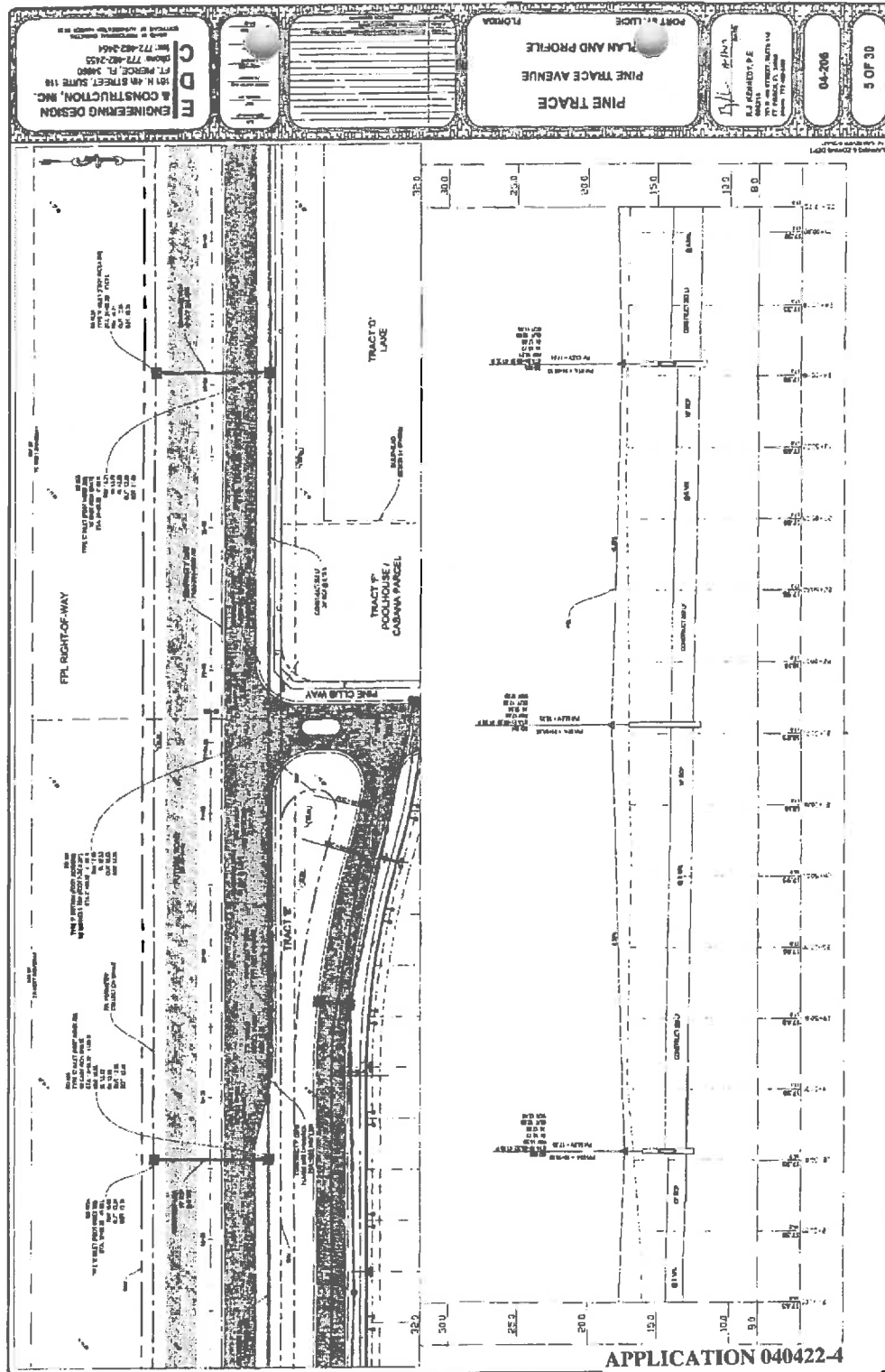
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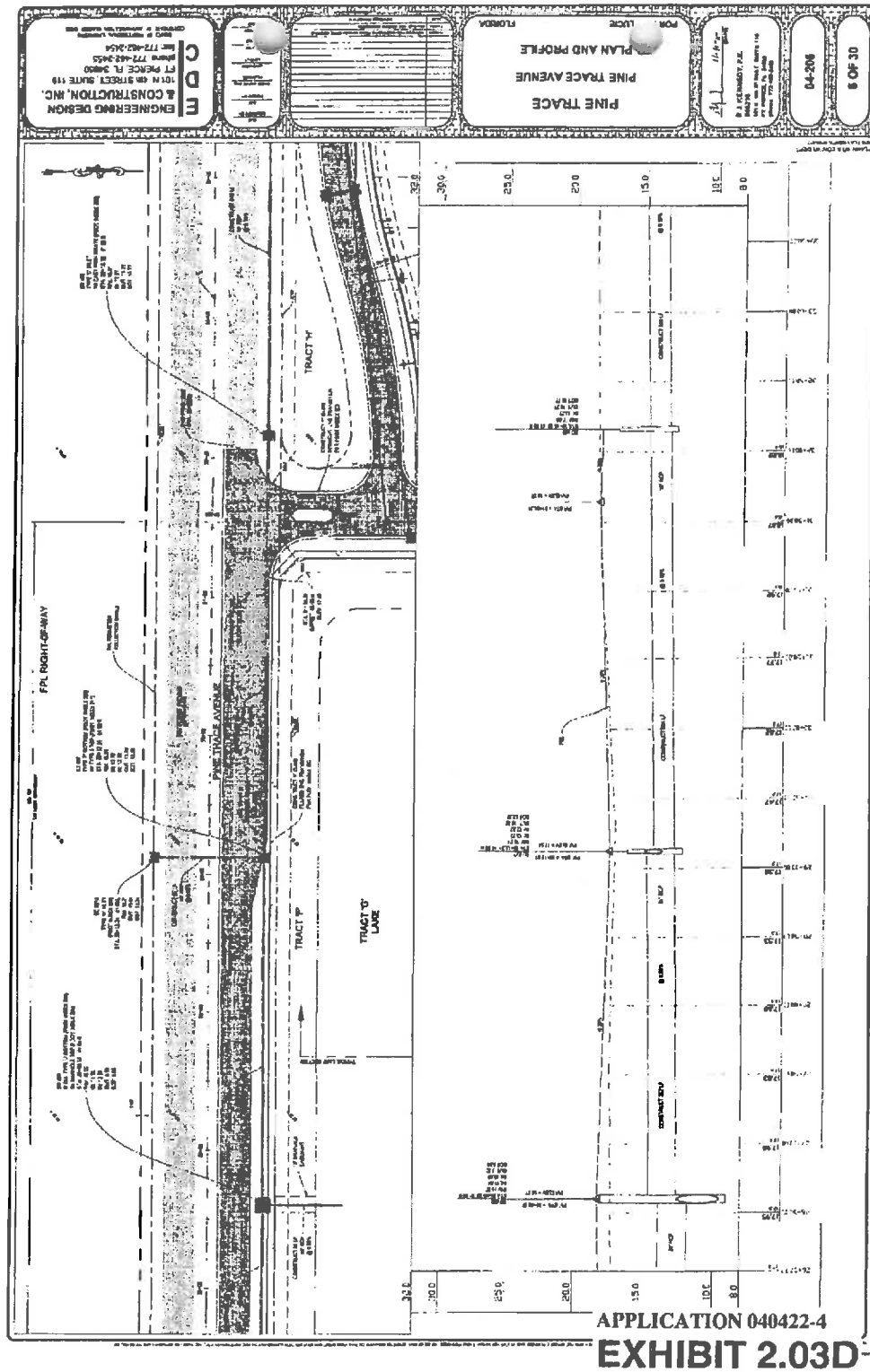
**SEE PERMIT FILE**

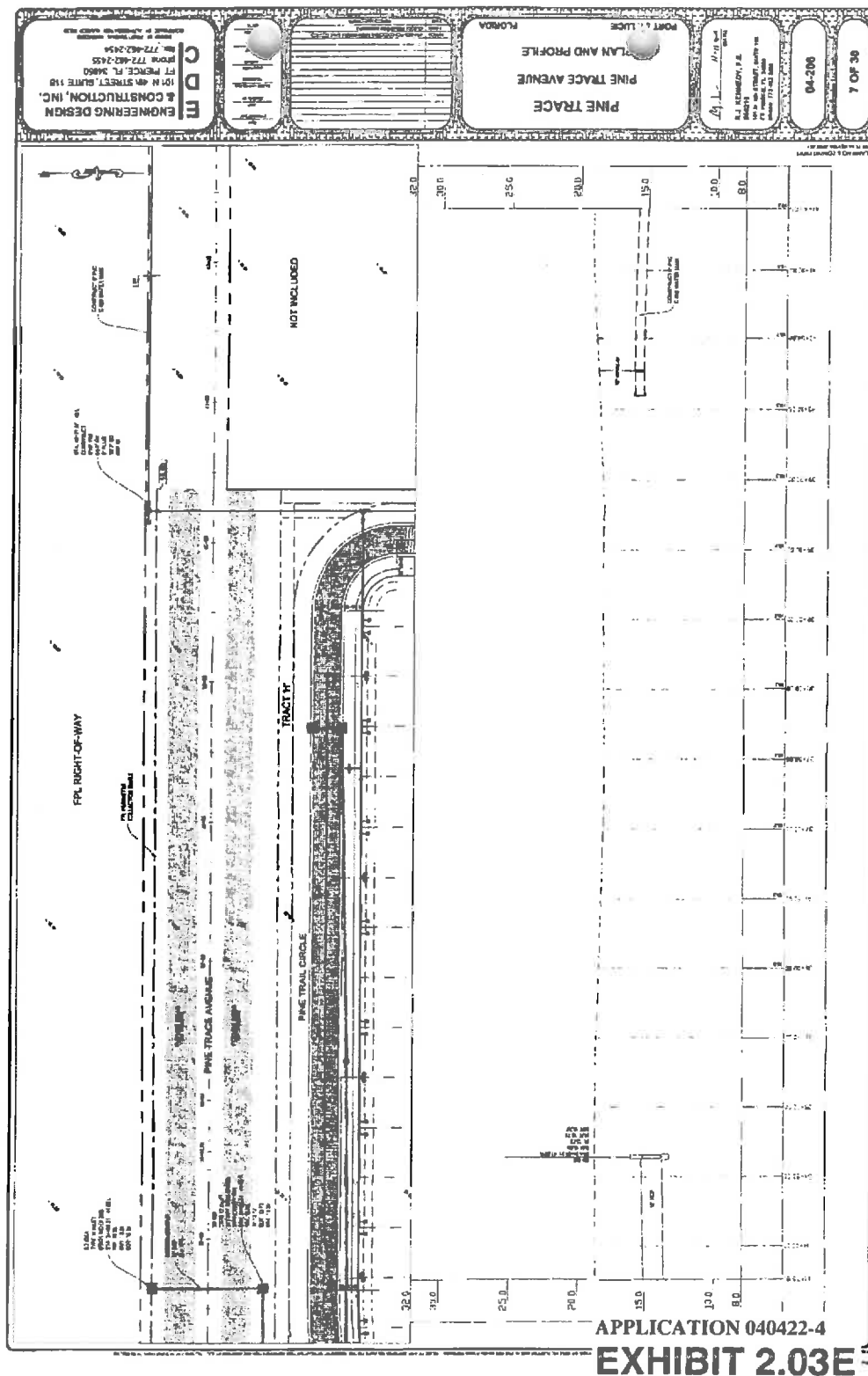
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for Pine Trace Duplex Association, Inc.

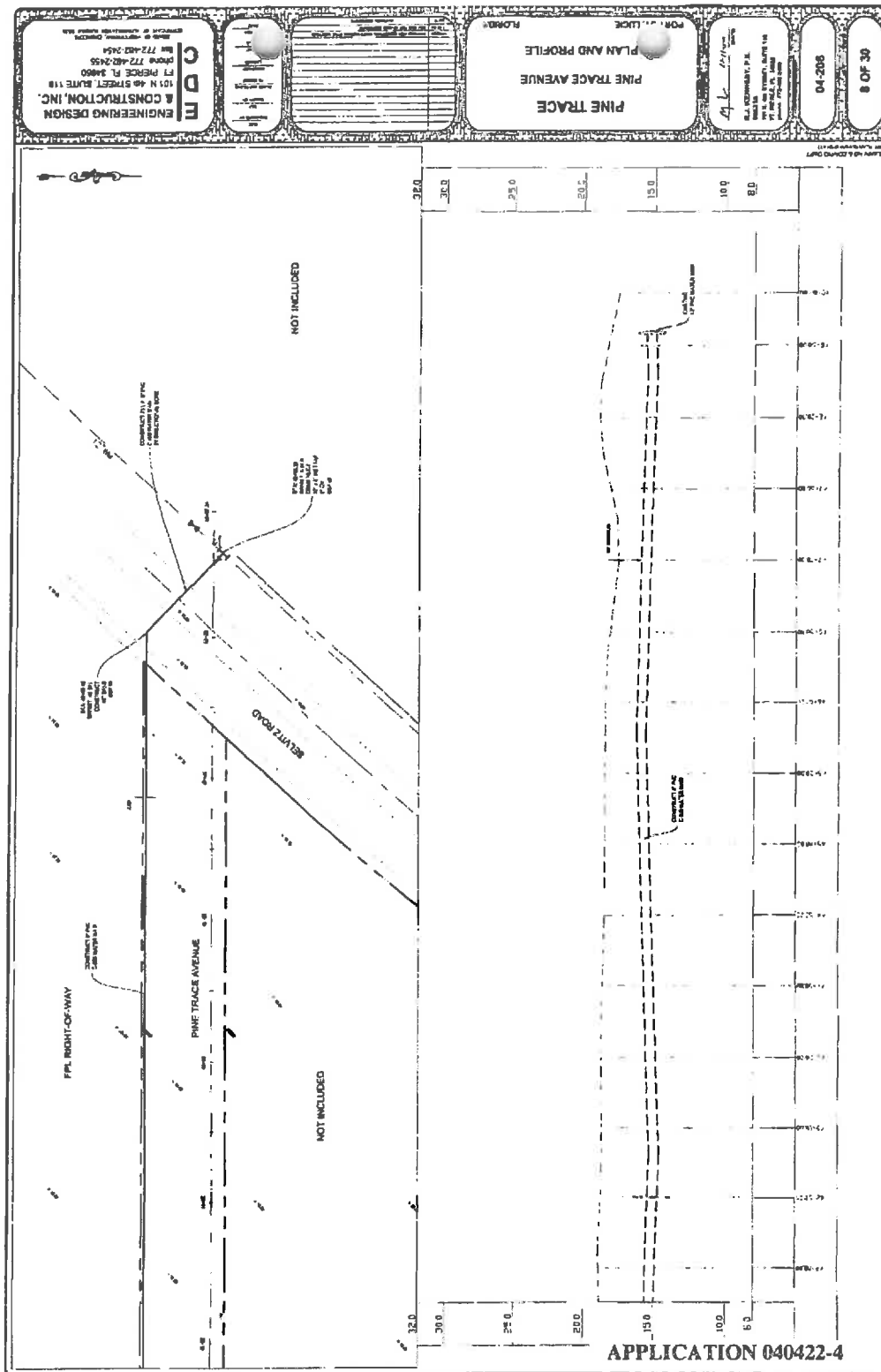




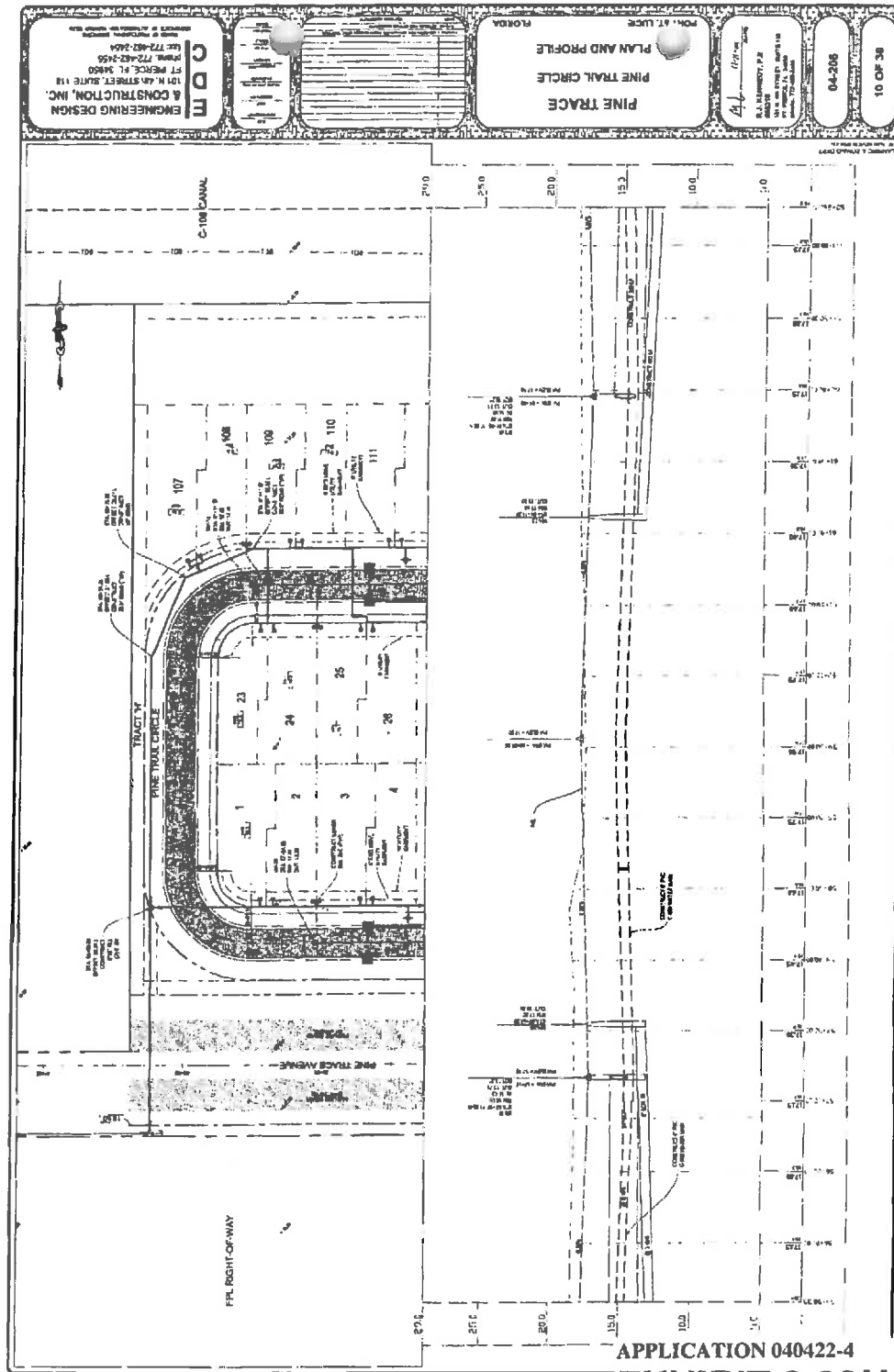


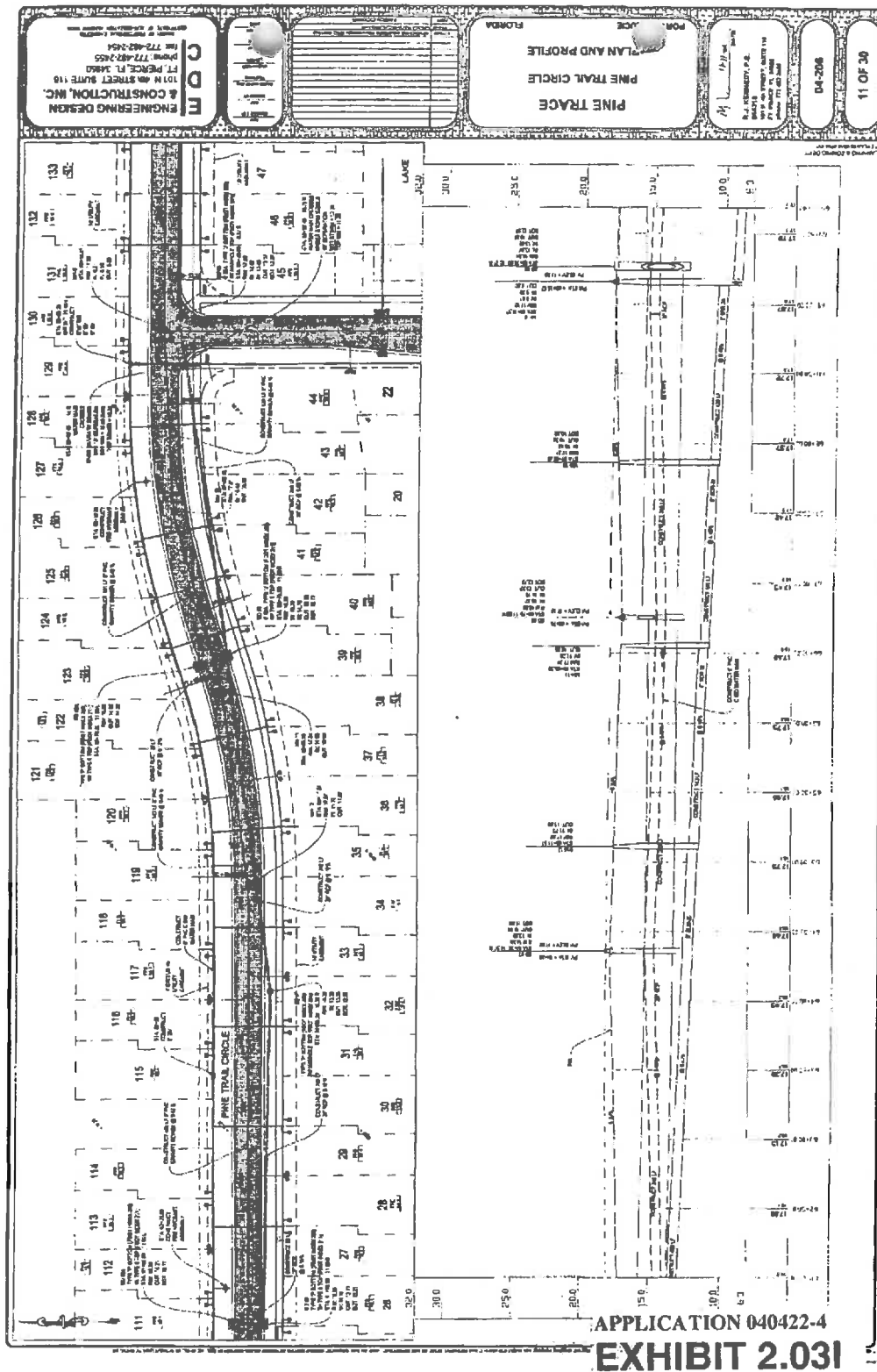


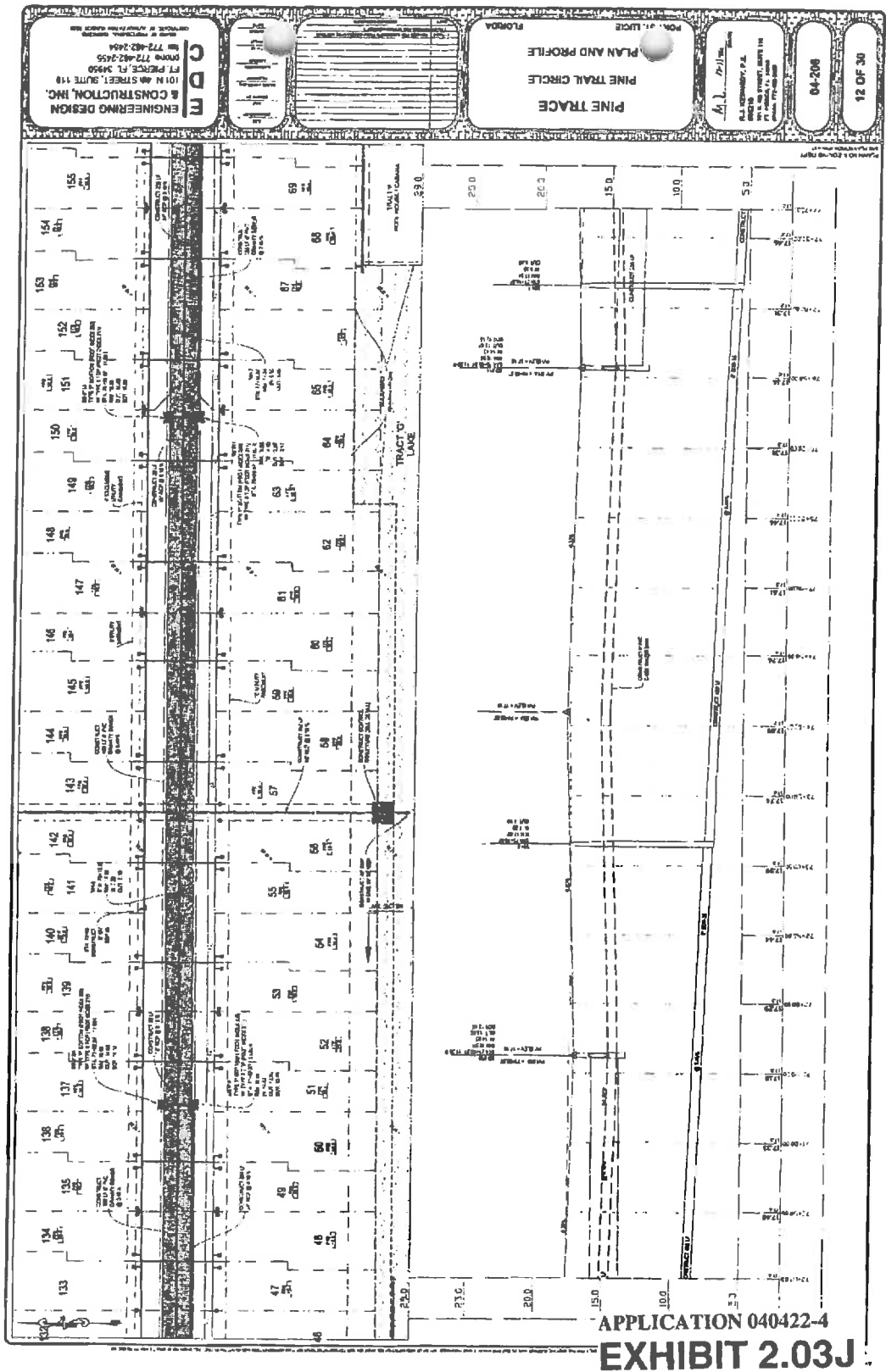


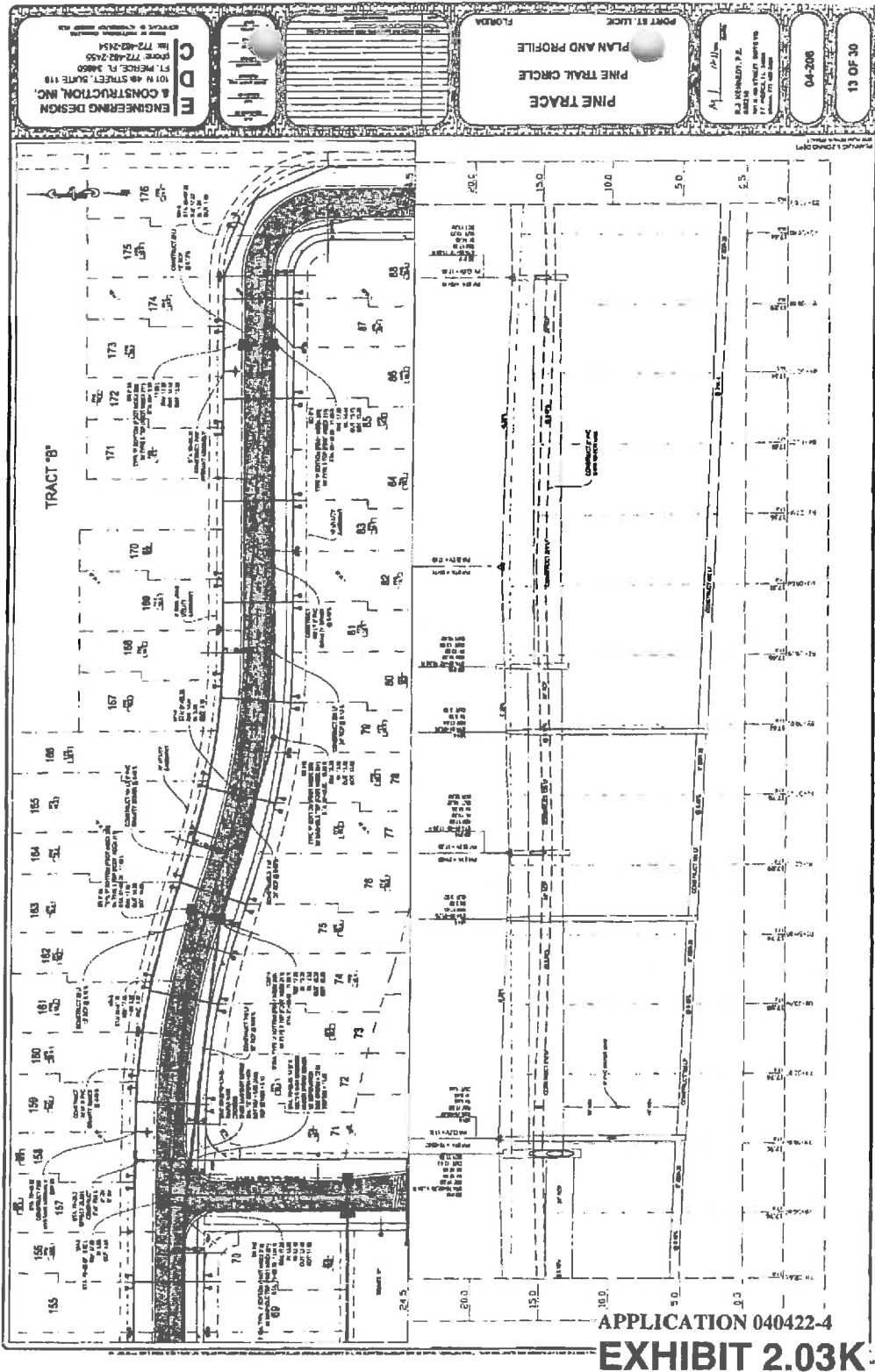


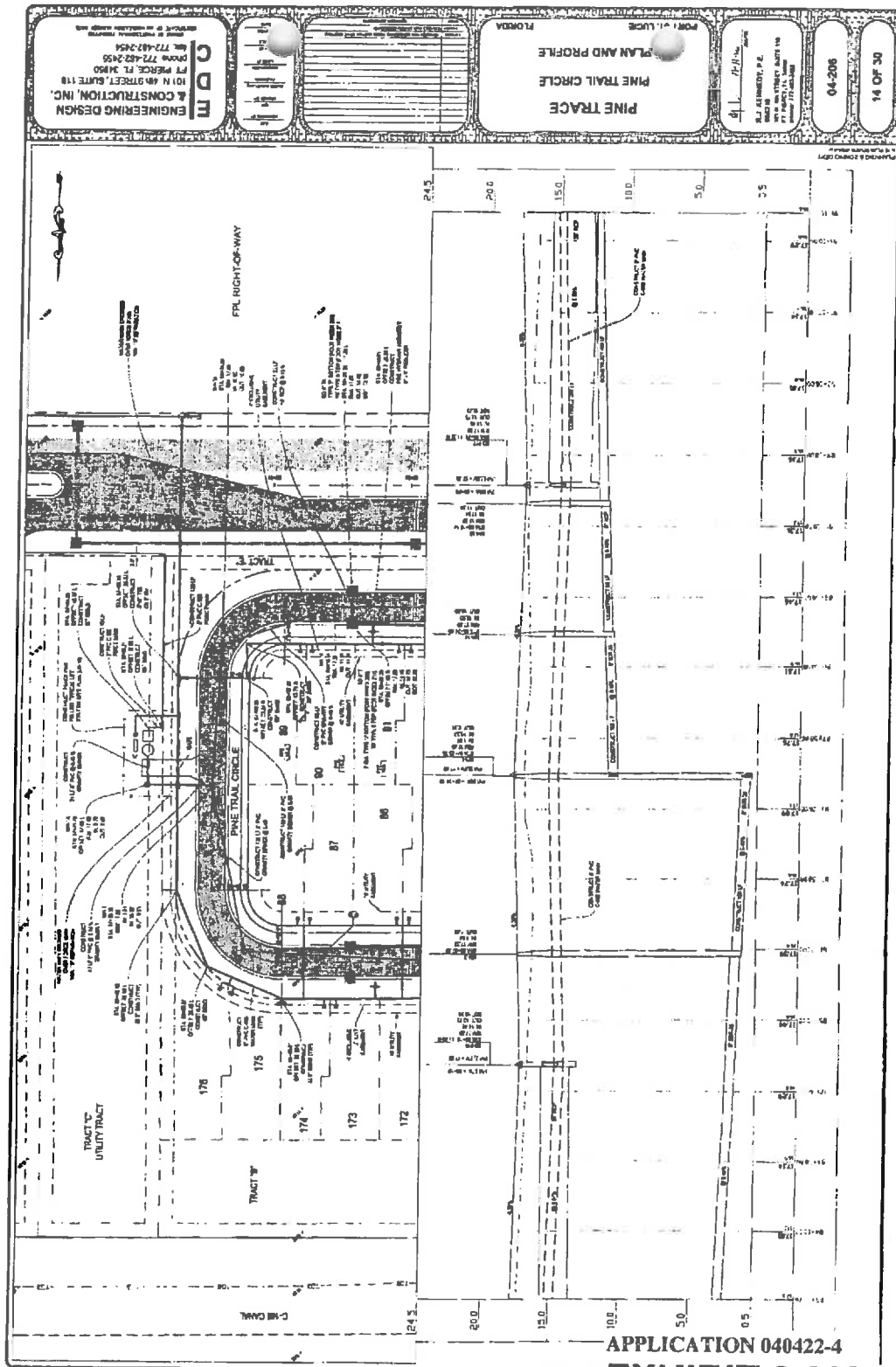


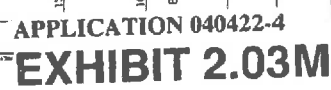


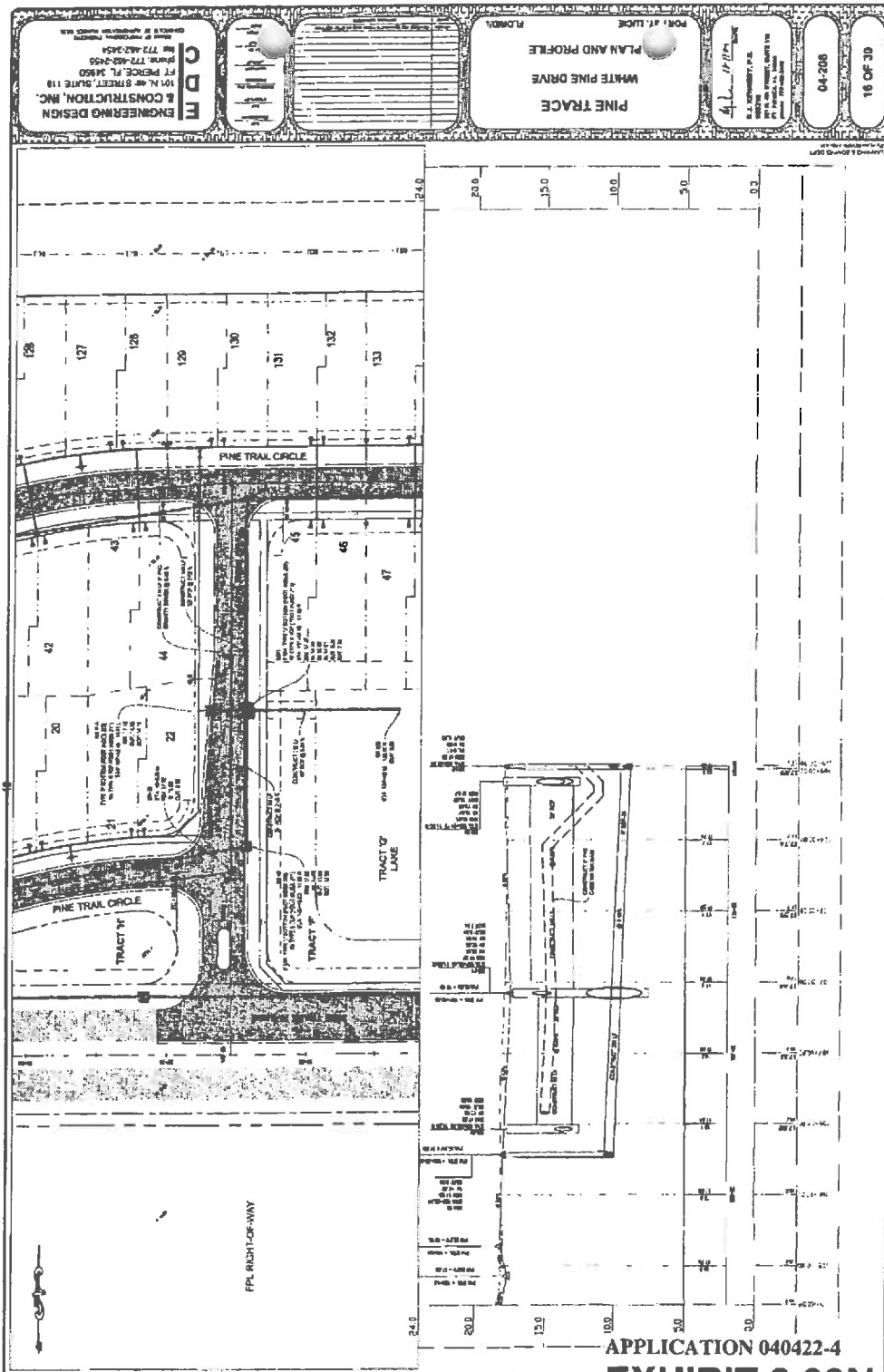








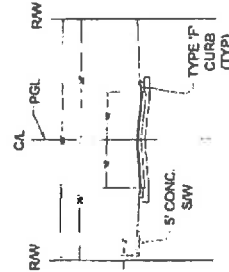






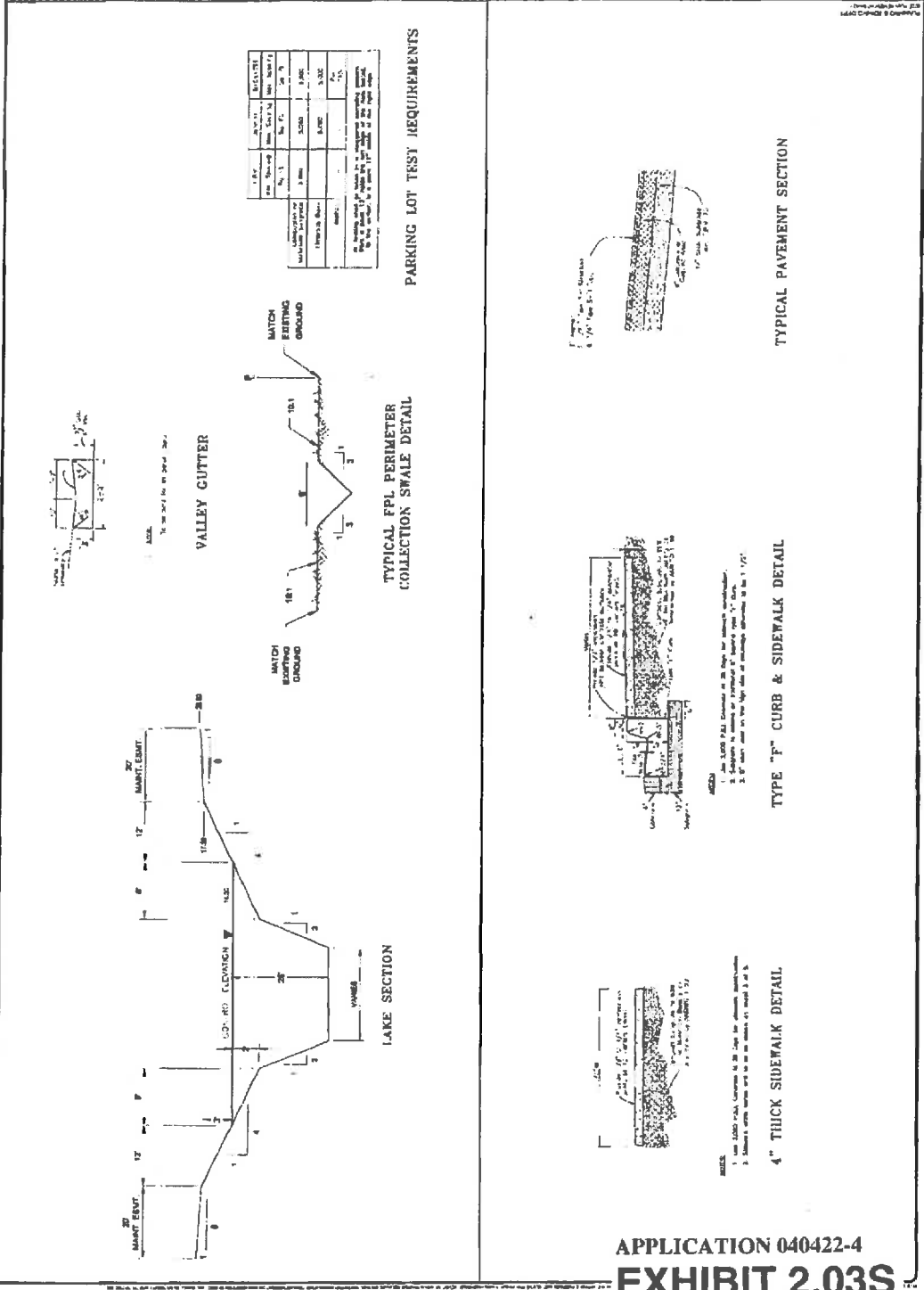






PINE TRAIL CIRCLE

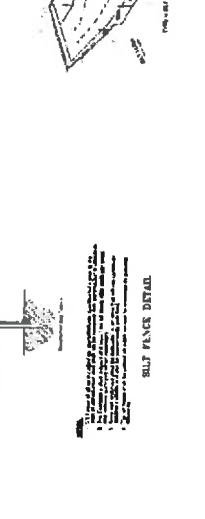
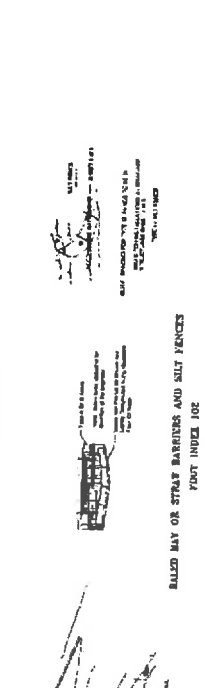
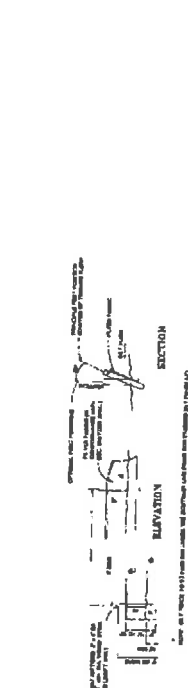
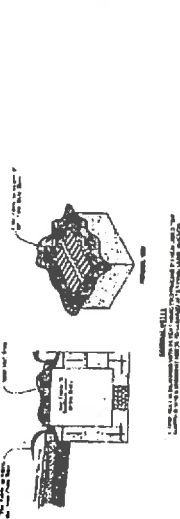
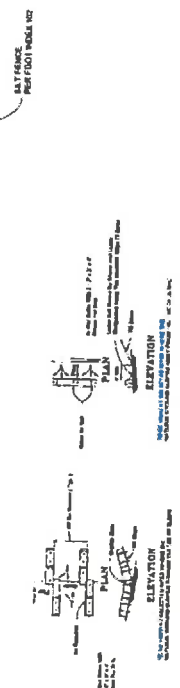
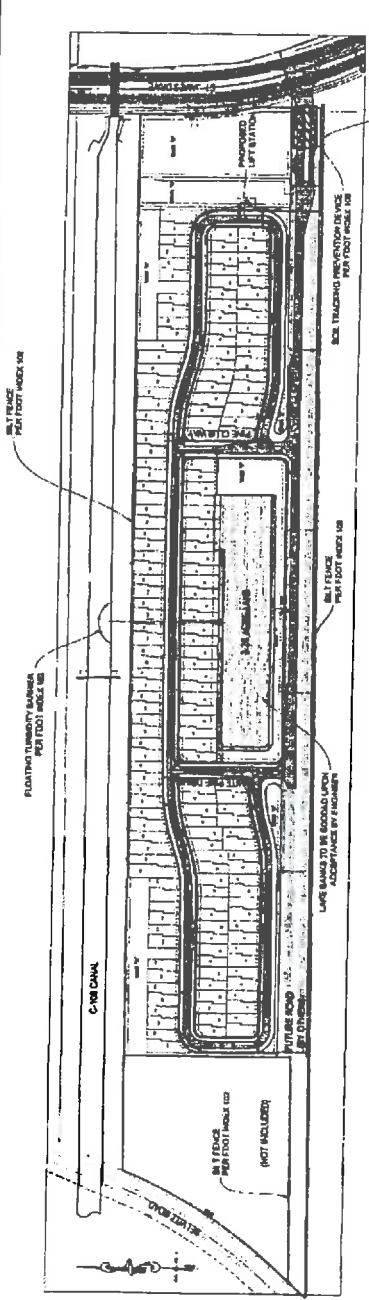
## TYPICAL ROAD SECTIONS



**C D E**  
ENGINEERING DESIGN  
101 N. 4th STREET, SUITE 110  
FT. PIERCE, FL 34950  
PHONE 772-462-2450  
FAX 772-462-2454

**PINE TRACE**  
**KB HOME**  
**SEWAGE TREATMENT PLANT**  
**FLORIDA**

DATE: 04/20/00  
28 OF 30



APPLICATION 040422-4  
**EXHIBIT 2.03T**

**Last Date For Agency Action:** 14-MAR-2005

**GENERAL SURFACE WATER MANAGEMENT STAFF REPORT**

**Project Name:** Pine Trace

**Permit No.:** 56-00466-S-23

**Application No.:** 040422-4

**Application Type:** Surface Water Management (General Permit Modification)

**Location:** St Lucie County, S17/T36S/R40E

**Permittee :** K B Home Treasure Coast L L C

**Operating Entity :** Pine Trace Property Owners Association

**Project Area:** 35.71 acres

**Project Land Use:** Residential

**Drainage Basin:** NORTH ST LUCIE

**Receiving Body:** City of Port St. Lucie C-106 Canal

**Class:** N/A

**Special Drainage District:** NA

**Total Acres Wetland Onsite:**

**Total Acres Wetland Preserved Onsite:**

**Total Acres Impacted Onsite :**

**Total Acres Presv/Mit Compensation Onsite:**

**Mitigation Previously Permitted:** Yes

**Conservation Easement To District :** No

**Sovereign Submerged Lands:** No

**PROJECT PURPOSE:**

This application is a request for a modification of a Surface Water Management Permit to authorize construction and operation of a surface water management system to serve a 35.71 acre residential project known as Pine Trace. Staff recommends approval with conditions.

**PROJECT EVALUATION:****PROJECT SITE DESCRIPTION:**

The site is located in the City of Port St. Lucie within Basin 6 of the previously permitted St. Andrews Park (56-00466-S). The project is located west of St. James Drive and south of the C-106 Canal in Section 17, Township 36 South, Range 40 East. The site is currently undeveloped and there are no permitted surface water management facilities within the project area.

Wetlands within the site have been previously mitigated and reported in previous permits.

**PROPOSED PROJECT:**

Authorization for construction and operation has been requested for a modification of a Surface Water Management (SWM) system to include 35.71 acres of residential development to be known as Pine Trace. Proposed construction includes approximately 92 residential duplexes, associated utilities and pavement areas. The master system, which will consist of a wet detention area, provides water quality treatment and storage before discharging to the City of Port St. Lucie C-106 Canal.

**LAND USE:**

The PAVEMENT area includes both pavement and curb areas. The IMPERVIOUS area represents proposed concrete areas. Please see Exhibit 2.01 for the land use assumptions for the commercial tract, FPL easement, Utility parcel, and Clubhouse tract.

**Construction:****Project:****Total Project**

Building Coverage	7.35	acres
Impervious	1.91	acres
Lake	2.83	acres
Lake Bank	.71	acres
Pavement	6.85	acres
Pervious	16.06	acres
<b>Total:</b>	<b>35.71</b>	

**WATER QUANTITY :****Discharge Rate :**

The proposed project is consistent with the land use and site grading assumptions from the design of the master surface water management system. Therefore, the surface water management system for this project has not been designed to limit discharge for the design event to a specified rate.

Discharge Storm Frequency : 25 YEAR-3 DAY

Design Rainfall : 10 inches

Basin	Allow Disch (cfs)	Method Of Determination	Peak Disch (cfs)	Peak Stage ( ft, NGVD)
Basin 6	27.6	Previously Permitted	27.15	17.3

#### Finished Floors :

As shown in the following table and the attached exhibits, minimum finished floor elevations have been set at or above the calculated design storm flood elevation.

Building Storm Frequency : 100 YEAR-3 DAY

Design Rainfall : 12 inches

Basin	Peak Stage ( ft, NGVD)	Proposed Min. Finished Floors ( ft, NGVD)	FEMA Elevation ( ft, NGVD)
Basin 6	18.48	18.5	N/A

#### Road Design :

As shown in the following table and the attached exhibits, minimum road center lines have been set at or above the calculated design storm flood elevation.

Road Storm Frequency : 10 YEAR-1 DAY

Design Rainfall: 6 inches

Basin	Peak Stage ( ft, NGVD)	Proposed Min. Road Crown ( ft, NGVD)
Basin 6	16.69	17

#### Offsite Flows:

As described in the conceptual approval (App. No. 030408-3), the proposed project is in Basin 6 of the St. Andrews Park project which has been designed to accept runoff from the adjacent FPL transmission right-of-way (44.7 acres) into the proposed storm water management system.

The commercial parcel (2.21 acres) near the project entrance has been incorporated into the storm water system design, but is required to provide 1/2-inch of dry pre-treatment prior to connecting to the Pine Trace master system. The commercial parcel will not be part of the proposed Pine Trace POA, but Article XII(9) of the Declaration of Protective Covenants, Conditions And Restrictions for Pine Trace Duplex Association, Inc. (included by reference as Exhibit 2.02, please see permit file) recognizes that the storm water runoff from Tract C, Tract D, and Pine Trace Avenue will be accepted into the Pine Trace storm water management system.

#### Control Elevation :

Basin	Area (Acres)	Ctrl Elev ( ft, NGVD)	WSWT Ctrl Elev ( ft, NGVD)	Method Of Determination
Basin 6	38.94	14.5	14.50	Previously Permitted

#### Receiving Body :

Basin	Str.#	Receiving Body
Basin 6	CS	City of PSL C-106

**Discharge Structures:** Note: The units for all the elevation values of structures are ( ft, NGVD)

#### Bleeders:

Basin	Str#	Count	Type	Width	Height	Length Dia.	Invert Angle	Invert Elev.
Basin 6	CS	1	Circular Orifice			5.6"		14.5

#### Inlets:

Basin	Str#	Count	Type	Width	Length	Dia.	Crest Elev.
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**Discharge Structures:****Inlets:**

Basin 6	CS	1	Inlet	17.5
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**Weirs:**

Basin	Str#	Count	Type	Width	Height	Length	Dia.	Elev.
Basin 6	CS	1	Sharp Crested	1.5'				17.27 (crest)
Basin 6	CS	1	Sharp Crested	44"	20"			15.6 (crest)

**WATER QUALITY :**

No adverse water quality impacts are anticipated as a result of the proposed project. Water quality treatment volume equivalent to 1 inch over the project area is provided in the wet detention lakes.

Basin	Treatment Method	Vol Req'd (ac-ft)	Vol Prov'd (ac-ft)	
Basin 6	Treatment	Wet Detention	3.25	3.25

**CERTIFICATION AND MAINTENANCE OF THE WATER MANAGEMENT SYSTEM:**

It is suggested that the permittee retain the services of a Professional Engineer registered in the State of Florida for periodic observation of construction of the surface water management (SWM) system. This will facilitate the completion of construction completion certification Form #0881 which is required pursuant to Section 10 of the Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District, and Rule 40E-4361(2), Florida Administrative Code (F.A.C.).

Pursuant to Chapter 40E-4 F.A.C., this permit may not be converted from the construction phase to the operation phase until certification of the SWM system is submitted to and accepted by this District. Rule 40E-4.321(7) F.A.C. states that failure to complete construction of the SWM system and obtain operation phase approval from the District within the permit duration shall require a new permit authorization unless a permit extension is granted.

For SWM systems permitted with an operating entity who is different from the permittee, it should be noted that until the permit is transferred to the operating entity pursuant to Rule 40E-1.6107, F.A.C., the permittee is liable for compliance with the terms of this permit.

The permittee is advised that the efficiency of a SWM system will normally decrease over time unless the system is periodically maintained. A significant reduction in flow capacity can usually be attributed to partial blockages of the conveyance system. Once flow capacity is compromised, flooding of the project may result. Maintenance of the SWM system is required to protect the public health, safety and the natural resources of the state. Therefore, the permittee must have periodic inspections of the SWM system performed to ensure performance for flood protection and water quality purposes. If deficiencies are found, it is the responsibility of the permittee to correct these deficiencies in a timely manner.

**RELATED CONCERNS:**

**Water Use Permit Status:**

The applicant has indicated that groundwater wells will be used as a source for irrigation water for the project. Water Use application number 041215-11 is being processed concurrently for this project. The applicant has indicated that dewatering is required for construction of this project. Water Use application number 041214-1 is being processed concurrently for this project.

This permit does not release the permittee from obtaining all necessary Water Use authorization(s) prior to the commencement of activities which will require such authorization, including construction dewatering and irrigation, unless the work qualifies for a No-Notice Short-Term Dewatering permit pursuant to Chapter 40E-20.302(3) or is exempt pursuant to Section 40E-2.051, FAC.

**Water Preserve Area/ CERP:**

Pine Trace is located adjacent to the boundary of the Indian River Lagoon-Northfork Floodplain Restoration component of CERP. Environmental Resource Regulation staff has coordinated review of this project with the Indian River Lagoon Feasibility Study Lead Project Manager, who has determined that this application is not incompatible with future restoration goals for this CERP project as currently envisioned.

**Historical/Archeological Resources:**

No information has been received that indicates the presence of archaeological or historical resources or that the proposed activities could cause adverse impacts to archaeological or historical resources.

**DCA/CZM Consistency Review:**

The District has not received a finding of inconsistency from the Florida Department of Environmental Protection or other commenting agencies regarding the provisions of the federal Coastal Zone Management Plan.

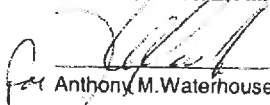
**Enforcement:**

There has been no enforcement activity associated with this application.

**STAFF REVIEW:**

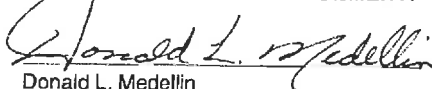
**DIVISION APPROVAL:**

**SURFACE WATER MANAGEMENT:**

  
for Anthony M. Waterhouse, P.E.

DATE: 4 Mar 05

**NATURAL RESOURCE MANAGEMENT:**

  
Donald L. Medellin

DATE: 4 Mar 05

## STAFF REPORT DISTRIBUTION LIST

PINE TRACE

**Application No:** 040422-4

**Permit No:** 56-00466-S-23

### INTERNAL DISTRIBUTION

- X Kelly Cranford, P.E. - 4220
- X Melinda Parrott - 4250
- X Anthony M. Waterhouse, P.E. - 4220
- ~~X Donald L. Medellin - 4250~~
- X ERC Martin/St. Lucie - 2280
- X Permit File

### EXTERNAL DISTRIBUTION

- X Permittee - K B Home Treasure Coast L L C
- X Engr Consultant - E D C Inc
- X Owner - S D G St. James, Inc.

### GOVERNMENT AGENCIES

- X City Engineer, City of Port Saint Lucie
- X City of Port St Lucie - Planning Div
- X Florida Fish & Wildlife Conservation Commission -  
Imperiled Species Mgmt Section
- X St Lucie County - Planning Div
- X St. Lucie County Community Development Director
- X St. Lucie County Engineer
- X St. Lucie County Environmental Resource Manager
- X USACOE South Permits Branch

### OTHER INTERESTED PARTIES

- X Sierra Club - Central Florida Group P.O. Box 941692
- X Water Management Institute - Michael N. Vanatta

**EXHIBIT "E" TO AMENDED AND RESTATED  
DECLARATION OF CONDITIONS, COVENANTS, EASEMENTS  
AND RESTRICTIONS**

**Architectural Control Committee Guidelines**

## **Initial ARC Guidelines**

### **Pine Trace**

### **Port St. Lucie, Florida**

## **Contents**

Design Review Approval Process  
Two-step Process for Extensive Changes  
Typical Design Review Applications Recommended Landscape Plants  
Restricted and Unacceptable Plants

## **Exhibits (Illustrations)**

### **Exhibits**

Exhibit A – Plans to Add and Landscape Pools, Patios, and/or Screen Enclosures  
Exhibit B – Landscape Modifications  
Exhibit C – Play Equipment  
Exhibit D – Fences and Required Landscape  
Exhibit E – Solar Panels  
Exhibit F – Temporary Sign Standards "For Sale" and "Open House"  
Blank form "Request for Design Review"

**Pine Trace**  
**Port St. Lucie, Florida**

**Design Review Approval Process**

For any proposed changes to exterior of home or landscape other than normal maintenance, please obtain written approval from the Architectural Control Committee.

Please photocopy the "**Request for Design Review**" form found in the back of this manual, attach it to the information needed to support your request, and send it to the address on the form.

Many **proposed modifications** will need just a little additional information in order for the committee to understand your request, while more extensive modifications will need full architectural and landscape drawings prepared by qualified Florida architects.

To help you **prepare a request**, refer to the following pages that outline information needed for particular types of modifications. Also, see the Exhibits that further illustrate information expected relative to various typical modification requests.

Please do not begin until you have the committee's **written approval**. Such approval by the committee is for aesthetic purposes only and does not address engineering or technical merits of plans, nor does it certify compliance with relevant building codes or ordinances for which the owner/builder is responsible.

## Two Step Process

If planning extensive landscape or structural modifications, we recommend following a two-step process:

**Step One, Preliminary Concept Plans:** The owner/builder may submit to the committee two (2) sets of plans with the "Request for Design Review" form completed and attached to each set. The committee will grant written approval, conditional approval, or deny approval. Any changes required by a conditional approval must be incorporated in subsequent plans; failure to do so will be grounds for denial of Final Plans. Any changes identified as "recommended" will not be mandatory, but should be given careful consideration prior to drafting Final Plans. Any denial of approval will be accompanied by a statement setting forth the reason(s).

**Step Two, Final Construction and/or Landscape Plans and Specifications:** The owner/builder must submit to the Architectural Control Committee two (2) sets of plans and specifications with a "Request for Design Review" form completed and attached to each set. The following items are required before final construction approval:

1. **Vegetation Survey:** Scale 1/8" 1' or 1" = 10'. This plan must show the location, type and size of significant trees and shrubs on the home site. This information can be shown on the landscape plan. Any plant materials to be removed must be indicated and care should be taken to preserve suitable plants and shrubs. All vegetation to remain should be barricaded at the drip line of trees. No debris or construction materials will be stored within barricades.
2. **Landscape Plan:** Scale 1/8" = 1' or 1" = 10'. This plan must indicate perimeter walls of structure plus window or door locations. This plan must indicate the location, botanical name, size, quantity and specifications of all proposed and existing to remain plant material. Proposed plant material should follow, but not necessarily be limited to the recommended plant list in this manual. An irrigation system is also required.
3. **Site Plan:** Scale 1/8" = 1' or 1" = 10'. This plan must consist of the following components with specifications:
  - a) Building location.
  - b) Setbacks.
  - c) Existing vegetation.
  - d) Property boundaries.
  - e) Grading - to show all proposed and existing spot grades or contours, proposed site drainage and finished floor elevations.
  - f) Easements.
  - g) Paths, sidewalks.
  - h) Outdoor use areas (i.e., pool, deck areas, atriiums, etc.)
  - i) Screening elements – all mechanical equipment and trash containers to be located on the exterior of the building must be shown on floor plan, site plan and elevation drawings, including the proposed method of screening. If plant material is used, the minimum height of the plant must be forty-eight (48) inches.

- j) Driveways, Patios and Parking Areas – all hard surface exterior materials (driveways, patios, sidewalks, entry walkways, pools or decks, etc.) must be noted by type, color, manufacturers' specifications or other descriptive detail. These specifications may be included in the landscape plan. An enriched surface material should be considered for the driveway such as: stamped concrete, interlocking pavers, exposed aggregate or some other decorative treatment. No asphalt, loose gravel or unpaved surfaces will be permitted.
  - k) Outdoor Lighting – including yard lighting, if any, should be noted by location, type, manufacturer and intensity.
- 4. **Floor Plans:** Scale 1/4" = 1'. To include balconies, decks, patios, atriums, utility meter locations, garage, square footage of total living area of residence.
  - 5. **Roof Plan:** To show pitch, valleys, hips, etc.
  - 6. **Exterior Elevations:** Scale 1/4" = 1'. To include all exterior elevations of main walls, etc., with heights clearly indicated.
  - 7. **Exterior Material Specifications Sheet:** To include samples of exterior colors, paint brand, color number and name, and exterior materials proposed for use.
  - 8. **Two Sets of Construction Plans:** The committee retains one set on file and returns one stamped approved, to homeowner for use in obtaining a building permit.

## Typical Design Review Applications

Adding to Existing Structure such as a pool, room, extended lanai, etc. (Exhibit A) 1. See Set-Back Requirements below.

<u>Minimum Setbacks</u>	<u>Single Family</u>
Front Setback w/o sidewalk	20'
Side Setback (Principal & Accessory Structures)	5'
Rear Setback *	10'
Setback to Water body (Principal Structure)*	30'
Setback to Project Perimeter (Accessory Structure) on Standard Lot*	5'
Setback to Project Perimeter (Accessory Structure) on Water Lot*	10'

\*Except no part of a structure may encroach into a drainage, lake maintenance or utility easement.

2. Need a site (plot) plan showing home as built on your lot indicating setbacks from lot boundary, lake-maintenance easement, utility easements, etc. A site (plot) plan was provided at closing, but if you need a copy, please contact your local municipality.
3. On a site plan drawn to scale, show where the new structure will be located.
4. Partial elevations; show tie-in of new roof to existing and elevations of room additions.
5. If adding a screen cage, frames must be dark bronze color with charcoal screen mesh.
6. Include drawing of screen cage roof; use a mansard roof style.
7. Show additional landscaping which will be required around pool screens, mechanical equipment, etc.

### Landscape Modifications (Exhibit B, also Exhibits C, D and E)

1. Show footprint of residence and location on site. (Site Plan usually helpful)
2. Indicate existing landscaping and use a graphic technique to show what you intend to add or take away.
3. Include names (genus and species) and sizes of plant material. This manual includes a recommended plant list.
4. We recommend consulting with a landscape architect.

### Re-Painting Existing Structure

1. Include paint brand, color name and color number. Attach a sample of each color to the request form and label which sample is for house body, trim, garage door, front door, fascia, etc.
2. Include color of roof (and driveway if other than cement) to insure compatibility with proposed new paint palette.

### Driveway Pavers

1. Include manufacturer, pattern, color number and name. Prefer to have an actual sample or color picture. Also, need samples or photos of house paint and color of roof to assure compatibility.
2. When proposing any "change" in size of driveway, an as built site plan is necessary for us to see current driveway with proposed extension sketched in a different color or shading.

### Solar Panels (Exhibit E)

Solar panels may require additional landscaping. Front-facing solar panels are prohibited. If installed on the side of the roof, the panels must be flush with the roof line (tilt is prohibited), and they must be placed closest to the rear of the home to minimize view from the street and neighbors.

#### Playground Equipment (Exhibit C)

1. Show an as-built site plan and proposed placement of the play equipment. Play areas, gym sets, etc., should be buffered from neighbors' views. Therefore, show placement of any landscaping to be used to conceal from view.
2. Playground equipment should be placed in the rear yard, may not extend past the side wall line of the home and/or may require a fence or landscaping to minimize view from the street or neighbors.
3. Play equipment on water lots may require additional measures to minimize visibility of the playground equipment. Approval/denial is at the sole discretion of the Committee. Decisions may be appealed to the Board of Directors.
4. If you have a picture from a catalog, etc., of the equipment, please include with your request.

#### Fences (Exhibit D)

1. All fence installations must be approved prior to installation.
2. Fences should not encroach into drainage or lake maintenance easements.
2. Style: 6' White Vinyl or natural wood is acceptable on standard lots. On water front lots, a 4' black aluminum rail fence or 6' white vinyl or natural wood on the sides with a transition panel to 4' black aluminum in the rear is the approved style.
3. General setback is 20' from the front corner of the house. This requirement may vary depending upon the placement of the adjoining lots and subject to ARC approval.
4. It is recommended that fences match color and line up with fences on adjoining lots to maintain a cohesive appearance in the community.
5. Landscaping of the exterior of the fence is required.

#### Holiday Decorations

1. Tasteful and appropriate holiday decorations are permitted and do not require ARC approval.
2. Decorations may be put in place 30 days prior to the holiday and must be removed no more than 10 days after the holiday.
3. Inflatable displays of any kind are prohibited.
4. Displays are prohibited from emitting sound or noise.
5. Roof displays are prohibited.

#### Screen Doors and Entries

1. Plain screen doors are approved – doors with no ornamentation, a small kick plate and a crossbar at or near handle for stability. Generally bronze is preferred to make it appear as a shadow, rather than a sharp contrast to architecture. Color still needs to be approved, however, as all neighborhoods and/or buildings can vary.
2. If using the Phantom Screen, frame should match the front door color as closely as possible. Appearance of "Phantom Screen" (trademark) is less obtrusive than a full screen door.

Storm Shutters (Storm Protection may have been provided for new construction as dictated by local/state law. If you wish to change from protection provided, review is required. See below.)

1. Need a footprint (sketch floor plan), of residence (for condos and villas a "cutaway" is usually found on sales literature) that shows exact location of shutter placement, i.e., outside bedroom window, across the lanai, etc. (helpful to number each location).
2. Include color of window trim and color of shutter slats and frame (white, off-white). Proposed storm shutter color should blend with wall color.

Statues, Fountains, Flags, Bird Baths, Gazebos, Satellite Dishes, etc.

Show proposed location on a sketch site plan. Provide a photograph or drawing; indicate size, color, material, etc. Additions such as statues and fountains should be integrated into landscape, and be a size appropriate to scale of home. Since aesthetic decisions regarding statuary are very subjective – generally, we encourage owners to find locations on lanais or within private area to lessen impact on public streetscape.

Signs: Temporary "for sale" and "open house" signs (Exhibit F)

## Recommended Landscape Plants

All plant material shall be Florida Fancy or Florida Grade #1 as defined in Grades and Standards for Nursery Plants, State Plant Board of Florida. Under extreme winter weather conditions, some of the listed plants will be susceptible to varying cold or freeze damage.

### Canopy Trees & Palms:

<b>Botanical Name</b>	<b>Common Name</b>
<i>Acer rubrum</i>	Red Maple
<i>Pinus elliotti densa</i>	Slash Pine
<i>Quercus virginiana</i>	Live Oak
<i>Quercus laurifolia</i>	Laurel Oak
<i>Magnolia grandiflora</i>	Southern Magnolia
<i>Peltophorum pterocarpum</i>	Yellow Poinciana
<i>Jacaranda mimosifolia</i>	Jacaranda
<i>Gardonia lasianthus</i>	Loblolly Bay
<i>Juniperus silicicola</i>	Southern red Cedar
<i>Magnolia virginiana</i>	Sweet Bay
<i>Platanus occidentalis</i>	Sycamore
<i>Keolreuteria elegans</i>	Golden Rain Tree
<i>Sabal palmetto</i>	Cabbage Palm
<i>Taxodium distichum</i>	Bald Cypress
<i>Washingtonia robusta</i>	Washington Palm
<i>Wodyetia biforcata</i>	Foxtail Palm

Minimum height at planting shall be 12 feet.

Palms, 14 feet measured to the bud.

Canopy Trees: 2½ Inch caliper, minimum

### Sub-Canopy Trees:

<b>Botanical Name</b>	<b>Common Name</b>
<i>Podocarpus macrophyllus maki</i>	Japanese Yew
<i>Nerium oleander</i>	Oleander
<i>Myrica cerifera</i>	Wax Myrtle
<i>Ligustrum japonica</i>	Ligustrum tree
<i>Psidium littorale</i>	Cattley Guava
<i>Lagerstroemia indica</i>	Crape Myrtle
<i>Myrsine guianensis</i>	Myrsine
<i>Ilex cornuta 'burfordii'</i>	Burford Holly
<i>Ilex cassine</i>	Dahoon Holly
<i>Ilex opaca 'East Palatka'</i>	East Palatka Holly
<i>Podocarpus gracilior</i>	Weeping Podocarpus
<i>Phoenix roebellinii</i>	Pygmy Date Palm, Triple
<i>Sabal palmetto</i>	Cabbage Palm
<i>Taxodium distichum</i>	Bald Cypress
<i>Washingtonia robusta</i>	Washington Palm
<i>Wodyetia biforcata</i>	Foxtail Palm

Minimum height at planting shall be 5 feet.

**Shrubs:**

<b>Botanical Name</b>	<b>Common Name</b>
<i>Ligustrum spp.</i>	Ligustrum
<i>Podocarpus macrophylla</i>	Podocarpus
<i>Philodendron selloum</i>	Green Split Leaf Philodendron
<i>Schefflera arboricola</i>	Dwarf Schefflera
<i>Ixora coccinea 'Nora Grant'</i>	Nora Grant Ixora
<i>Lagerstroemia indica</i>	Crape Myrtle
<i>Podocarpus macrophylla 'maki'</i>	Japanese Yew
<i>Dracaena spp.</i>	Dracaena
<i>Syzygium paniculata 'compacta'</i>	Eugenia
<i>Myrica cerifera</i>	Wax Myrtle
<i>Pyracantha coccinea</i>	Fire Thorn
<i>Nerium oleander 'Petite Pink'</i>	Dwarf Oleander
<i>Ilex glabra</i>	Gallberry
<i>Myrsine guianensis</i>	Myrsine
<i>Tripsacum dactylodites</i>	Fakahatchee Grass
<i>Viburnum odoratissimum</i>	Sweet Viburnum
<i>Viburnum suspensum</i>	Sandankwa Viburnum
<i>Eleagnus pungens</i>	Silverthorn
<i>Leucophyllum frutescens</i>	Texas Sage
<i>Murraya paniculata</i>	Orange Jasmine
<i>Ilex cornuta</i>	Dwarf Burford Holly
<i>Serenoa repens</i>	Saw Palmetto
<i>Carissa 'Emerald Blanket'</i>	Dwarf Carissa
<i>Senna seurattensis</i>	Glaucus Cassia

Minimum height: 24 inches

Minimum spacing: 24 to 36 inches on center

Minimum size: 3 gallons, larger if creating an immediate screen.

**Shrubs for Screening Mechanical Equipment:**

Plants must be dense enough and in sufficient quantity at the time of planting to screen off-site views to air conditioning, pool equipment, etc. Minimum height: 4 feet when installed.

Recommended types are Wax Myrtle, Viburnum, Podocarpus, Ligustrum, Dwarf Schefflera.

**Ground Cover/Vines:**

<b>Botanical Name</b>	<b>Common Name</b>
<i>Ilex vomitoria 'schillings'</i>	Dwarf Yaupon Holly
<i>Nephrolepis exaltat</i>	Boston Fern
<i>Ophiopogon japonicus</i>	Mondo Grass
<i>Heimerocallis flava</i>	Day Lily
<i>Lantana sellowiana</i>	Lantana
<i>Allamanda cathartica</i>	Allamanda
<i>Bougainvillea spp.</i>	Bougainvillea
<i>Mandevilla grandiflora</i>	Mandevilla
<i>Senecio confuses</i>	Mexican Flame Vine
<i>Raphiolepis indica</i>	Indian Hawthorn
<i>Juniper spp.</i>	Juniper
<i>Pentas lanceolata</i>	Egyptian Star Clusters
<i>Asparagus sprengen</i>	Asparagus Fern
<i>Liriope muscari (Evergreen Giant)</i>	Liriope
<i>Trachelospermum jasmine.</i>	Confederate Jasmine
<i>Pyrostegia ignea</i>	Flame Vine
<i>Lonicera japonica</i>	Honeysuckle
<i>Stenotaphrum secundatum</i>	Floratum (Sand grown)
<i>Pennisetum setaceum</i>	Fountain Grass
<i>Jasminum simplicifolium</i>	Wax Jasmine

Plant materials not included on the above lists shall receive consideration on an individual basis. All plant material must meet required minimums for sizing and spacing.

**Mulch** plant beds with 2 to 3 inches of organic mulch.

**Sod**: Sod shall be complete from back of curb in front to rear setback line.

**Restricted Plants:** These plants are not cold-hardy and should be considered only for private areas or protected locations.

<b>Botanical Name</b>	<b>Common Name</b>
<i>Chrysalidocarpus lutescens</i>	Areca Palm
<i>Cocos nucifera</i>	Coconut Palm
<i>Bucida buceras</i>	Black Olive
<i>Swietenia mahogany</i>	Mahogany
<i>Roystonea regia</i>	Cuban Royal Palm
<i>Schefflera actinophylla</i>	Umbrella Tree
<i>Citrus spp.</i>	Citrus Trees
<i>Vietchia merillii</i>	Manila Palm
<i>Ravenea glauca</i>	Majesty Palm
<i>Gardenia spp.</i>	Gardenia
<i>Hibiscus rosa-sinensis</i>	Hibiscus

**Unacceptable Plants:** Most of the plants listed below are on the Exotic and Invasive Species List and shall not be used.

<b>Botanical Name</b>	<b>Common Name</b>
<i>Casuarinas pp.</i>	Australian Pine
<i>Araucaria excelsa</i>	Norfolk – Island Pine
<i>Grevillea robusta</i>	Silk Oak
<i>Acacia auriculaeformis</i>	Earleaf Acacia
<i>Cupressus sempervirens</i>	Italian Cypress
<i>Rhodomytus tomentosa</i>	Downy Myrtle
<i>Melaleuca quinquenervia</i>	Cajeput
<i>Schinus terebinthifolius</i>	Brazilian Pepper
<i>Dalbergia sissoo</i>	Rosewood
<i>Cupaniopsis anacardiopsis</i>	Carrotwood
<i>Bischofia javancia</i>	Java Bishopwood
<i>Albizia lebeck</i>	Woman's Tongue
<i>Eucalyptus camaldulensis</i>	Murray Red Gum
<i>Syzygium cumini</i>	Java Plum
<i>Thespesia populnea</i>	Cork Tree
<i>Sapium sebiferum</i>	Chinese Tallow
<i>Ficus species</i>	Ficus
<i>Syzygium jambos</i>	Rose Apple

## EXHIBIT A-1

### Pools and Pool Enclosures

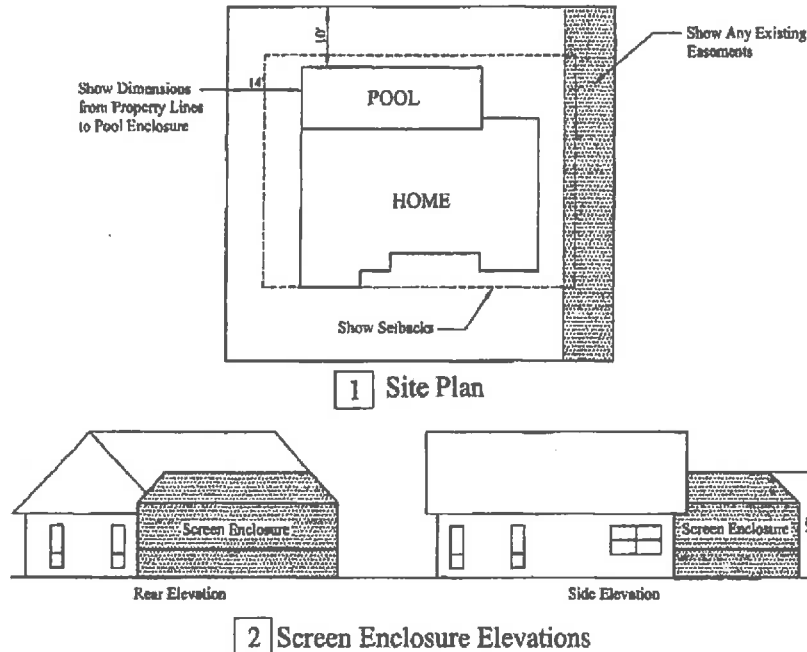
Proposal must include:

1. Site Plan drawn to scale. Show location of pool and dimensions from property lines to pool cage. Show easements that exist. Show location of pool equipment such as pumps or heaters.

**Note:** Waterfront homesites are required to maintain a 20' rear setback from the property line to screen enclosure (Lake Maintenance Easement Area) unless otherwise approved in writing by the review committee. Pools and enclosures are not permitted to be constructed within drainage easements.

2. Screen Enclosure Elevations – show in relation to home. Color: Bronze only.
3. Planting is required around the pool enclosure. Landscape Plan showing how the pool will be buffered from off-site view. (Next Page)

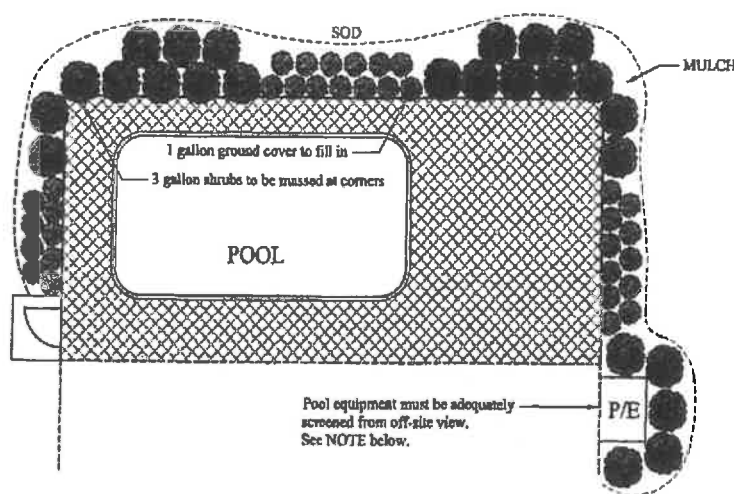
For Example:



## EXHIBIT A-2

### Landscaping Pool / Patio Enclosure

Diagram below is an acceptable landscape plan to buffer a pool enclosure. Please adhere to minimum quantity/size and type of acceptable landscape material shown below.



**Minimum Quantity**  
For every 10 linear feet of Pool  
Cage there must be installed:

Two (2) 3-gallon  
shrubs; and

Three (3) 1-gallon  
ground cover

**Type, Shrubs**  
Pittosporum  
Self-heading Philodendron  
Wax Jasmine  
Dwarf Schefflera  
Nora Grant Ixora  
Fakahatchee Grass  
Sweet Viburnum  
Dwarf Burford Holly  
Thryallis

**Type Ground Cover**  
Lantana  
Bougainvillea  
Mexican Flame Vine  
Dwarf Indian Hawthorn  
Juniper  
Asparagus Fern  
Liriope  
Confederate Jasmine  
Honeysuckle

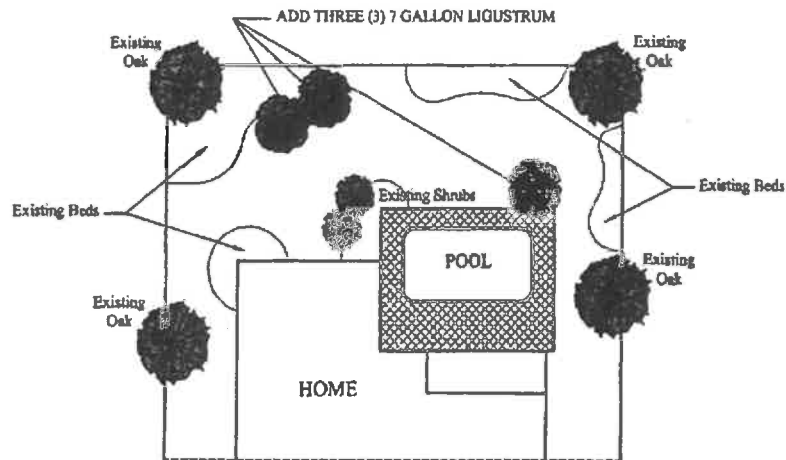
**NOTE:** Pool equipment must be screened from off-site view with sufficiently dense plant material, 48" minimum plant height when installed. Materials for this purpose would be in addition to the quantities listed above.

## EXHIBIT B

### Landscape Modifications

The proposal must consist of a landscape plan, to scale. Show existing material as well as the changes or additions being proposed, also the types and sizes. Refer to the landscape palette section of the manual for acceptable plant material.

For Example:



Landscape Plan

**NOTE:** Existing landscaping must not be removed from the property without being replaced immediately with material equivalent in size, height and quantity. Consult the landscape palette for acceptable materials.

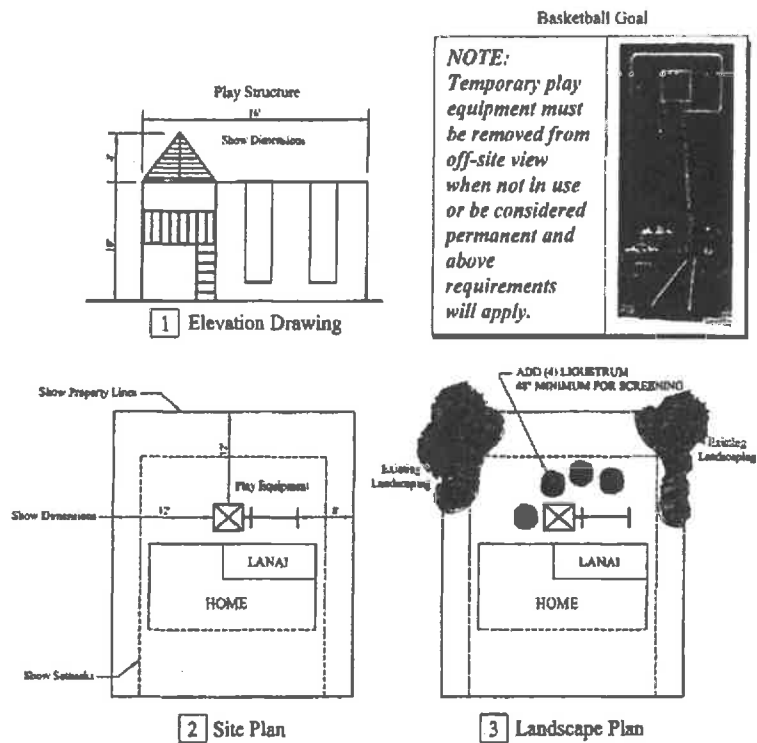
## EXHIBIT C

### Play Equipment

A request for approval must consist of the following:

1. An **elevation drawing (or preferably photo)** of the equipment indicating what material, color and dimensions, i.e., height and width of all features.
2. A **site plan, drawn to scale**, showing exact location of proposed equipment.
3. A **landscape plan** showing plans to screen equipment from neighboring properties and streets.

For Example:



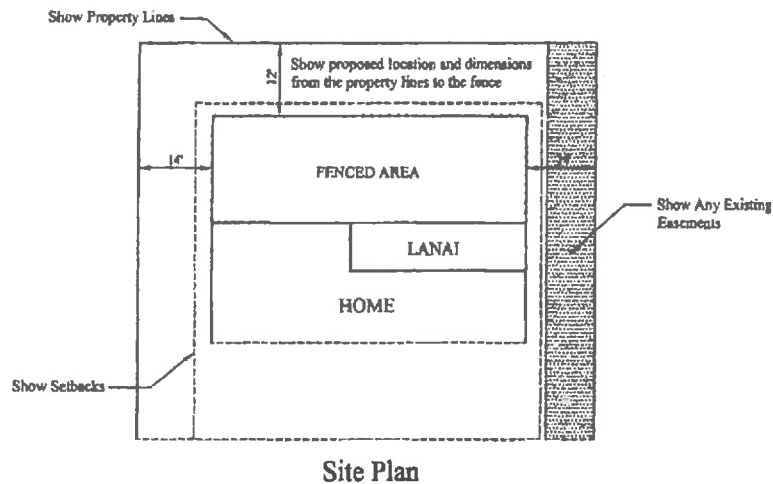
## EXHIBIT D-1

### Fences

All fences must have written approval from the review committee before installation.

Setback guidelines:

A fence 4' – 6' in height (depending upon lot type, see Fence guidelines above) – set in 1' from the property line minimum.



Landscaping outside the fence is required and must be completed within 90 days of installation.

## EXHIBIT D-2

### Landscape - Screening a Fence

Plant shrubs on the outside of the fence are required to soften off-site views. Your plan should follow illustrated guidelines below, submit for review and approval.

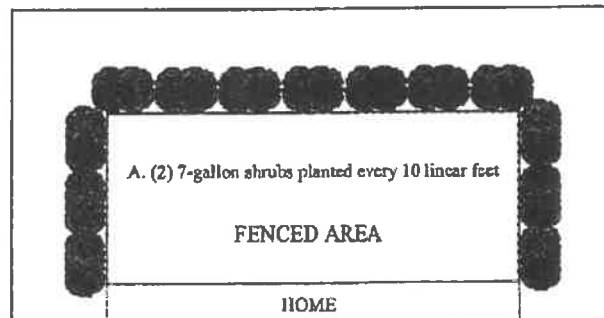
#### Minimum Quantity

A. Two (2) 7-gallon shrubs planted every 10 linear feet

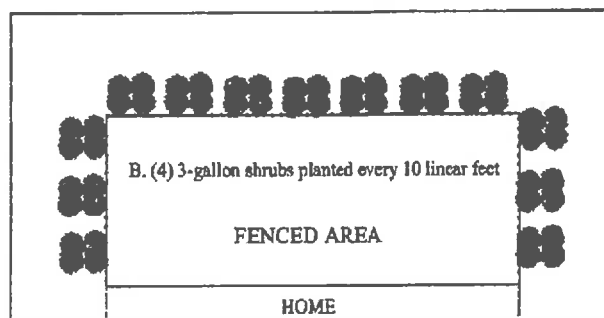
**OR**

B. Four (4) 3-gallon shrubs planted every 10 linear feet

Type of Shrubs: Ligustrum, Wax Myrtle, Myrsine, Dwarf Burford, Cattley Guava



**OR**



Landscape Plan

## EXHIBIT E

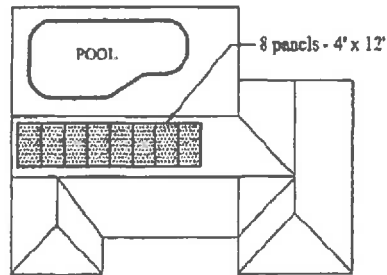
### Solar Panels

The proposal must consist of the following:

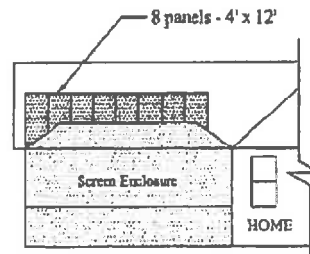
1. **A roof plan**, to scale. Show the location, sizes and quantity of the solar panels.
2. **Elevation drawings**, to scale. Show how the panels will appear when installed.
3. **A landscape plan**. Show where landscape will be installed to screen the panels from offsite view. Be sure to choose plant material appropriate in height to adequately screen the panels from off-site view (see landscape palette, canopy trees, and palms). The roof plan and landscape plan may be combined.

For Example:

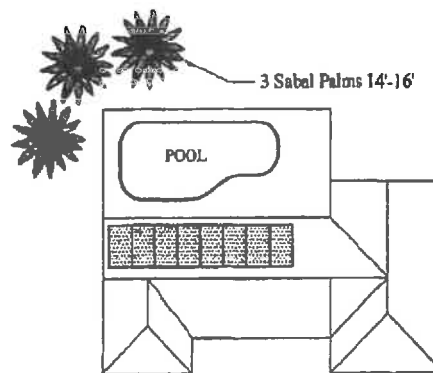
For Example:



1 Roof Plan



2 Elevation Drawing



3 Landscape Plan

## EXHIBIT F

### Temporary Signs

#### Standards for Real Estate "For Sale" and "Open House" Signs

- Signs not conforming to color and size standards below, or signs placed in medians or between the sidewalks and the road are subject to removal and destruction.
- Do not use attention-getting devices such as ribbons, banners, or balloons.

The only approved colors are:

#### Posts and sign panels (all sides):

FlexBon old number #5710W (Snickerdoodle) semi-gloss enamel paint.  
Or FlexBon new number OW32-2P Victorian White (close match)

#### Lettering and the graphic line

Black, Computer Cut P.S. Vinyl

#### "For Sale" signs

One (1) wooden "for sale" sign, size 10 inches tall x 32 inches wide (10" x 32"), may be placed on a property for sale. Use 2x2 posts with points; total height of sign above ground = 24 inches. Sign colors, see above.

- Copy may include: (a) realty company name, (b) agent's name, (c) two phone numbers.
- "For Sale" signs may have one small attachment at top or bottom, such as "pool," or a "name rider," or an information box.
- 

#### Temporary "Open House" signs

One (1) metal, step-type "open house" sign may be placed on the property during open hours. Realtor must remove sign by sunset. Limit size of the sign portion to 18 inches tall by 24 inches wide (18" x 24"). Instead of a metal step sign, realtor may use a wooden sign 9 inches tall by 14 inches wide (9" x 14"). Both types use standard Gateway colors, see above.

Any signage — other than the temporary "for sale" and "open house" signs described on page 21 — must be approved by the Architectural Control Committee.

**REQUEST FOR DESIGN REVIEW**

Pine Trace

Port St. Lucie, Florida

Date: \_\_\_\_\_

Applicant's name: \_\_\_\_\_

Owner's name (if different): \_\_\_\_\_

Property Address: \_\_\_\_\_

Mailing address (if different): \_\_\_\_\_

Telephone and email: \_\_\_\_\_

Builder or Contractor's name: \_\_\_\_\_

Company name: \_\_\_\_\_

Company address: \_\_\_\_\_

Telephone and fax: \_\_\_\_\_

In accordance with the Associations Covenants & Restrictions, I hereby request the associations consent to make the following changes, alterations, renovations and/or removals to my home (circle one as appropriate). Provide brief description of your request: Please use a separate page if needed.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please include a survey and photos of your improvement along with details such as dimensions, materials, etc. as outlined in the ARC guidelines. Photos/drawings of the intended improvement are encouraged.

Is this an amendment to a previous request?      Yes      No

If Yes, approximate date of previous request \_\_\_\_\_

I understand that under the Covenants, the Committee will act on this request and provide me with a written response of their decision within 30 days of my request. I further understand and agree to the following provisions:

1. No work or commitment of work will be made by me until I have received written approval from the Association.
2. All work will be done at my expense and all future upkeep will remain at my expense.
3. All work will be done expeditiously once commenced and will be done in a good workmanlike manner by myself or a contractor.

4. All work will be performed at a time and in a manner to minimize interference and inconvenience to other homeowners.
5. I assume all liability and will be responsible for all damage and/or injury which may result from performance of this work.
6. I will be responsible for the conduct of all persons, agents, contractors and employees who are connected with this work.
7. I will be responsible for complying with, and will comply with, all applicable federal, state and local laws, codes, regulations and understand and requirements in connection with this work, and I will obtain any necessary government permits and approvals for this work. I understand and agree that the Homeowner's Association, its Board of Directors, its agents & the Committee have no responsibility with respect to such compliance and that the Board of Directors or its designated committee's approval of this request shall not be understood as the making of any representation or warranty that the plans, specifications, or work comply with any law, code, regulation or governmental requirement.
8. I understand that if the Committee should deny my request, I may appeal their decision to the Board of Directors, who will consider my appeal during the next regularly scheduled Board Meeting.
9. I understand that a decision by the Committee is not final and that the Board of Directors may reverse or modify a decision by the Committee upon the written application of any Owner made to the Board of Directors within ten (10) days after the Committee makes its decision.

Owners Signature:

\_\_\_\_\_

Date: \_\_\_\_\_

Attach all pertinent information including drawings, photographs and/or catalog cuts. You may expect a written response to the request for review within 30 days or less of our receipt.

Mail to:

Attn: P Trace Property Owner's Association, Inc.

c/o: Sovereign & Jacobs Property Management Company

461 A1A Beach Boulevard

St. Augustine, FL 32080