

RECORDING REQUESTED BY AND)
 WHEN RECORDED RETURN TO:)
)
 Donald L. Boortz, Esq.)
 Tucker & Boortz)
 250 Newport Center Drive)
 Suite 305)
 Newport Beach, CA 92660)
783757-6)

FILE/PAGE NO. _____
 BOOK 1281
 RECORDED REQUEST OF
 FIRST AMERICAN TITLE INS. CO
 MAY 18 3 00 PM '81
 OFFICIAL RECORDS
 SAN DIEGO COUNTY, CA
 VERA L. LYLE
 RECORDER \$6.00

(Space Above for Recorder's Use)

M.F.
 \$1.00

FIRST AMENDMENT TO

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF

VILLA LADERA

This First Amendment to Declaration of Covenants, Conditions and Restrictions of Villa Ladera (the "Amendment") is entered into on this 18th day of May, 1981, by BH UNIT #3, a joint venture (the "Declarant").

R E C I T A L S

A. Declarant has previously caused that certain Declaration of Covenants, Conditions and Restrictions of Villa Ladera to be recorded on May 6, 1981 as File No. 81-139453 in the Office of the County Recorder of the County of San Diego, State of California (the "CC&R's"), which CC&R's act as a lien against the real property described therein (the "Property").

B. Declarant is the sole owner of the Property.

C. Declarant desires to make certain amendments to the CC&R's as more particularly set forth herein.

NOW, THEREFORE, in consideration of the above Recitals, the CC&R's are hereby amended as follows:

1. Section 2.8 of the CC&R's is hereby amended in its entirety to read as follows:

" 2.8 COMMUNITY ASSOCIATION: The term "Community Association" shall mean the Community Association of Bernardo Heights as defined and established in the Community Declaration."

2. Section 2.11 of the CC&R's is hereby amended in its entirety to read as follows:

" 2.11 COMMUNITY COMMON AREA: The term "Community Common Area" shall mean all real property in which the Community Association owns an interest for the common use and benefit of the Community Members, their lessees, guests, invitees, or patrons."

3. Section 2.12 of the CC&R's is hereby amended in its entirety to read as follows:

EXHIBIT "F"

602

PARCEL 1:

A strip of land 2.50 feet in width lying within Bernardo Heights Parkway and Calle Nobleza as dedicated on Bernardo Heights Unit No. 2 according to Map No. thereof 9562, filed in the Office of the County Recorder of San Diego County February 20, 1980, and Calle Nobleza as dedicated on Bernardo Heights Unit No. 3 according to Map No. thereof 9573, filed in the Office of the County Recorder of San Diego County, February 25, 1980, all lying within the City of San Diego, County of San Diego, State of California, lying Southeasterly and Southerly of the following described lines:

Beginning at the most Easterly corner of Lot 1 of said Bernardo Heights Unit No. 3; thence along the Southeasterly boundary of said Bernardo Heights Unit No. 3, South $35^{\circ}10'17''$ West 318.67 feet to the beginning of a tangent 1172.00 foot radius curve concave Southeasterly, thence Southwesterly along the arc of said curve through a central angle of $8^{\circ}08'57''$ a distance of 166.69 feet; thence tangent to said curve South $27^{\circ}01'20''$ West 147.10 feet to the beginning of a tangent 20.00 foot radius curve, concave Northwesterly; thence Southwesterly along the arc of said curve through a central angle of $80^{\circ}20'25''$ a distance of 28.04 feet to the Southerly line of Lot 15 of said Bernardo Heights Unit No. 3; thence along the Southerly line of said Lot 15 North $72^{\circ}38'15''$ West 80.00 feet to the termination thereof.

PARCEL 2:

A strip of land 2.50 feet in width lying within Bernardo Heights Parkway and Calle Nobleza as dedicated on Bernardo Heights Unit No. 2 according to Map No. thereof 9562, filed in the Office of the County Recorder of San Diego, February 20, 1980, and Calle Nobleza as dedicated on Bernardo Heights Unit No. 3 according to Map No. thereof 9573, filed in the Office of the County Recorder of San Diego County, February 25, 1980, all lying within the City of San Diego, County of San Diego, State of California, lying Northwesterly, Westerly and Northerly of the following described line:

Beginning at the Southeasterly corner of Lot 76 of said Bernardo Heights Unit No. 3, said point also being a point on the arc of 1172.00 foot radius curve concave Northeasterly, radial to said curve bears South $70^{\circ}10'00''$ West; thence along the boundary of said Bernardo Heights Unit No. 3 and Northerly along the arc of said curve through a central angle of $27^{\circ}48'10''$ a distance of 568.71 feet; thence tangent to said curve North $7^{\circ}58'10''$ East 141.44 feet to the beginning of a tangent 20.00 foot radius curve concave Southwesterly; thence along the arc of said curve through a central angle of $80^{\circ}36'25''$ a distance of 82.14 feet to the Northerly line of Lot 16 of said Bernardo Heights Unit No. 3; thence along the Northerly boundary of said Lot 16 North $72^{\circ}38'15''$ West 80.00 feet to the termination thereof.

Neighborhood Association (including, without limitation, the Architectural Committee of the Neighborhood Association) shall also be subject to all superior rights and powers which have been conferred upon the Community Association pursuant to the Community Declaration, the Community Bylaws and the Community Articles.

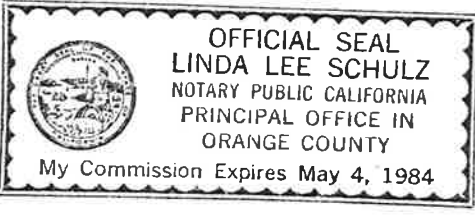
Each Owner and such Owner's Lot(s) shall be subject to all of the covenants, conditions, restrictions and provisions contained in the Community Declaration.

In the event of any conflict between any of the covenants, conditions, restrictions or provisions of this Declaration, the Bylaws or the Articles with any of the covenants, conditions, restrictions or provisions of the Community Declaration, the Community Bylaws or the Community Articles, then, in such event, the covenants, conditions, restrictions and provisions of the Community Declaration, the Community Bylaws and the Community Articles shall govern and prevail."

... shall remain of full force

Form 3005—(Corporation as a Partner of a Partnership)
First American Title Company

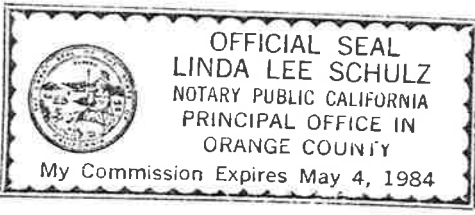
STATE OF CALIFORNIA }
COUNTY OF ORANGE } ss. 2089
On this 18th day of May, 1981, before me Linda Schulz
a Notary Public in and for said State personally appeared CHRISTOPHER C. GIBBS
known to me to be the President, and MARQUIS L. CUMMINGS
known to me to be the Secretary of CHRISTOPHER HOMES INC.
the corporation that executed the within instrument and known to me to be the persons who executed the within
instrument on behalf of said corporation, said corporation being
known to me to be one of the partners of
CHRISTOPHER HOMES DEVELOPMENT
the partnership that executed the within instrument, and acknowl-
edged to me that such corporation executed the same as such
partner and that such partnership executed the same.
WITNESS my hand and official seal.
Signature *Linda Lee Schulz*
LINDA LEE SCHULZ
Name (Typed or Printed)



(This area for official notarial seal)

Form 3005—(Corporation as a Partner of a Partnership)
First American Title Company

STATE OF CALIFORNIA }
COUNTY OF ORANGE } ss.
On this 18th day of May, 1981, before me LINDA SCHULZ
a Notary Public in and for said State personally appeared CHRISTOPHER C. GIBBS
known to me to be the VICE President, and MARQUIS L. CUMMINGS
known to me to be the ASSISTANT Secretary of GIBBS HOUSING CORPORATION
the corporation that executed the within instrument and known to me to be the persons who executed the within
instrument on behalf of said corporation, said corporation being
known to me to be one of the partners of
CHRISTOPHER HOMES DEVELOPMENT
the partnership that executed the within instrument, and acknowl-
edged to me that such corporation executed the same as such
partner and that such partnership executed the same.
WITNESS my hand and official seal.
Signature *Linda Lee Schulz*
LINDA LEE SCHULZ
Name (Typed or Printed)



(This area for official notarial seal)

By: Provident Capital Corporation,
a California corporation

By Patricia R. Hirai

Its Vice President

By Jeffrey S. Nelson

Its Vice President

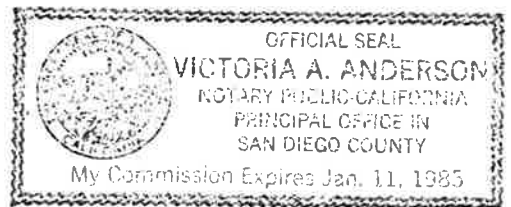
(Attach Jurats)

STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO) ss.

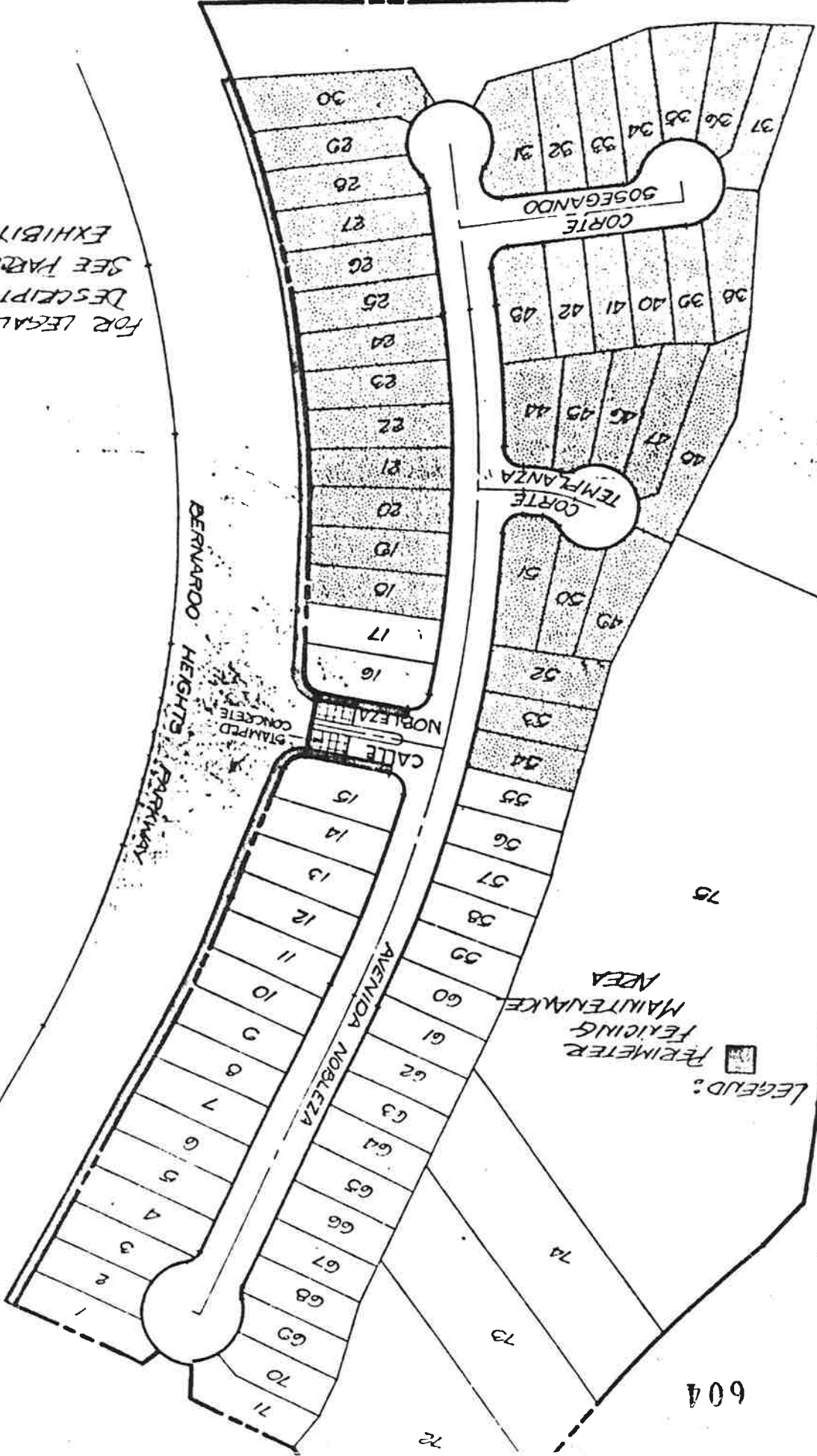
On May 18, 1981, before me, the undersigned, a Notary Public in and for said County and State, personally appeared Jeffrey S. Nelson, known to me to be the Vice President, and Patricia R. Hirai, known to me to be the ----- Secretary of PROVIDENT CAPITAL CORPORATION, the corporation that executed the within instrument and known to me to be the persons who executed the within instrument on behalf of said corporation and acknowledged to me that such corporation executed the within instrument pursuant to its By-Laws or a Resolution of its Board of Directors; said corporation being known to me to be a joint venturer of B H Unit #3, a joint venture, the joint venture that executed the within instrument, and acknowledged to me that such corporation executed the same individually and as such joint venturer and that such joint venture executed the same.

WITNESS my hand and official seal.

Victoria A. Anderson
Notary Public in and for said County and State.



FOR LEGAL
DESCRIPTION,
SEE PARCELS,
EXHIBIT F



604

81-139453

FILE/PAGE NO. _____
BOOK 1981
RECORDED REQUEST OF
FIRST AMERICAN TITLE CO.

MAY 6 8:00 AM '81

OFFICIAL RECORDS
SAN DIEGO COUNTY, CALIF.
VERA L. LYLE
RECORDER

\$105⁰⁰



RECORDING REQUESTED BY
WHEN RECORDED RETURN TO:

Donald L. Boertz
Tucker & Boertz
250 Newport Center Drive
Suite 305
Newport Beach, CA 92660

783754-6
274-100

) Space Above For Recorder's Use

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

OF

VILLA LADERA

I N D E X
TO
DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR
VILLA LADERA

<u>ARTICLES</u>		<u>PAGES</u>
I.	PREAMBLE	1.1
II.	DEFINITIONS	2.1
	2.1 Additional Property	2.1
	2.2 Articles	2.1
	2.3 Beneficiary	2.1
	2.4 Board	2.1
	2.5 By-Laws	2.1
	2.6 Community	2.1
	2.7 Community Architectural Committee	2.1
	2.8 Community Association	2.2
	2.9 Community Board	2.2
	2.10 Community By-Laws	2.2
	2.11 Community Common Area	2.2
	2.12 Community Declaration	2.2
	2.13 Community Member	2.2
	2.14 Community Rules	2.2
	2.15 Declarant	2.2
	2.16 Declaration	2.3
	2.17 Front Yard Area	2.3
	2.18 Garage	2.3
	2.19 Improvements	2.3
	2.20 Lot	2.3
	2.21 Manager	2.4
	2.22 Member	2.4
	2.23 Neighborhood	2.4
	2.24 Neighborhood Architectural Committee	2.4
	2.25 Neighborhood Architectural Rules	2.4
	2.26 Neighborhood Association	2.4
	2.27 Neighborhood Common Area	2.4
	2.28 Owner	2.5
	2.29 Residence	2.5
	2.30 Residential Area	2.5
	2.31 Rules	2.5
	2.32 Subdivision Map	2.5
	2.33 Subject Property	2.6
	2.34 Yards	2.6
III.	PROPERTY SUBJECT TO RESTRICTIONS	3.1
	3.1 The Neighborhood	3.1
	3.2 Annexation	3.1
IV.	PROPERTY RIGHTS: RESIDENTIAL AREA	4.1
	4.1 Residential Area: Permitted Uses and Limitations	4.1
	4.2 Maintenance, Construction and Alteration of Improvements	4.6
	4.3 Owners' Easements	4.8

<u>ARTICLE</u>		<u>PAGES</u>
V.	PROPERTY RIGHTS: COMMON AREA	5.1
	5.1 Common Area Ownership	5.1
	5.2 Common Area: Permitted Uses, Construction and Alteration of Improvements	5.2
	5.3 Owners' Easement of Enjoyment in Common Area	5.4
	5.4 Delegation of Right of Use	5.7
	5.5 Condemnation of Common Area	5.7
	5.6 Restriction of Severability of Common Area	5.8
	5.7 Maintenance of Landscaping & Perimeter Fencing	6.6
VI.	THE ASSOCIATION	6.1
	6.1 The Organization and Membership	6.1
	6.2 Membership	6.1
	6.3 Voting	6.2
	6.4 Assessments and Dues	6.4
	6.5 Initial Neighborhood Board of Directors	6.4
	6.6 Subsequent Board of Directors	6.4
	6.7 Duties of the Neighborhood Association	6.5
	6.8 Powers and Authority of the Neighborhood Association	6.11
	6.9 Project Rules	6.14
	6.10 Breach of Rules or Regulations	6.16
	6.11 Liability of Members of Board	6.17
	6.12 Enforcement of Bonded Obligations	6.17
	6.13 Dissolution of Incorporated Association	6.19
VII.	FUNDS AND ASSESSMENTS	7.1
	7.1 Operating Fund	7.1
	7.2 Maintenance and Operation Assessments	7.1
	7.3 Special Assessment	7.3
	7.4 Reimbursement Assessment	7.3
	7.5 Capital Improvement Assessment	7.4
	7.6 Default in Payment of Assessments	7.4
	7.7 Association Funds	7.9
	7.8 Failure to Fix Maintenance Assessments	7.10
	7.9 Property Exempt from Assessments	7.10
	7.10 Community Association Assessments	7.10
VIII.	CAPITAL IMPROVEMENTS	8.1
	8.1 Petition; Association Approval	8.1
	8.2 Owner Approval	8.1
	8.3 Construction of Improvement	8.2
	8.4 Costs of Improvement	8.2

<u>ARTICLE</u>	<u>PAGES</u>
IX. NEIGHBORHOOD ARCHITECTURAL COMMITTEE	9.1
9.1 Organization	9.1
9.2 Designation of Members and Terms of Office	9.1
9.3 Duties	9.3
9.4 Meetings	9.3
9.5 Neighborhood Architectural Rules	9.3
9.6 Application for Approval of Improvements	9.4
9.7 Basis for Approval of Improvements	9.4
9.8 Form of Approval	9.4
9.9 Proceeding with Work	9.5
9.10 Failure to Complete Work	9.5
9.11 Inspection of Work	9.6
9.12 Application for Preliminary Approval	9.8
9.13 Waiver	9.9
9.14 Estoppel Certificate	9.9
9.15 Liability	9.10
9.16 Non-Applicability to Declarant	9.10
9.17 Precedent of Community Architectural Committee	9.10
9.18 City Requirements	9.11
X. LIMITATION OF RESTRICTIONS ON DECLARANT	10.1
10.1 Limitations of Restrictions	10.1
10.2 Title Rights	10.2
XI. RIGHTS OF TRUST DEED BENEFICIARIES	11.1
11.1 General	11.1
11.2 Exemption from Rights of First Refusal	11.1
11.3 Non-Liability for Unpaid Assessments	11.1
11.4 Mortgagees' Approval	11.1
11.5 Payment of Taxes and Insurance	11.2
11.6 Insurance Proceeds and Condemnation Awards	11.3
11.7 Association Assessments	11.3
11.8 Notice of Default	11.3
11.9 Management Agreements	11.3
11.10 Termination of Planned Development	11.3
11.11 Books and Records	11.4
11.12 Notices to Beneficiary	11.4
11.13 Leases	11.4
11.14 Notice Regarding Substantial Damage or Destruction, Condemnation or Eminent Domain	11.4
11.15 Mortgage Protection	11.5
XII. MISCELLANEOUS PROVISIONS	12.1
12.1 Amendment and Duration	12.1
12.2 Enforcement and Non-waiver	12.2
12.3 Obligations of Owners	12.3
12.4 Community Association	12.3
12.5 Construction and Severability; Singular and Plural; Titles	12.3
12.6 FHA/VA Approval	12.4
12.7 Grades, Slopes and Drainage	12.4

DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR
VILLA LADERA

THIS DECLARATION is made on MAY 5, 1981,
by B H Unit #3, hereinafter referred to as "Declarant".

ARTICLE I

PREAMBLE

1.1 THIS DECLARATION is made with reference to the facts set forth in this Article.

1.2 Declarant is the owner in fee simple of that certain real property situated in the City of San Diego, County of San Diego, State of California, more particularly described as follows:

Lots 18 to 51, inclusive and Lot 76 of BERNARDO HEIGHTS UNIT NO. 3 in the City of San Diego, County of San Diego, State of California, according to Map thereof no. 9573, filed in the Office of the County Recorder of said San Diego County, February 25, 1980.

1.3 It is the desire and intention of Declarant to subdivide and develop all of the real property referred to in Paragraph 1.2 above, together with the Additional Property described on Exhibit "A" if any, in increments or phases as a planned unit development, to provide for the preservation of the values and amenities in the development of said land and to create and maintain thereon common community facilities. To this objective, Declarant desired and intends to impose on said real property and the Additional Property as annexed hereunder mutual beneficial restrictions, easements, assessments, and liens under a general plan or scheme of improvement for the benefit of all of the subject Lots and Neighborhood Common Area and the future owners of said Lots and Neighborhood Common Area. The real

property shall constitute a Neighborhood in the Community of Bernardo Heights as defined in the Community Declaration.

1.4 The portion of the Neighborhood which is initially subject to this Declaration and the real property described on Exhibit "A" (the "Additional Property") are intended to be developed in one (1) or more phases or increments. Phase I shall consist of Lots 18 through 51 and the Neighborhood Common Area as shown on the Subdivision Map of the Neighborhood. It is intended that, pursuant to Section 3.2 hereof, Declarant may (but shall have no obligation to) annex all or any portion of the Additional Property, if any, to the Neighborhood and that said annexed phase or increment of the Additional Property (as shall thereupon become a part of the Neighborhood and shall be subject to this Declaration to the full and complete extent as if said annexed property were originally subject to this Declaration.

ARTICLE IIDEFINITIONS

Unless the context otherwise specifies or requires, the terms defined in this Article II shall, for all purposes of this Declaration, have the meanings herein specified.

2.1 ADDITIONAL PROPERTY: The term "Additional Property" shall mean the real property described on Exhibit "A" , if any, together with the buildings and improvements located thereon, all or any portion of which may be annexed to the Neighborhood in subsequent phases or increments in accordance with the provisions of Section 3.2.

2.2 ARTICLES: The term "Articles" shall mean the Articles of Incorporation of Villa Ladera Homeowners ASSOCIATION, which are or shall be filed in the Office of the Secretary of State of the State of California.

2.3 BENEFICIARY: The term "Beneficiary" shall mean a mortgagee under a mortgage as well as a beneficiary under a deed of trust.

2.4 BOARD: The term "Board" shall mean the Board of Directors of the Neighborhood Association.

2.5 BY-LAWS: The term "By-Laws" shall mean the By-Laws of the Neighborhood Association, which are or shall be adopted by the Board.

2.6 COMMUNITY: The term "Community" shall mean the Community of Bernardo Heights, of which the Neighborhood is a constituent part, being all of the real property subject to the Community Declaration.

2.7 COMMUNITY ARCHITECTURAL COMMITTEE: The term "Community Architectural Committee" shall mean the Community Architectural Committee established pursuant to Article VIII of the Community

Declaration.

2.8 COMMUNITY ASSOCIATION: The term "Community Association" shall mean the Community of Bernardo Heights Owners' Association as defined and established in the Community Declaration.

2.9 COMMUNITY BOARD: The term "Community Board" shall mean the Board of Directors of the Community Association.

2.10 COMMUNITY BY-LAWS: The term "Community By-Laws" shall mean the By-Laws for the Community Association duly adopted by the Community Board.

2.11 COMMUNITY COMMON AREA: The term "Community Common Area" shall mean all real property in which the Community Association owns an interest for the common use and benefit of the Community Members, their lessees, guests, invitees or patrons as more particularly specified in Paragraph 2.2 of the Community Declaration. The Community Common Area may include interests held by lease or easement as well as estates in fee.

2.12 COMMUNITY DECLARATION: The term "Community Declaration" or "Community Restrictions" shall mean the Declaration of Covenants, Conditions and Restrictions for Bernardo Heights recorded on September 30, 1980, in the official records of San Diego County, as File No. 80-319018

2.13 COMMUNITY MEMBER: The term "Community Member" shall mean any entity holding membership in the Community Association.

2.14 COMMUNITY RULES: The term "Community Rules" shall mean the Rules adopted by the Community Board pursuant to Section 3.3 of the Community Declaration.

2.15 DECLARANT: The term "Declarant" shall mean _____
B H Unit #3, and its successors and assigns, if such successors and assigns acquire any or all of Declarant's interest

in the Subject Property or the Additional Property for the purpose of development or sale, and Declarant has expressly transferred or assigned to such successors or assigns its rights and duties as Declarant to a portion or all of the Neighborhood. For any successor or assign of "Declarant" to be deemed a Declarant under the terms hereof, Declarant shall record in the County in which subject property is located a certificate so designating said successor or assignee as Declarant.

2.16 DECLARATION: The term "Declaration" shall mean the within DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS of Villa Ladera, and as said Declaration may from time to time be amended.

2.17 FRONT YARD AREA: The term "Front Yard Area" shall mean that portion of a Lot described on Exhibits "B-1", "B-2" and B-3" attached hereto and by this reference incorporated herein.

2.18 GARAGE: The term "Garage" shall mean the enclosed garage parking spaces located within any Lot, which may be established and designed for the parking of vehicles.

2.19 IMPROVEMENTS: The term "Improvements" shall include buildings, outbuildings, roads, driveways, parking areas, fences, screening walls, retaining walls, stairs, decks, hedges, windbreaks, plantings, planted trees and shrubs, poles, signs and all other structures or landscaping improvements of every type and kind.

2.20 LOT: The term "Lot" shall mean the subdivided residential lots, whether improved or unimproved, designated as Lots 1 to 71, inclusive, in the Subdivision Map, and all easements appurtenant thereto. The term "Lot" shall also include any Lots in the additional increments or phases described as Additional Property after, and only after, annexation thereof

pursuant to the provisions of Section 33.2.

2.21 MANAGER: The term "Manager" shall mean the person or corporation appointed as such pursuant to Subsection 6.8.3.

2.22 MEMBER: The term "Member" shall mean a person who is a member of the Association pursuant to Section 6.2.

2.23 NEIGHBORHOOD: The term "neighborhood" shall mean Lots 18 to 51 inclusive, and Lot 76 as designated on the Subdivision Map, together with all improvements made thereon. The term "Neighborhood" shall also include the additional increments or phases described as Additional Property in Exhibit "A" after, and only after, annexation thereof pursuant to the provisions of Section 3.3.

2.24 NEIGHBORHOOD ARCHITECTURAL COMMITTEE: The term "Neighborhood Architectural Committee" shall mean the Committee created pursuant to Article IX.

2.25 NEIGHBORHOOD ARCHITECTURAL RULES: The term "Neighborhood Architectural Rules" shall mean rules adopted by the Neighborhood Architectural Committee pursuant to Section 9.5.

2.26 NEIGHBORHOOD ASSOCIATION: The term "Neighborhood Association" shall mean Villa Ladera Homeowners Association, the non-profit mutual benefit corporation described in Article VI, including its successors and assigns.

2.27 NEIGHBORHOOD COMMON AREA: The term "Neighborhood Common Area" shall mean Lot 76 as designated in the Subdivision Map. Said Neighborhood Common Area shall be owned by the Association for the use and enjoyment of the Owners and shall be conveyed to the Association for the benefit of the Association prior to or at the time of the conveyance of the first Lot shown on the subdivision Map to a member of the public. Neighborhood Common Area shall include all facilities and improvements located

within the property designated as Neighborhood Common Area, including driveways, walkways, paths, parking areas, sewers, open spaces, planted and landscaped areas and all other improvements which may be located in the parcel designated as Neighborhood Common Area. The term "Neighborhood Common Area" shall also mean that portion of the Neighborhood described or designated as Neighborhood Common Area in the Declaration of Annexation for any of the Additional Property annexed as subsequent phases or increments to the Neighborhood pursuant to Section 3.2 of this Declaration.

2.28 OWNER: The term "Owner" shall mean the record owner, whether one or more persons or entities, including Declarant, of the fee simple title to any Lot situated in Neighborhood, but excluding those having such interest merely as security for the performance of an obligation. The Vendee of a Lot under a Contract of Sale (Real Property Sales Contract) shall be an "Owner".

2.29 RESIDENCE: The term "Residence" shall mean a building or buildings used for residential purposes, including Garages.

2.30 RESIDENTIAL AREA: The term "Residential Area" shall mean Lots 18 through 51 inclusive, as shown on the Subdivision Map, and such other Lots, excluding Common Area, as may be annexed to the Project pursuant to Section 3.2.

2.31 RULES: The term "Rules" shall mean the rules adopted by the Board of the Association, as they may from time to time be in effect pursuant to the provisions of Section 6.9.

2.32 SUBDIVISION MAP: The term "Subdivision Map" shall mean that certain Subdivision Map recorded in the Office of the County Recorder of San Diego County, California, on the 25th day of February, 1980 as Map No. 9573. The term "Subdivision Map" as to any Additional

Property annexed to the Neighborhood pursuant to Section 3.2 shall mean the particular Subdivision Map described in the Declaration of Annexation for the Additional Property.

2.33 SUBJECT PROPERTY: The term "Subject Property" shall include all of the real property referred to on the Subdivision Map, together with any Additional Property and annexed to the Neighborhood pursuant to the provisions of Section 3.2.

2.34 YARDS: The term "Yard" shall mean any area within a Lot, exclusive of the Residence.

ARTICLE IIIPROPERTY SUBJECT TO DECLARATION

3.1 THE NEIGHBORHOOD: That certain real property located in the City of San Diego, County of San Diego, State of California, described in Section 1.2 hereof, shall be subject to this Declaration and shall constitute the Neighborhood. Declarant hereby declares that all of said real property is held and shall be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied and improved subject to this Declaration, all of which are declared and agreed to be in furtherance of a plan for the subdivision, improvement and sale of said real property and are established and agreed upon for the purpose of enhancing and perfecting the value, desirability and attractiveness of said real property and every part thereof. This Declaration shall run with said real property and shall be binding upon and inure to the benefit of Declarant, the Association, each Owner of a Lot and each successor in interest of such Owner. Each and all of the covenants, conditions, restrictions, limitations, easements, uses and obligations contained herein shall be deemed to be and shall be construed as equitable servitudes enforceable by any of the Owners of any Lot against other Owners, tenants or occupants of the Subject Property, or any portion thereof. The Additional Property may be annexed to the Neighborhood pursuant to Section 3.2.

3.2 ANNEXATION: Additional property may be annexed to the Neighborhood only as specified in the following subsections:

3.2.1 Declarant's Annexation Rights: Declarant may, but shall not be required to, annex to the Neighborhood in such phases or increments as Declarant deems reasonable any or all of the Additional Property at any time, and from time to time,

without the vote or approval of any other Owners or the Association; provided, however, that if such annexation is not effected prior to the third anniversary of the original issuance of the most recently issued Public Report of the State of California Department of Real Estate for a phase of the Neighborhood, such annexation shall require the vote or written assent of two-thirds (2/3) of the total votes residing in all Members of the Association other than Declarant. The annexation of any such property by Declarant shall be effected by the fulfillment of the following procedures:

3.2.1.1 Declarant shall have recorded a final subdivision map or maps for the real property to be annexed; and

3.2.1.2 Declarant shall have recorded a Declaration of Annexation describing the property to be annexed, providing for such additional covenants, conditions and restrictions on such annexed property as may be necessary to include such property in the Neighborhood and specifying that all of the covenants, conditions and restrictions of this Declaration shall apply to such annexed property in the same manner as if it were originally covered by this Declaration as part of the Neighborhood. No Declaration of Annexation shall in any event revoke, modify or add to the limitations, covenants, conditions and restrictions established by this Declaration, nor shall it discriminate between some Owners of such property and other Owners of any property within the Neighborhood, except as otherwise provided herein. No such amendment, addition, change or deletion shall alter or change the general common plan or scheme created by this Declaration, nor affect the provisions hereof or thereof as covenants running with the land or equitable servitudes, it being the express desire and intention of

Declarant to establish a cohesive plan of such covenants, conditions and servitudes to be uniformly applicable to all portions of the Neighborhood, including those portions added by annexation.

3.2.2 Ownership of Annexed Property: Any portion of the Neighborhood added thereto by annexation pursuant to Subsection 3.2.1 of this Declaration shall be divided into Residential Area and Common Area. All that property designated as Residential Area shall be subject to all the covenants, conditions and restrictions on the use and ownership thereof contained in this Declaration and in any supplemental covenants, conditions and restrictions contained in the Declaration of Annexation applicable thereto. All that portion of the annexed property designated as Neighborhood Common Area shall be conveyed to, accepted by and owned by the Neighborhood Association, such conveyance, acceptance and ownership to occur prior to or concurrently with the transfer of title to the first Lots contained in the annexed property to a public purchaser. Said Neighborhood Common Area shall be conveyed to the Neighborhood Association on the same terms and conditions and subject only to those liens, restrictions and encumbrances as are provided in Section 5.1 of this Declaration; provided, however, that said Neighborhood Common Area shall also be subject to any additional or supplemental covenants, conditions and restrictions provided in the Declaration of Annexation pertaining thereto.

3.2.3 Rights and Obligations of Owners: After the required annexation procedures are fulfilled, all Owners in the Neighborhood shall be entitled to use of the Neighborhood Common Area in such annexed property, subject to the provisions of the Declaration. Owners of the annexed property shall be subject to

this Declaration and be entitled to membership in the Neighborhood Association. After each annexation, the assessments shall be reassessed with the annexed property being assessed for a proportionate share of the total expenses of the Neighborhood on the same basis as the other property in the Neighborhood.

3.2.4 Other Annexation of Property: Additional property adjacent to the Neighborhood which does not qualify for annexation pursuant to the terms of Subsection 3.2.1 above may be annexed to the Neighborhood upon the written vote or consent of not less than two-thirds (2/3) of the total votes of all Members of the Neighborhood Association other than Declarant, upon the written consent of the Owner of such property and upon the fulfillment of procedured by the Owner of such property substantially similar to those set forth in Subsection 3.2.1 above.

ARTICLE IV

PROPERTY RIGHTS: RESIDENTIAL AREA4.1 RESIDENTIAL AREA: PERMITTED USES AND LIMITATIONS:

Lots within the Residential Area shall be for the exclusive use and benefit of the Owners thereof; subject, however, to all of the following limitations and restrictions.

4.1.1 Residential Use: Each Lot within the Residential Area shall be improved and used exclusively for residential purposes. At no time shall any Residence be used as permanent living quarters by any more than two (2) persons per each bedroom in the Residence. No gainful occupation, profession, trade or other nonresidential use shall be conducted on any Lot or in any building. Nothing herein shall be deemed to prevent the leasing of any Lot from time to time by the Owner thereof subject to all of the provisions of this Declaration.

4.1.2 Rental of Lots: An Owner shall be entitled to rent the Residence situated on his Lot, subject to the restrictions contained in Section 4.1.1, above; provided, however, that the term of said rental shall not be for a term less than sixty (60) days. Any rental or lease of a Residence shall be subject to this Declaration and the Rules established by the Board pursuant to Section 6.9 of this Declaration. Each tenant or lessee shall be provided with a copy of this Declaration by the Owner so renting or leasing. The Owner shall at all times be responsible for their tenant's or lessee's compliance with all of the provisions of this Declaration pursuant to the occupancy and use of the Residence.

4.1.3 Animals: No animals of any kind shall be maintained, bred or kept on any Lot or in the Neighborhood Common Area except that dogs, cats or other customary household pets in

a reasonable number and size may be kept; provided, however, that they are not kept, bred or maintained for any commercial purposes, and provided further, that the Rules may limit or restrict the keeping of such pets. The Board shall specifically have the right to prohibit the maintenance of any pet which, in the opinion of the Board, after notice and hearing, constitutes a nuisance to any other Owner.

4.1.4 Structures for Animals: No structure for the care, housing or confinement of any house or yard pet shall be maintained so as to be visible from neighboring property.

4.1.5 Antennas: No antenna for transmission or reception of television signals or any other form of electromagnetic radiation shall be erected, used or maintained outdoors, whether attached to a building or structure or otherwise.

4.1.6 Utility Service: No lines, wires or other devices for the communication or transmission of electric current or power, including telephone, television and radio signals, shall be constructed, placed or maintained anywhere in or upon any Lot unless the same shall be contained in conduits or cables constructed, placed and maintained underground or concealed in, under or on buildings or other approved structures. Nothing herein shall be deemed to forbid the erection and use of temporary power or telephone services incident to the construction of approved buildings.

4.1.7 Temporary Occupancy: No trailer, tent, shack, barn, garage, basement of any incomplete building or temporary building or structure of any kind shall be used at any time as a Residence, either temporary or permanent. Temporary buildings or structures used during the construction or improvement of a Residence shall be expressly approved by the Neighborhood Archi-

tectural Committee and shall be removed immediately after the completion of construction.

4.1.8 Trailers, Boats and Motor Vehicles: No boat, mobile home, recreational motor home, trailer of any kind, truck or camper larger than a half (1/2) ton pick-up truck, dilapidated motor vehicle or permanent tent or similar structure shall be kept, placed, maintained, constructed, reconstructed or repaired upon any Lot or the Neighborhood Common Area within the Neighborhood in such a manner as will be visible from neighboring property or adjacent streets. The provision of this subsection shall not apply to emergency vehicle repairs or temporary construction shelters or facilities maintained during, and used exclusively in connection with, the construction of any work or improvement approved by the Neighborhood Architectural Committee. No commercial vehicles of any nature shall be parked or stored on any Lot or on the streets of the Neighborhood, except for commercial vehicles providing services to the Owners of Lots or the Neighborhood Association, and in that event only for the duration necessary to provide such services.

4.1.9 Nuisances: No rubbish or debris of any kind shall be placed or permitted to accumulate on or adjacent to a Lot on the Neighborhood Common Area, and no odors shall be permitted to arise therefrom, so as to render any Lot or portion thereof unsanitary, unsightly, harmful or detrimental to any of the property in the vicinity thereof or to the occupants thereof. No nuisance shall be permitted to exist or operate upon any Lot so as to be harmful or detrimental to any property in the vicinity thereof or to its occupants. Without limiting any of the foregoing, no exterior speakers, horns, whistles, bells or other sound devices, except security devices used exclusively for

security purposes, shall be located, used or placed on a Lot.

4.1.10 Trash Containers and Collection: All garbage and trash shall be placed and kept in covered containers of a type and style which shall be approved by the Board. In no event shall such containers be maintained so as to be visible from neighboring property.

4.1.11 Clothes Drying Facilities: No outside clotheslines or other outside clothes drying or airing facilities shall be maintained on any Lot unless the Neighborhood Architectural Committee finds such facilities to be adequately concealed so as not to be seen from any adjacent property.

4.1.12 Fences: No fences, hedges or walls shall be erected or maintained on any Lot, other than as are initially installed by Declarant, unless first approved by the Neighborhood Architectural Committee.

4.1.13 Fires: There shall be no exterior fires whatsoever except barbecue fires contained within receptacles designed for such purpose.

4.1.14 Mailboxes: There shall be no exterior newspaper tubes or freestanding mailboxes except as may have been initially installed by Declarant or thereafter approved by the Neighborhood Architectural Committee.

4.1.15 Basketball Standards: No basketball standards or fixed sports apparatus shall be attached to any Residence or Garage or be erected on any Lot.

4.1.16 Garages: Each Owner shall be responsible for the maintenance and repair of the interior of the Garage included within his Lot, including any windows thereof, and each Owner shall keep his Garage in a neat and orderly condition with all storage areas completely enclosed. Garages shall be used only

for the parking of motor vehicles, storage and workshop purposes pursuant to such Rules as the Neighborhood Association may from time to time adopt. Doors to Garages shall be kept closed except during the removal or entry of vehicles therefrom or thereto.

4.1.17 Mineral Exploration: No property within the Residential Area shall be used in any manner to explore for or to remove any water, oil or other hydrocarbons, minerals of any kind, gravel, earth or any earth substance or other mineral of any kind.

4.1.18 Machinery and Equipment: No machinery or equipment of any kind shall be placed, operated or maintained upon or adjacent to any Lot within the Residential Area except such machinery or equipment as is usual and customary in connection with the use, maintenance or construction of a Residence or appurtenant structures in the Neighborhood.

4.1.19 Diseases and Insects: No Owner shall permit any thing or condition to exist upon his Lot which shall induce, breed, or harbor infectious plant diseases or noxious insects.

4.1.20 Restrictions on Further Subdivision: No Lot shall be further subdivided nor shall less than all of any such Lot be conveyed by an Owner thereof. No easement or other interest in a Lot shall be given without the prior written approval of the Neighborhood Architectural Committee.

4.1.21 Signs: No signs whatsoever (including but without limitation, commercial, political and similar signs) which are visible from neighboring property shall be erected or maintained on any Lot except:

- (1) Such signs as may be required by legal proceedings;

(2) Residential identification signs, subject to the approval of the Neighborhood Architectural Committee as to suitability;

(3) During the time of construction of any Residence or other improvement by Declarant, job identification signs; and

(4) Not more than one "for sale" or "for rent" sign per Lot having maximum size of 9 inches by 12 inches, pursuant to the Rules, the Neighborhood Architectural Committee or as otherwise permitted by California Civil Code § 713.

4.1.22 Community Declaration: The provisions of this Article IV shall not be construed to be in derogation of or to limit the use restrictions contained in Article VI of the Declaration.

4.2 MAINTENANCE, CONSTRUCTION AND ALTERATION OF IMPROVEMENTS:

4.2.1 Architectural Review: No construction, alteration or other work which in any way alters the appearance of any Lot or any improvements or landscaping may be undertaken without prior approval of the Neighborhood Architectural Committee pursuant to Article IX of this Declaration. Each Front Yard Area shall be landscaped within six (6) months from the date of conveyance of the Lot from Declarant to the initial Owner. Each Yard shall be landscaped within one (1) year from the date of conveyance of the Lot from Declarant to the initial Owner.

All such landscaping shall be undertaken in accordance with the procedures of Article IX hereof and Article VIII of the Community Declaration.

4.2.2 Repair and Maintenance of Lot and Residence:

The Owner of each Lot shall be responsible for maintenance and repair of all improvements and landscaping on the Lot and on or within the Residence. No landscaping or improvements on the Lot or on the exterior of the Residence shall be allowed to fall into disrepair. The exterior of the Residence and any exterior improvement on the Lot shall be adequately painted, finished or treated to maintain the visual attractiveness of the Lot in conformity to the general standards of the Community. Any such maintenance and repair shall be undertaken in conformance with the provisions of Article IX of this Declaration.

4.2.3 Reconstruction. If any improvements on a Lot are damaged or destroyed by fire or any other calamity, the insurance proceeds shall be paid to the Owner of the Residence or the mortgagees thereof, as their respective interests may appear, and such Owner or mortgagee shall use said proceeds to rebuild or repair the damage. In the event that the insurance proceeds are insufficient to complete such rebuilding or repair, the Owner shall pay in advance such additional sums as may be necessary to complete such rebuilding or repair. In the event said Owner does not commence such rebuilding or repair within a reasonable time, the Community Board, Neighborhood Board and/or any Lot Owner may bring appropriate legal action to compel the Owner to perform such rebuilding or repair. All plans and specifications for the reconstruction, repair or rebuilding of any damages or destroyed improvements shall be submitted to and approved by the Neighborhood Architectural Committee pursuant to Article IX prior

to the commencement of any such work.

4.3 OWNERS' EASEMENTS:

4.3.1 Easement to Neighborhood Common Area: Every Owner shall have a non-exclusive right and easement of use and enjoyment in and to the Neighborhood Common Area which shall be appurtenant to and shall pass with the title to every Lot, as more particularly stated in Section 5.3.1.

4.3.2 Reciprocal Appurtenant Easements: Some Lots may be served by utilities which are located on or under another Lot or Lots. There is hereby created appurtenant easements for the use and benefit of the respective Lots served, as dominant tenements, on, under and across the Lots burdened thereby, as servient tenements, for ingress and egress for pedestrians and vehicles, utility, telephone, sewer and drainage pipes, water and sprinkler systems, lines, conduits and culverts, and utility meters. The specific location of each such utility easement shall be determined by the physical location of the improvements thereon and thereunder installed, constructed and completed at the time of the first conveyance of each respective servient tenement. All of such telephone lines, pipes, conduits and culverts and sprinkler systems shall be cared for, repaired and maintained by the Neighborhood Association or the respective utility as provided in Article VI.

4.3.3 Side Yard Easements: There is hereby reserved to Declarant, together with the right to grant and transfer the same to the Owners of the Lots described as "Dominant Tenement" on Exhibit C, side yard easements as shown on said Exhibit, which easements shall be appurtenant to the Lots described on said Exhibit as "Dominant Tenement", and which easements shall burden the Lots described on Exhibit C as "Servient Tenement".

Such easements shall be as follows:

(a) In favor of the Dominant Tenement over the Servient Tenement for the purpose of accommodating the natural settlement of Improvements;

(b) Over the portion of the Servient Tenement indicated on Exhibit C lying between the boundary of the Dominant Tenement and any wall or fence constructed on the Servient Tenement, or the prolongation of the line of such wall or fence to the property line as shown on said Exhibit C, for the purposes of landscaping, drainage, the establishment of a general recreational or garden area and purposes related thereto, subject to the following provisions:

(i) The Owner of the Servient Tenement shall have the right at all reasonable times to enter upon the easement area, including the right to cross over the Dominant Tenement for such entry, in order to perform work related to the use and maintenance of the Servient Tenement;

(ii) The Servient Tenement shall have the right of drainage over, across and upon the easement area for water draining from any Improvement upon the Servient Tenement, the right to maintain eaves and appurtenances thereto and the portions of any Improvement upon the Servient Tenement as originally constructed or as constructed pursuant to Section 4.2 hereof entitled "Maintenance, Construction and Alteration of Improvements."

(iii) The Owner of the Dominant Tenement shall not attach any object to a fence, wall or Improvement belonging to the Servient Tenement or disturb the grading of the easement area or otherwise act with respect to the easement area in any manner which would damage the Servient Tenement;

(iv) In exercising the right of entry upon the easement area as provided for above, the Owner of the Servient Tenement agrees to utilize reasonable care not to damage any landscaping or other items existing in the easement area; provided, however, the Owner of the Servient Tenement shall not be responsible for damage to such landscaping or other items to the extent such damage could not be reasonably avoided in connection with such entry upon the easement area for authorized purposes; and

(v) In the event of any dispute arising concerning the rights and obligations created by this subsection (b), the Owner of the Servient Tenement and the Owner of the Dominant Tenement shall each choose one (1) arbitrator, and the decision of a majority of all the arbitrators shall be binding upon such Owners.

(c) If additional property is annexed pursuant to Section 3.2 hereof entitled "Annexation", the Declaration of Annexation may incorporate, as appropriate, an additional Exhibit

C pertaining to the property being annexed showing such side yard easements as to such property.

351

ARTICLE V

PROPERTY RIGHTS: NEIGHBORHOOD COMMON AREA

5.1 COMMON AREA OWNERSHIP: The Neighborhood Common Area shall be conveyed to and owned by the Neighborhood Association and the Neighborhood Association shall accept the conveyance of the Neighborhood Common Area transferred to it pursuant to this section. Said real property shall be transferred to the Neighborhood Association prior to or concurrently with the transfer by Declarant of title of any Lot in the first phase of the Neighborhood to a member of the public.

The Declarant reserves the right to establish and/or grant over and across said Neighborhood Common Area easements and rights of way on, over, under or across all or any part thereof to or for the benefit of the State of California, the County and/or City in which the Neighborhood is located or any other political subdivision or public organization, or any public utility entity, for the purpose of constructing, erecting, operating and maintaining facilities and improvements thereon, therein or thereunder at that time or at any time in the future. The Neighborhood Common Area shall be subject to any dedications stated in any Subdivision Map for the Neighborhood of easements for public use for installation, maintenance and operation of facilities for public utilities over any of the Neighborhood Common Area. Said public utility easements shall inure and run to all franchised utility companies and to the City in which the Neighborhood is located and shall include the right of ingress and egress over the Neighborhood Common Area by vehicles of the City and such utility companies to properly install, maintain, repair, replace and otherwise service such utility facilities. The ownership and rights of use as to any of the Neighborhood

Common Area shall be limited and subject to the rights of the Community Association to (i) enter and maintain any portion thereof established as slope maintenance areas, to which areas an easement has been or will be granted to the Community Association, and (ii) any other rights and duties reserved to the Community Association in the Community Declaration.

5.2 COMMON AREA: PERMITTED USES, CONSTRUCTION AND ALTERATION OF IMPROVEMENTS: The Neighborhood Common Area shall be held, maintained and used to meet the common interests of the members of the Neighborhood Association, their tenants and guests as provided by this Declaration.

5.2.1 Limitation on Construction: No person other than the Neighborhood Association or its duly authorized agents shall construct, reconstruct, refinish, alter or maintain any improvement upon, shall make or create any excavation or fill upon or shall destroy or remove any tree, shrub or other vegetation upon any Neighborhood Common Area.

5.2.2 Damage or Destruction of Neighborhood Common Area: In the event of any damage or destruction to the Neighborhood Common Area or any of the improvements or facilities located thereon, the Neighborhood Association shall immediately undertake to repair and reconstruct any such damage or destruction substantially in accordance with the original design or standard of construction of the damaged or destroyed Neighborhood Common Area, improvement or facility. The Neighborhood Association shall utilize all available insurance proceeds to accomplish such repair or reconstruction.

In the event the insurance proceeds are insufficient to cover all of the costs for such repair or reconstruction, the Board shall pay the insurance proceeds to a savings and loan

association, bank or trust company as may be approved by the Board, which proceeds shall be held for the benefit of the Owners and their mortgagees, as their respective interests may appear, and pursuant to an insurance trust agreement consistent with the provisions of this Declaration, approved and executed by the Board. The Board shall then, utilizing such engineering and design consultants as they deem necessary, prepare a report evaluating the extent of reconstruction or repair of such damage or destruction which is reasonably possible solely utilizing the aggregate sum of the total available insurance proceeds. As soon as possible, but no later than sixty (60) days after the occurrence of the damage or destruction, the Board shall present the report to the Lot Owners and notify all mortgagees of the findings of said report and call a special meeting of the Owners. At such special meeting the Owners shall determine by a majority vote of both classes of membership whether to utilize solely the available insurance proceeds to reconstruct the damage or destruction in accordance with the recommendations of the report of the Board, or whether to impose special reconstruction assessment, pursuant to Section 7.3, to reconstruct the destroyed or damaged facilities beyond the recommendations of the report of the Board. Any determination to impose a special reconstruction assessment shall be decided by a vote of at least sixty percent (60%) of each class of Members. Any such additional special reconstruction assessment shall be levied equally as to each Lot and be a lien on the Lot against which said assessment is levied and enforced pursuant to the terms of Section 7.6.

5.3 OWNERS' EASEMENTS OF ENJOYMENT IN COMMON AREA:

5.3.1 Every Owner shall have a non-exclusive right and easement of use and enjoyment in and to the Neighborhood Common Area, including easements for ingress and egress to said Owner's Lot for pedestrians, vehicles, utility lines, pipes, wires and conduits which shall be appurtenant to and shall pass with the title to every lot, subject to the following provisions:

5.3.1.1 The Board, after giving notice of and an opportunity to be heard to an Owner, shall have the right to suspend the voting rights and right to use the Neighborhood Common Area by an Owner and his tenants and guests pursuant to Section 6.10 of this Declaration.

5.3.1.2 The right of every Owner to enjoy free and unobstructed passage between every such Owner's Residence and all publicly dedicated streets bordering the Neighborhood shall be subject to any restrictions imposed by any municipal, state or federal government;

5.3.1.3 The Neighborhood Association shall have the right to dedicate or transfer all or any part of the Neighborhood Common Area to any public agency, authority, or utility, or to any assessment, maintenance of other special district, for such purposes and subject to such conditions as may be agreed to by the Owners. Except for property offered for dedication prior to the conveyance thereof to the Neighborhood Association, no such dedication or transfer shall be effective unless an instrument signed by seventy-five percent (75%) of each class of Members entitled to vote agreeing to such dedication or transfer has been recorded.

5.3.1.4 There shall be no obstruction of any part of the Neighborhood Common Area and nothing shall be stored, kept or parked in the Neighborhood Common Area except in the areas designated as Parking Areas on the Map without the prior written consent of the Board. Each Owner shall avoid any damage to the Neighborhood Common Area and shall be responsible for repairing any damage or injury to the Neighborhood Common Area caused by him, his tenants or guests.

5.3.1.5 Nothing shall be done or kept in the Neighborhood Common Area which will increase the rate of insurance on any of the Neighborhood Common Area without the prior written consent of the Board. No Owner shall permit anything to be done or kept in the Neighborhood Common Area or which will result in the cancellation of insurance on the Neighborhood Common Area or which would be in violation of any governmental statute, ordinance, rules or regulations. No waste shall be committed in the Neighborhood Common Area.

5.3.2 Each Lot adjacent to the Neighborhood Common Area is hereby declared to have an easement over all adjoining Lots and the Neighborhood Common Area for the purpose of accommodating any encroachment due to engineering errors, errors in original construction, repair, reconstruction, settlement or shifting of the building, any other similar cause or any encroachment due to building or balcony overhang or projection. There shall be valid easements for the maintenance of said encroachments so long as they shall exist, and the rights and obligations of Owners shall not be altered in any way by said encroachment, settling or shifting; provided, however, that in no event shall a valid easement for encroachment be created in favor of an Owner or Owners if said encroachment occurred due to the

willful misconduct of said Owner or Owners. In the event a structure on any Lot is partially or totally destroyed, and then repaired or rebuilt, the Owners of each Lot agree that minor encroachments over adjoining Lots shall be permitted, and that there shall be valid easements for the maintenance of said encroachments so long as they shall exist.

5.3.3 There is hereby reserved to Declarant, the Neighborhood and Community Associations or their duly authorized agents and representatives such easements as are necessary to perform the duties and obligations of the Associations as are set forth in this Declaration and the Community Declaration, or in the Neighborhood Community Association By-Laws, Articles, Association Rules or the Neighborhood Architectural Rules.

5.3.4 Each of the easements provided for in this Declaration shall be deemed to be established upon the recordation of this Declaration and shall thenceforth be deemed to be covenants running with the land for the use and benefit of the Lots and the Neighborhood Common Area, as the case may be, superior to all other encumbrances applied against or in favor of any portion of the properties which are the subject of this Declaration. In furtherance of the easements provided for in this Declaration, the individual grant deeds to Lots may, but shall not be required to, set forth said easements.

5.3.5 Notwithstanding anything herein expressly or implied to the contrary, this Declaration shall be subject to all easements heretofore or hereafter granted by Declarant for the installation and maintenance of utilities and drainage facilities that are necessary for the development of the Project.

5.4 DELEGATION OF RIGHT OF USE: Any Owner may delegate his rights of enjoyment in the Neighborhood Common Area and in the privileges of the Neighborhood Association to the members of his family who reside within his Lot, to contract purchasers from such Owner, to any of his tenants who reside therein under a leasehold interest and to his guests, subject, however, to the provisions of this Declaration and to the Articles, By-Laws and Rules of the Neighborhood Association. The rights and privileges of such persons are subject to suspension for the same reasons and in the same manner as this Declaration provides regarding the suspension of the rights and privileges of Owners in the Neighborhood. Each Owner shall notify the Secretary of the Association in writing of the name of the family members, tenants, contract purchasers or guests staying with the Owner for a period of more than five (5) days who are so authorized to use the Neighborhood Common Areas and facilities and of the relationship of such person to Owner.

5.5 CONDEMNATION OF COMMON AREA: If at any time all or any portion of any Neighborhood Common Area, or any interest therein, is taken for any public or quasi-public use, under any statute, by right of eminent domain or by private purchase in lieu of eminent domain, the entire award in condemnation, to the extent such award is not apportioned among the Owners by court judgment or by agreement between the condemning authority and each of the affected Owners in the Neighborhood, shall be paid to the holder or holders of the fee title to such area as their interests may appear according to the fair market values of the Lots at the time of destruction, as determined by independent appraisal. Said appraisal shall be made by a qualified real estate appraiser with an MAI certificate or the equivalent, which appraiser shall

be selected by the Board. Any such award to the Neighborhood Association shall be deposited into the operating fund of the Neighborhood Association. No Owner shall be entitled to any portion of such award, and no Owner shall be entitled to participate as a party, or otherwise, in any proceedings relating to such condemnation, such right of participation being herein reverted exclusively to the Neighborhood Association, or other holder of the fee title which shall, in its name alone, represent the interests of all Lot Owners to the extent such Lot Owners have any interest.

5.6 RESTRICTION OF SEVERABILITY OF COMMON AREA: The interest of each Lot Owner of the use and benefit of the Neighborhood Common Area owned by the Neighborhood Association shall be appurtenant to the Lot owned by said Owner and shall not be sold, conveyed or otherwise transferred by said Lot Owner separately from the ownership interest in said Lot. Any sale, transfer or conveyance of such Lot shall operate to transfer the appurtenant right to use said Neighborhood Common Area without the requirement of express reference thereto, and the transferee shall thereupon be permitted the use and benefit of said Neighborhood Common Area and the facilities located thereon. There shall be no judicial partition of the Neighborhood Common Area or any part thereof, and each Owner, whether by deed, gift, devise or operation of law, for their own benefit and for the benefit of all other Owners specifically waives and abandons all rights, interests and causes of action for a judicial partition of any ownership interest in the Neighborhood Common Area and does further covenant that no action for such judicial partition shall be instituted, prosecuted or reduced to judgment.

holder of the fee title which shall, in the event of the death of the holder, be the interests of all Lot Owners to the extent such Lot Owners have any interest.

5.6 RESTRICTION OF SEVERABILITY OF COMMON AREA: The interest of each Lot Owner of the use and benefit of the Neighborhood Common Area owned by the Neighborhood Association shall be appurtenant to the Lot owned by said Owner and shall not be sold, conveyed or otherwise transferred by said Lot Owner separately from the ownership interest in said Lot. Any sale, transfer or conveyance of such Lot shall operate to transfer the appurtenant right to use said Neighborhood Common Area without the requirement of express reference thereto, and the transferee shall thereupon be permitted the use and benefit of said Neighborhood Common Area and the facilities located thereon. There shall be no judicial partition of the Neighborhood Common Area or any part thereof, and each Owner, whether by deed, gift, devise or operation of law, for their own benefit and for the benefit of all other Owners specifically waives and abandons all rights, interests and causes of action for a judicial partition of any ownership interest in the Neighborhood Common Area and does further covenant that no action for such judicial partition shall be instituted, prosecuted or reduced to judgment.

LAW OFFICES
MILLER, STARR
& REGALIA
ORDWAY BUILDING
SUITE 1600
ONE KAISER PLAZA
OAKLAND, CALIF. 94612
TEL. (415) 465-3800

5.8

9/29/80

5.9

ARTICLE VI
THE ASSOCIATION

6.1 THE ORGANIZATION: The Neighborhood Association is a non-profit mutual benefit corporation charged with the duties and empowered with the rights set forth herein and in the Articles, and its affairs shall be governed by this Declaration, the Articles and the By-Laws.

6.2 MEMBERSHIP:

6.2.1 Classes of Members: The Association shall have two (2) classes of Members: Class A Members and Class B Members.

6.2.1.1 Class A Members: Each Owner of a Unit, with the exception of Declarant, by virtue of being an Owner shall be a Class A Member of the Neighborhood Association, or, in the event of its dissolution, a Class A Member of the unincorporated association succeeding said Association. The membership shall be appurtenant to and may not be separate from the ownership of any Lot which is subject to assessment by the Neighborhood Association. Upon termination of Lot Ownership, membership in the Neighborhood Association shall also terminate. Ownership of a Lot shall be the sole qualification for Association membership. The membership of an Owner shall not be transferred, pledged or alienated in any way except upon transfer of title to the Owner's Lot and then only to the transferee of title to such Lot. Any attempt to make a prohibited transfer is void. Declarant shall become a Class A member upon the occurrence of the events specified in Subsection 6.3.2.

6.2.1.2 Class B Members: The sole Class B member shall be held by Declarant. Declarant shall hold one Class B membership for each Lot in the Project to which Declarant has title, until the occurrence of the events specified in subsection

6.3.2.

6.2.2 Member's Rights and Duties: The rights, duties, privileges and obligations of all Members of the Neighborhood Association, or of the succeeding unincorporated association, shall be those set forth in, and shall be exercised and imposed in accordance with, the provisions of this Declaration, the By-Laws and the Rules of the Neighborhood Association.

6.3 VOTING: Only Members of the Neighborhood Association shall be entitled to vote. The voting privileges on each class of Members shall be as provided herein. Any action by the Neighborhood Association which must have the approval of the Members before being undertaken shall expressly require the vote or written assent of a prescribed percentage of each class of Members during the time that there are two (2) outstanding classes of Members, as more particularly stated within this Declaration.

6.3.1 Class A Members: Class A members shall have one (1) vote for each Lot owned. When more than one person owns a single Lot, all Owners shall be Members of the Neighborhood Association. However, the vote for each Lot must be cast as an undivided unit and fractional votes shall not be allowed.

6.3.1.1 "Voting Owner": When more than one (1) person owns a single Lot, there shall be one "Voting Owner" for such Lot. The "Voting Owner" shall be designated by the record Owner or Owners of each Lot by written notice to the Board. Said designation shall be revocable at any time by actual notice to the Board given by any of the Lot Owners of record or by the death or judicially declared mental incompetence of any record Lot Owner. The power herein conferred to designate a "Voting Owner" and to revoke said designation may be exercised by the Lot

Owner's conservator, by the guardian of his estate, by the parent(s) entitled to custody of an Owner in the case of the Owner being a minor, or, during the administration of his estate, by the executor or administrator of a deceased record Lot Owner where the latter's interest in said property is subject to administration by his estate. Where no "Voting Owner" of a Lot has been designated, or where said designation has been revoked as provided, the vote for such Lot shall be exercised as the majority of co-owners of the Lot mutually agree. No vote shall be cast for any Lot where there is no designated "Voting Owner" and where the majority of co-owners present and representing said Lot cannot agree to said vote or other action.

6.3.2 Class B Member: The sole Class B Member shall be Declarant. The Class B Member shall be entitled to three (3) votes for each Lot in the Project to which it holds title, provided that the Class B membership shall cease and be converted to Class A membership on the happening of any of the following events, whichever occurs earlier:

(i) When the votes outstanding in the Class A membership equal the votes outstanding in the Class B membership;

(ii) The date which is the second (2nd) anniversary of the original issuance of the California Department of Real Estate's most recent Subdivision Public Report for a

phase of the Neighborhood.

(iii) The date which is the fourth (4th) anniversary of the original issuance of the Final Subdivision Public Report for the first phase of the Neighborhood.

Upon the expiration of the Class B membership, with respect to each provision of this Declaration which requires the vote of both classes of Members, the same shall be read as requiring both (a) the vote of the prescribed percentage of all of the Class A Members and (b) as long as Declarant holds or directly controls twenty-five percent (25%) of the voting power of the Neighborhood Association, the vote of the prescribed percentage of the Class A Members other than Declarant.

6.4 ASSESSMENTS AND DUES: Any assessments levied by the Neighborhood Association on its Members shall be levied in accordance with and pursuant to the provisions of Article VII of this Declaration and shall be enforced pursuant to the provisions of Section 7.6 of this Declaration.

6.5 INITIAL NEIGHBORHOOD BOARD OF DIRECTORS: The initial Board of Directors of the Neighborhood Association consisting of three (3) Directors shall be appointed by Declarant upon the incorporation of the Association and shall hold office until the first meeting of the Members. The first meeting of the Members shall be held within six (6) months after the closing of the first sale by Declarant of a Lot in the Neighborhood, or within forty-five (45) days after the closing of the sale of the Lot which is the fifty-first percentile (51%) of the Lots in the Project to have been sold and closed, whichever occurs first.

6.6 SUBSEQUENT BOARD OF DIRECTORS: At the first meeting of the Members, a new Board consisting of five (5) Directors shall be elected. Such Board shall serve until the first annual

meeting of the Neighborhood Association. At said annual meeting, and at each subsequent annual meeting, the Members of the Neighborhood Association shall elect a Board consisting of five (5) Directors who shall serve until the next annual meeting. Each such Director shall be an Owner and a Member of the Neighborhood Association, provided that at no time shall the Board of Directors consist of less than five (5) members. The Board shall undertake all duties and responsibilities of the Neighborhood Association and the management and conduct of the affairs thereof, except as expressly reserved herein to a vote of the Members.

6.7 DUTIES OF THE NEIGHBORHOOD ASSOCIATION: The Neighborhood Association shall have the obligations and duties, subject to and in accordance with this Declaration, to do and perform the following acts for the benefit of its Members and for the maintenance and improvement of the subject property:

6.7.1 The Neighborhood Board and the President of the Neighborhood Association shall participate in the election of Community Directors to the Community Board in accordance with Section 3.5 of the Community Declaration and participate in the government of the Community Association as provided in the Community Declaration.

6.7.2 Members: The Neighborhood Association shall accept all Lot Owners as Members. Upon annexation of any of the Additional Property pursuant to Section 3.2, the Owners of Lots in such annexed property shall become Members in the Neighborhood Association.

6.7.3 Annual Membership Meetings: The Neighborhood Association shall hold an annual meeting of the Members within 90 days after the end of each calendar year as provided by and in

accordance with the By-Laws of the Neighborhood Association.

6.7.4 Common Area Maintenance: The Neighborhood Association shall maintain, or provide for the maintenance of, all Neighborhood Common Areas and easements described in Sub-section 4.3.2, and all improvements of whatever kind and for whatever purpose located thereon. In reference thereto, with the consent of two-thirds (2/3) of the members of each class entitled to vote, the Neighborhood Association may construct capital improvements in the Neighborhood Common Areas and assess the Owners for the costs thereof as provided in Article VII hereof.

6.7.5 Operation of Neighborhood Common Areas: The Neighborhood Association shall operate and maintain or provide for the operation and maintenance of Neighborhood Common Areas as such property is conveyed or otherwise transferred to the Neighborhood Association. The Neighborhood Association shall keep all improvements of whatever kind and for whatever purpose from time to time located on the Neighborhood Common Areas, including all utility lines, pipes, conduits and facilities located thereon and owned by the Association, in good order and repair.

6.7.6 Maintenance of Landscaping and Perimeter Fencing: The Neighborhood Association shall provide maintenance for the landscaping throughout the Neighborhood Common Areas of the Neighborhood and the Maintenance Area as shown on Exhibit "D" attached hereto and by this reference incorporated herein. The Neighborhood Association shall also maintain, repair or replace the perimeter fencing portion of the Maintenance Area as shown on Exhibit "E" attached hereto and by this reference incorporated herein.

6.7.7 Payment of Taxes: The Neighborhood Association shall have the authority to pay all real property taxes and assessments levied upon any property conveyed, leased or otherwise transferred to it, to the extent not separately assessed to the Owners. Such taxes and assessments may be contested or compromised by the Neighborhood Association; provided, however, that any such taxes are paid of that a bond

insuring the payment is posted prior to the sale or other disposition of any property to satisfy the payment of such taxes.

6.7.8 Insurance: The Neighborhood Association shall have the authority and duty to obtain and maintain in force the following policies of insurance:

6.7.8.1 Fire and Property Damage Insurance: Fire and Property Damage and extended coverage insurance on the Neighborhood Common Area and all buildings, improvements and fixtures in the Neighborhood Common Area for the full insurable replacement cost thereof, and such other hazard insurance as the Neighborhood Association may deem desirable. The Neighborhood Association shall also insure any property owned by the Neighborhood Association, whether real or personal, against loss or damage by fire and such other hazards as the Board may deem desirable, with the Neighborhood Association as the owner and beneficiary of such insurance. The insurance coverage with respect to the Neighborhood Common Area shall be written in the name of, and the proceeds thereof shall be payable to, the Neighborhood Association. The insurance proceeds shall be used by the Neighborhood Association for the repair or replacement of the property for which the insurance was carried or otherwise disposed of as hereinafter provided. Insurance on the Residences and for any additions to or alterations thereof shall not be the responsibility of the Neighborhood Association.

6.7.8.2 Public Liability Insurance: The Neighborhood Association shall have the power to and shall obtain comprehensive public liability insurance with minimum limits of ONE MILLION DOLLARS (\$1,000,000) for one occurrence, FIVE HUNDRED THOUSAND DOLLARS (\$500,000) for injuries to one person and ONE HUNDRED THOUSAND DOLLARS (\$100,000) for property damage insuring

against liability for bodily injury and property damage arising from the activities of the Neighborhood Association or with respect to the Neighborhood Common Area or other property under its jurisdiction. The policy limits set forth herein may be increased by the Board when it deems it advisable and prudent for the best interests of the Association and its Members. The liability insurance referred to herein shall name, as separately protected insureds, Declarant, the Neighborhood Association, the Board, the Neighborhood Architectural Committee, and their representatives, Members and employees and the members of the Neighborhood Association (as a class) with respect to any liability arising out of the maintenance and use of any Neighborhood Common Areas or under the jurisdiction of the Neighborhood Association. Such policy or policies shall protect each of the insureds as if each were separately insured under separate policies; provided, however, that such policy or policies shall not require the insurers to pay any amount in excess of the maximum limits stated therein.

6.7.8.3 Fidelity Bonds: The Neighborhood Association shall have the duty to obtain faithful performance from any employee or other person charged with the management or possession of the funds or other property of said Association and shall obtain fidelity bonds to insure said Association against any loss from malfeasance or dishonesty of any such agent or employee.

6.7.8.4 Other Insurance: The Neighborhood Association shall have the duty to obtain other insurance, including workmen's compensation insurance, errors and omissions insurance and indemnity and other bonds, as the Board shall deem necessary or expedient to carry out its functions as set forth in

this Declaration, the Articles and Bylaws.

6.7.8.5 Premiums: Premiums for all of the foregoing insurance carried by the Neighborhood Association shall be a common expense and shall be included in the assessments or charges made by the Neighborhood Association. The Board shall review the limits of all insurance policies of the Neighborhood Association at least once a year, and increase said limits as the Board deems necessary or appropriate.

6.7.9 Rule Making: The Neighborhood Association shall have the duty to make, establish, promulgate, amend and repeal the Rules as provided in Section 6.9.

6.7.10 Neighborhood Architectural Committee: Subject to the provisions of Section 9.1, the Neighborhood Association, through the Board, shall have the duty to appoint and remove members of the Neighborhood Architectural Committee and to insure that at all reasonable times there is available a duly constituted and appointed Neighborhood Architectural Committee.

6.7.11 Enforcement of Restrictions and Rules: The Neighborhood Association shall have the duty to take such other action, whether or not expressly authorized by this Declaration, including the hiring of legal counsel and undertaking legal action, as may be reasonably necessary to enforce the covenants, conditions and restrictions contained herein, the Rules and the Neighborhood Architectural Rules.

6.7.12 Budget and Annual Report: Regardless of the number of Members or the amount of assets of the Neighborhood Association, the Board shall prepare for the Association:

6.7.12.1 A pro forma operating statement (budget), a copy of which shall be distributed to Lot Owners at least sixty (60) days prior to the beginning of each fiscal year;

6.7.12.2 An annual report to be distributed within one hundred twenty (120) days after the close of the fiscal year consisting of the following: (i) a balance sheet as of the end of the fiscal year; (ii) an operating (income) statement for the fiscal year; (iii) a statement of changes in financial position for the fiscal year; and (iv) any information required to be reported under Section 8322 of the Corporations Code. The annual report shall be prepared by an independent accountant for any fiscal year in which the gross income to the Neighborhood Association exceeds \$75,000.00. If the report is not prepared by an independent accountant, it shall be accompanied by the certificate of an authorized officer of the Neighborhood Association that the statements were prepared without audit from the books and records of the Neighborhood Association.

6.7.12.3 A balance sheet of an accounting date which is the last day of the month closest in time to six (6) months from the date of closing of the first sale of a Lot in the Neighborhood and an operating statement for the period from the date of the first closing to the said accounting date and shall distribute same within sixty (60) days after the accounting date. This operating statement shall include a schedule of assessments received and receivable identified by the number of the Lot and the name of the entity assessed.

6.7.13 Examination of Records: The Association shall maintain the membership register, books of account and minutes of meetings of the Members, of the Board and of committees of the

Board available for inspection and copying by any Member, or by a duly-appointed representative of the Member, and at any reasonable time and for a purpose reasonably related to his interest as a Member, at the office of the Neighborhood Association or at such other place within the Neighborhood as the Board may prescribe.

The Board shall establish reasonable rules with respect to the notice to be given to the custodian of the records by the Members desiring to make the inspection, the hours and days when such inspection can be made, and the payment to be made by a Member for the costs of reproducing documents.

6.7.14 Other: The Neighborhood Association shall carry out the duties of the Neighborhood Association as set forth in other sections of this Declaration, the Articles and By-Laws.

6.8 POWERS AND AUTHORITY OF THE NEIGHBORHOOD ASSOCIATION:

The Neighborhood Association shall have all of the powers of a nonprofit mutual benefit corporation organized under the laws of the State of California in operating for the benefit of its Members, subject only to such limitations upon the exercise of such powers as are expressly set forth in the Articles, By-Laws and this Declaration. It shall have the power to do any and all lawful things which may be authorized, required or permitted to be done under and by virtue of said Declaration, and to do and perform any and all acts which may be necessary or proper for or incidental to the exercise of any of the express powers of the Neighborhood Association for the peace, health, comfort, safety or general welfare of the Owners. Without in any way limiting the generality of the foregoing, the Board of Directors, on behalf of the Association and the Board shall have the following powers and authority:

6.8.1 Right of Entry and Enforcement: In the event that the Owner of a Lot fails to maintain and repair any portion of the Lot as required by this Declaration, the Board shall have the right, after notice and opportunity for a hearing before the Board by the Owner regarding any allegation of failure to maintain or repair, to enter upon the subject Lot to undertake such maintenance or repair; the costs of such maintenance or repair shall be assessed against said Owner as a Reimbursement Assessment. The Neighborhood Association shall also have the power and authority from time to time in its own name, on its own behalf or on the behalf of any Owner or Owners who consent thereto, to commence and maintain actions and suits to restrain and enjoin any breach or threatened breach of this Declaration and to enforce, by mandatory injunction or otherwise, all of the provisions of said Declaration. The costs of any such action or suit, including reasonable attorneys' fees, shall be paid to the prevailing party.

6.8.2 Easements and Rights of Way: Grant and convey to any third party easements and licenses for use and rights of way in, on, over or under any Neighborhood Common Area conveyed or otherwise transferred to said Association or under its jurisdiction upon the affirmative vote or written consent of seventy-five percent (75%) of each class of its voting Members.

6.8.3 Employment of Manager: Employ the services of a manager or other employee, or a professional manager or management company, subject to the direction and control of the Board of Directors, to manage and carry out the affairs of the Neighborhood Association, and, to the extent not inconsistent with the laws of the State of California and upon such conditions as are otherwise deemed advisable by the Board, to delegate to

the manager any of its powers; provided, however, that, the Board may not delegate to any manager its responsibilities to levy fines, hold hearings or impose discipline. Any contract with such professional manager or management company for a term greater than one (1) year, including any compensation to be paid, must be approved by at least fifty-one percent (51%) of each class of Members. In no event shall any management agreement be for a term greater than three (3) years and said agreement shall provide for termination for cause on a maximum of ninety (90) days written notice.

6.8.4 Services: Provide for or engage the services of others, including grounds keepers, painters, plumbers and other maintenance personnel, to provide for the maintenance, protection and preservation of the Common Area; provided, however, that no contract for such services shall be for a duration of more than one year unless approved by a majority of each class of Members. In no event shall such contract be for a term greater than three (3) years. Said contract shall provide for termination for cause on a maximum of ninety (90) days written notice.

6.8.5 Utilities: Contract, use and pay for utility services to the Common Area and its facilities and to undivided Lots to the extent they are not separately metered; provided, however, that any such contract shall not exceed the shortest term for which the supplier will contract at the regular rate.

6.8.6 Other Property: Acquire and hold, as trustee for the benefit of its Members, tangible and intangible personal property and to dispose of the same by sale or otherwise.

6.8.7 Dedication: Dedicate any of its property to an appropriate public authority for public use, provided that any such dedication shall have the approval either by affirmative

vote or written consent of seventy-five percent (75%) of each class of Members.

6.8.8 Maintenance of Project: Use the operating fund of the Association for the maintenance, repair, care, preservation and painting of Neighborhood Common Area improvements. Said operating fund may also be used to pay for the purchase of such equipment, tools, supplies and other personal property as the Board deems necessary for use in such maintenance and repair.

6.8.9 Delegation: Delegate any of its powers, other than those established pursuant to Section 6.11, to any such committees, officers or employees as it deems necessary and proper.

6.9 PROJECT RULES:

6.9.1 Rulemaking Power: Subject to the provisions of this Declaration, the Board may from time to time enact and amend such Rules as the Board feels are necessary for the management of the Neighborhood. Any Rules which relate to the management, operation and control of the Association and/or the Neighborhood Common Area or common interests shall become effective and binding on all Owners only after adoption by Owners representing fifty-one percent (51%) of each class of Members at a meeting duly called for that purpose, or by the written consent of the same percentage of Owners appended to a copy of the proposed Rules. Such Rules may concern, but need not be limited to, matters pertaining to use of the Neighborhood Common Area, signs, collection and disposal of refuse, minimum standards of maintenance of property, parking and traffic restrictions, limitations on maintenance of landscaping or other improvements on any property which obstructs the vision of motorists or which

create a hazard for vehicular or pedestrian traffic, the terms and conditions upon which a Lot may be rented or leased by an Owner and any other subject or matter within the jurisdiction of the Neighborhood Association as provided in this Declaration. Any rule which purports to restrict or abridge, whether directly or indirectly, the right of an Owner to sell or lease his Lot must include uniform, objective standards for invoking the restrictions upon sale or lease, none of which shall be based upon the race, color, creed, national origin, marital status, physical disability or sex of the vendee or lessee. Said Rules may restrict and govern the use of Neighborhood Common Areas by any Member or his family, guests, licensee or lessee of such Member; provided, however, that no such rule shall be adopted that restricts the Owner's right to sell his Lot.

6.9.2 Distribution of Rules: A copy of the said Rules, as they may from time to time be adopted, amended or repealed shall be mailed or otherwise delivered to each Member. No Rules may be adopted which materially affect the rights, preferences or privileges of any Owner as specifically set forth herein. Where the provisions of this Declaration and any Rule adopted by the Neighborhood Association are in conflict, the provisions of this Declaration shall be deemed to prevail.

6.9.3 Amendment of Rules: Any Rules adopted by the Board may be amended from time to time by the Board by majority vote thereof; provided, however, that any vote which requires a fifty-one percent (51%) vote of each class of Members shall require the same percentage vote for the amendment thereof. Amendments to the Rules shall be distributed to the Owners either by mail or by personal delivery. Any duly adopted amendment to the Rules shall become effective thirty (30) days from the date of adoption thereof by the board, and ratification thereof by the

Members if so required, or at such later date as the Board may deem appropriate upon its adoption of said amendment to the Rules.

6.10 BREACH OF RULES OR REGULATIONS: In the event of a breach of any Rule or of any of the Restrictions contained in this Declaration by an Owner, his family, guests, employees, invitees, licensees or tenants, the Board, for and on behalf of all other Lot Owners, shall enforce the obligations of each Owner to obey such Rules or restrictions in any manner provided by law or in equity, including, but not limited to, appropriate hiring of legal counsel, the pursuing of legal action or suspension of the Owner's right to use the Common facilities of the Neighborhood or suspension of the Owner's voting rights; provided, however, that such suspension may not be for a period in excess of thirty (30) days, after notice and hearing as herein provided, for an infraction of such Rules. In addition to the other remedies herein set forth, the Board, by majority vote, may levy a fine against such Owner, after appropriate notice and hearing as herein provided, in an amount not to exceed Fifty Dollars (\$50.00) for each such violation. The payment of such fine may be enforced in the same manner as set forth in Section 7.6 hereof.

Prior to imposing any penalty provided herein, other than suspension of voting rights, for breach of any Rules enacted hereunder or restrictions contained in this Declaration, the Board shall send written notice to the Lot Owner specifying the nature of the infraction and provide an opportunity to the Lot Owner to a hearing before the Board regarding such infraction and the penalty to be imposed. The Board may vote to suspend an Owner's voting rights prior to providing notice of and an

opportunity to the Owner to a hearing before the Board, but such suspension shall not become effective until fifteen (15) days after the Owner receives notice of such suspension and unless the Owner is provided notice of and an opportunity to a hearing before the Board at least five (5) days before the effective date of such suspension. In the event that the Board determines that said infraction has occurred and that a penalty shall be imposed, after a reasonable opportunity for a hearing has been provided, the determination of the Board shall be final. In the event legal counsel is retained or legal action is instituted by the Board pursuant to this paragraph, any settlement prior to judgment or any judgment rendered in any such action shall include costs of collection, court costs and reasonable attorneys' fees.

6.11 LIABILITY OF MEMBERS OF BOARD: No member of the Board shall be personally liable to any Owner or to any any other person, including Declarant, for any error or omission of the Neighborhood Association, its representatives and employees, or of the Neighborhood Architectural Committee, provided that such Board member has, upon the basis of such information as may be possessed by him, acted in good faith.

6.12 ENFORCEMENT OF BONDED OBLIGATIONS: When any Neighborhood Common Area improvements have not been completed prior to the issuance of the First Final Public Report for any phase of the Neighborhood and the Neighborhood Association is the obligee under a bond or other arrangement (hereafter "Bond") to secure performance of the commitment of Declarant to complete the improvements, the following provisions relative to the initiation of action to enforce the obligations of Declarant and the surety under the Bond shall pertain:

6.12.1 The Board shall consider and vote on the question of action by the Neighborhood Association to enforce the obligations under the Bond with respect to any improvement for which a Notice of Completion has not been filed within sixty (60) days after the completion date specified for that improvement in the Planned Construction Statement appended to the Bond. If the Association has given an extension in writing for the completion of any Neighborhood Common Area improvements, the Board shall be directed to consider and vote on the aforesaid question if a Notice of Completion has not been filed within sixty (60) days after the expiration of any such extension.

6.12.2 If the Board decides not to initiate enforcement action, notice shall be given to all Members of such decision, upon receipt of the petition referred to below, and there shall be a special meeting of the Members for the purpose of voting to override a decision by the Board not to initiate action to enforce the obligations under the Bond or, upon the failure of the Board to consider and vote on the question, for the purpose of voting whether to enforce such obligations. The meeting shall be held not less than thirty-five (35) nor more than forty-five (45) days after receipt by the Board of a petition for such a meeting signed by Members representing a prescribed percentage of not less than five percent (5%) of the total voting power of the Neighborhood Association.

6.12.3 There shall be a vote by Members of the Neighborhood Association other than Declarant at the special meeting called for the purpose set forth in Subsection 6.12.2 above.

6.12.4 A vote of a majority of the voting power of the Neighborhood Association residing in Members other than Declarant to take action to enforce the obligations under the Bond shall be deemed to be the decision of the Neighborhood Association and the Board shall thereafter implement this decision by initiating and pursuing appropriate action in the name of the Neighborhood Association.

6.13 DISSOLUTION OF INCORPORATED ASSOCIATION:

6.13.1 Successor Associations: In the event that the Neighborhood Association as a corporate entity is dissolved, a non-profit, unincorporated association shall forthwith and without further action or notice be formed to succeed to all the rights and duties of the Neighborhood Association hereunder. The affairs of such unincorporated Association shall be governed by the laws of the State of California and, to the extent not inconsistent therewith, by this Declaration and the By-Laws of the Association as if they were created for the purpose of governing the affairs of an unincorporated association.

6.13.2 Title to Property: Immediately prior to any dissolution of the Neighborhood Association as a corporate entity, the Association shall convey to an independent institutional corporate trustee all real property vested in it to hold such real property in trust for the benefit of the unincorporated association formed pursuant to Subsection 6.13.1 and for the benefit of the Owners pursuant to the terms of this Declaration and the By-Laws of the Neighborhood Association.

6.13.3 Members' Rights: Upon dissolution of the Neighborhood Association and the formation of an unincorporated association each Owner in the Project shall become a Member of the unincorporated association and shall have an underlying

beneficial interest in all of the property of the Neighborhood Association transferred to or for the account or benefit of said unincorporated association, such interest being in direct proportion to the number of Lots owned by such Member; provided, however, that there shall be no judicial partition of such property or any part thereof, nor shall any such Member or other person acquiring any interest in said property, or any part hereof, seek judicial partition, the right to do so being expressly waived.

ARTICLE VIIFUNDS AND ASSESSMENTS

7.1 OPERATING FUND: The Neighborhood Association shall maintain an operating fund into which the Board shall deposit all funds paid to the Neighborhood Association as maintenance and operation assessments and special assessments. Said funds shall be held in trust by the Neighborhood Association for the use and benefit of its individual Members and shall only be used for and applied to the common specific purposes of the Members as herein set forth.

7.2 MAINTENANCE AND OPERATION ASSESSMENTS:

7.2.1 Regular Assessments: Prior to the first day of the month following the closing of the first sale of a Lot by Declarant, the Board shall estimate the total charges to be paid out of the maintenance fund, including a reasonable reserve for contingencies and replacements, for the remainder of the fiscal year and shall assess said charges pro rata to all of the Lot Owners, including Declarant, based on the number of Lots owned. Regular assessments against all Lots in the Neighborhood shall commence for each phase in the Neighborhood on the first day of the month following the closing of said first sale of a Lot in that phase.

Thereafter, not less than sixty (60) days prior to the beginning of each subsequent fiscal year, the Board shall estimate the total charges to be paid out of the maintenance fund during such year (including a reasonable reserve for contingencies and replacement and less any expected surplus from the prior year). The Board shall allocate and assess said estimate of total charges to each Lot Owner equally by dividing said estimate by the number of Lots then contained in the

Neighborhood and multiplying the resulting quotient by the number of Lots owned by each Lot Owner. All funds of the Association shall be budgeted, allocated, assessed and collected for current maintenance and operation of the Neighborhood, contingencies, deferred maintenance and replacement of capital improvements and shall be designated for those specific purposes. Said funds shall then be used solely for the specific purpose for which they have been designated.

Within one hundred twenty (120) days after the end of each fiscal year, the Lot Owners shall receive an accounting of assessment receipts and disbursements for the last-ended fiscal year. If such accounting shows that a surplus of cash results in the Neighborhood's current maintenance and operation account, the Lot Owners shall vote whether to refund all or part of such surplus or whether such surplus shall be carried over to future assessment periods and applied to reduce future assessments.

Upon annexation of any Additional Property to the Neighborhood pursuant to Section 3.2 hereof, the allocation and assessment of the total charges for the Project, including the annexed property, shall be allocated among all Lots in the Neighborhood in the same proportions as set forth herein. Such allocation and assessments shall be specifically set forth as a part of the Declaration of Annexation for each phase of the Project.

7.2.2 Increase in Regular Assessments: From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the Board may increase the annual Regular Assessment for the subsequent year by not more than five percent (5%) above the maximum assessment for the previous year. Any increase in the maximum amount of the Regular Assessment

prospectively for any period in excess of said five percent (5%) shall require the assent of a majority of each class of Members either by vote at a meeting of Members or by written assent delivered to the Secretary of the Neighborhood Association.

7.2.3 Time and Manner of Payment of Assessments:

Regular Assessments shall be due and payable by the Owners to the Neighborhood Association during the fiscal year in equal monthly installments, on or before the first day of each month, or in such other manner as the Board shall designate. If not paid within thirty (30) days after its due date, each such charge shall thereafter bear interest at the rate of ten percent (10%) per annum until paid, but the Board may, in its discretion, waive interest in any particular instance. If any suit or action is brought to collect any such charge, there shall be added to the amount thereof costs of suit and reasonable attorneys' fees to be fixed by the court and included in any judgment in any such suit or action.

7.3 SPECIAL ASSESSMENTS: If at any time during any fiscal year the maintenance assessment proves inadequate for any reason, including nonpayment of any Owner's share thereof, the Board may levy a Special Assessment for such required funds which Special Assessment shall be assessed equally to all of the Owners; provided, however, that in any fiscal year the Board may not levy any such Special Assessments which in the aggregate exceed five percent (5%) of the budgeted gross expenses of the Association for that fiscal year without the vote or written assent of a majority of each class of Members.

7.4 REIMBURSEMENT ASSESSMENT: The Board shall levy a reimbursement assessment against any Owner whose failure to

comply with this Declaration, the Rules or the Neighborhood Architectural Committee Rules, resulted in monies being expended by the Neighborhood Association from the operating fund in performing its functions under this Declaration. Such assessments shall be for the purpose of reimbursing the Association, shall be limited to the amount so expended and shall be due and payable to the Association when levied. The Board may levy a reimbursement assessment to enforce the collection of any unpaid fine levied in accordance with the procedures of Section 6.10 of this Declaration.

7.5 CAPITAL IMPROVEMENT ASSESSMENT:

7.5.1 Upon approval by two-thirds (2/3) of each class of Members of a proposed capital improvement and the estimated total cost thereof pursuant to Subsection 8.1.3, such estimated total cost shall be levied and assessed as a capital improvement assessment.

7.5.2 If at any time and from time to time a capital improvement assessment proves or appears likely to prove inadequate for any reason, including nonpayment of any Owner's share thereof, the Board may levy a Special Assessment pursuant to Section 7.4 above.

7.5.3 Capital improvement assessments shall be due and payable by all Owners in such installments and during such period or periods as the Board shall designate.

7.6 DEFAULT IN PAYMENT OF ASSESSMENTS:

7.6.1 The assessments levied by the Board on behalf of the Neighborhood Association under this Article VII shall constitute separate assessments. Each assessment levied under this Article together with interest, costs and reasonable attorneys' fees, shall be a separate, distinct and personal debt

and obligation of the Owner against whom it is assessed, and shall bind his heirs, devisees, personal representatives and assigns. Each assessment levied under this Article shall also be a charge on the land and shall be a continuing lien upon the property against which such assessment is made. The Neighborhood Association shall have a separate lien and a separate lien is hereby created upon each Lot against which an assessment is made to secure the payment of any assessments under this Article. The priority of all such liens on each Lot shall be in inverse order, so that upon the foreclosure of the lien for any particular month's charge on any Lot, any such sale of such Lot pursuant to such foreclosure will be made subject to all liens securing the respective monthly charges on such Lot for succeeding months. Each such lien for any particular month's charge shall likewise secure interest thereon if the same is not paid when due, and shall likewise secure costs of suit and reasonable attorneys' fees to be fixed by the court in the event any action or suit is brought to collect such charge.

7.6.2 The Board shall execute and acknowledge a certificate stating the indebtedness secured by the lien upon any Lot, and such certificate shall be conclusive upon the Association and the Owners in favor of all persons who rely thereon in good faith as to the amount of such indebtedness on the date of the certificate. The Board shall furnish a copy of such certificate to any Owner upon request. A reasonable fee may be charged for the preparation of such statement.

7.6.3 Prior to the transfer of the Neighborhood Common Area to the Neighborhood Association, Declarant shall pay all of the costs of operation and maintenance of the Neighborhood Common Area and facilities that are incurred or expended. After the

transfer of the Neighborhood Common Area to the Neighborhood Association, Declarant hereby covenants for each Lot owned within the subject property and each purchaser of any Lot, by acceptance of a deed or other conveyance therefor, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to the Neighborhood Association each assessment under this Article, such assessments to be fixed, established and collected from time to time as herein provided.

7.6.4 Purchasers of any Lot subject to this Declaration, by acceptance of a deed or other conveyance therefor, whether from Declarant or subsequent Owners of Lots, shall become personally obligated and agree to pay such charges that accrue after receiving title thereto, plus costs of suit and reasonable attorneys' fees as above provided, and shall thereby vest in the Neighborhood Association the right and power to bring all actions for the collection of such charges, costs of suit and attorneys' fees and for the enforcement of such liens. Such right and power shall continue in the Neighborhood Association and such obligations shall run with the land so that the successive Owner or Owners of record of any Lot within the subject property shall in turn become liable to pay all such charges which shall become a lien thereon during the time they are the record Owner of such Lot within the Neighborhood. After a record Owner transfers of record any Lot owned by him, he shall not be liable for any charges thereafter to accrue against such Lot. He shall remain personally liable, however, for all unpaid amounts due and owing at the time of transfer. A contract seller of any Lot shall continue to be liable for all such charges until a conveyance by deed of such property is recorded in the office

of the County Recorder of San Diego County.

7.6.5 The lien of each of the assessments provided for under this Article shall be subordinate to the lien of any first mortgage or mortgages or first deeds of trust now or hereafter placed upon the properties subject to assessment; provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to the sale of such property pursuant to a decree of foreclosure of any such mortgage or deed of trust or pursuant to a power of sale in such mortgage or deed of trust. Such foreclosure sale shall not relieve such property from liability for any assessments thereafter becoming due nor from the lien of any such subsequent assessment. The Board may agree to subordinate the lien of said assessments to the interests of the Department of Veterans Affairs of the State of California under any Cal-Vet financing contract to the same extent as said liens are made subordinate to liens of mortgages under this provision.

7.6.6 Any assessment not paid within thirty (30) days after the due date shall be deemed to be in default and shall bear interest from the due date at the rate of ten percent (10%) per annum and the Board on behalf of the Neighborhood Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property. No action shall be brought to foreclose the lien securing any assessment under this Article less than thirty (30) days following the mailing of a notice of assessment due signed by a majority of the Board to the Owner of such Lot and the recording of a copy of such notice in the Office of the Recorder of San Diego County. Said notice shall state the amount of the assessment, together with the interest, costs and reasonable

attorneys' fees; a description of the Lot against which the same has been assessed and the name or names of the record Owner or Owners thereof. Such notice of assessment may be recorded and an action brought to foreclose the same by the Neighborhood Association or the Owner of any Lot. Upon the declaration of an assessment and the recording of a notice thereof, the Neighborhood Association may, at its option, declare the entire balance of all sums then due or to become due from the Lot Owner due and payable, which total sum may then be included in any suit, action or proceeding brought to collect said sum, including all costs, charges and attorneys' fees.

7.6.7 Each of the Owners does hereby appoint the Neighborhood Association trustee to enforce and to foreclose such lien by private power of sale as provided in Division III, Part 4, Title XIV, Chapter 2, Article I of the Civil Code of the State of California and does further grant to the Board on behalf of the Neighborhood Association the authority and power to sell the Lot of such defaulting Owner, or any part thereof, for lawful money of the United States, to the highest bidder to satisfy said lien. The Board as trustee for the remaining Owners, or any other Owner, may purchase at said sale. The Board may commence any procedure for collection upon its own decision, and it must so proceed upon the written request therefor signed by any five (5) Owners.

7.6.8 Upon payment of the delinquent assessment or the satisfaction thereof, the Board shall cause to be recorded in the same manner as the notice of assessment a further certificate stating the satisfaction and release of the lien thereof. A failure to record said certificate of discharge within thirty (30) days after written demand by the Owner of such Lot shall

entitle him to recover a penalty of ONE HUNDRED DOLLARS (\$100.00) from the Neighborhood Association, plus his actual damages.

7.7 ASSOCIATION FUNDS: The assessments collected by the Neighborhood Association shall be properly deposited into two separate accounts with a savings and loan association or bank selected by the Board, which accounts shall be clearly designated as the Villa Ladera Homeowners Association CURRENT MAINTENANCE AND OPERATION ACCOUNT and the Villa Ladera Homeowners Association DEFERRED CAPITAL MAINTENANCE AND REPLACEMENT ACCOUNT. The assessments collected by the Neighborhood Association shall be held in trust by the Neighborhood Association for and on behalf of each Lot Owner and shall be used solely for the operation, care and maintenance of the Neighborhood as provided in this Declaration. The Board shall allocate a portion of said funds as collected for the annual maintenance and operation of the Neighborhood and another portion of said funds as collected as reserves for contingencies, replacement and deferred maintenance of the capital improvements of the Neighborhood and another portion of said funds as collected as reserves for contingencies, replacement and deferred maintenance of the capital improvements of the Neighborhood, as specified in the annual budget. Said fund shall be deposited, as allocated, into the appropriate accounts and said accounts shall be separately maintained by the Neighborhood Association. Upon sale or transfer of any Lot by any Owner, the Owner's interest in the trust funds shall be deemed automatically transferred to the successor transferee of such Owner. In the event that Board retains a professional management service, the Board may delegate the authority to deposit or withdraw funds to responsible representatives of the professional management agent so retained.

Said professional management agent may additionally be authorized to establish a common trustee account for deposit of assessments as collected. Any funds deposited in such a common trustee account shall be allocated as previously specified herein.

7.8 FAILURE TO FIX MAINTENANCE ASSESSMENTS: The omission by the Board to fix the maintenance assessments hereunder before the expiration of any year, for that or the next year, shall not be deemed either a waiver or modification in any respect of the provisions of this Declaration or a release of the Owner from the obligation to pay the assessments or any installment thereof for that or any subsequent year, but the assessment fixed for the preceding year shall continue until a new assessment is fixed.

7.9 PROPERTY EXEMPT FROM ASSESSMENTS: The following property subject to this Declaration shall be exempt from the assessments, charges and liens created herein:

(a) All properties subject to any easement or other interests dedicated and accepted by the County or other local public authority and devoted to public use; and

(b) All Neighborhood and Community Common Areas.

7.10 COMMUNITY ASSOCIATION ASSESSMENTS:

7.10.1 The Declarant, for each Lot owned within the Neighborhood, hereby covenants, and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, does and is deemed to covenant and agree to pay to the Community Association the Community Assessments provided for in the Community Declaration. Such Community Assessments shall be established and collected as provided in the Community Declaration. The Community Assessments allocable to the Neighborhood shall be allocated equally to each Lot in the Project. The Community Assessments, together with interest,

costs and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such Community Assessment is made. Each such Community Assessment, together with the allowable interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the Assessment fell due and succeeding Owners to the extent permitted by the Community Declaration.

7.10.2 The Community Association may elect to require administration and collection of the Community Assessments by the Neighborhood Association, in which event the Neighborhood Association shall levy and collect the Community Assessments due from the Owners of this Neighborhood. Any such funds collected by the Neighborhood Association shall be held in trust by the Neighborhood Association for the Community Association and shall be disbursed to the Community Association as provided by the Community Declaration.

7.10.3 The Community Association may preempt the Regular Assessments provided in this Declaration, if the Community Association so elects, pursuant to the provisions of the Community By-Laws and the Community Declaration. If the Community Association elects to preempt the Neighborhood Association Assessments, or any portion of them, such funds shall be utilized in the manner and for the purposes specified herein.

ARTICLE VIIICAPITAL IMPROVEMENTS8.1 PETITION; ASSOCIATION APPROVAL:

8.1.1 A majority of the Owners may petition the Neighborhood Association for the construction, installation or acquisition of a capital improvement on the Neighborhood Common Area. Such petition shall be in writing and be in such form and shall contain such information as the Board may require, including, without limitation, preliminary plans and cost estimates. The Board may, on its own motion, move for the construction, installation or acquisition of a capital improvement, in which case such motion shall be treated as if it were a petition duly submitted by an Owner.

8.1.2 The Board shall approve the petition if it determines that the proposed capital improvement is desirable for the beneficial use and enjoyment of the Neighborhood Common Area by the Lot Owners.

8.1.3 Upon the approval of such petition by the Board, the Board shall obtain firm bids on the total cost of constructing, installing or acquiring the proposed capital improvement. The lowest acceptable bid or bids shall be deemed the estimated total cost of such capital improvements.

8.2 OWNER APPROVAL: If the estimated total cost of the proposed capital improvement exceeds an amount equal to five percent (5%) of the total budgeted gross expenses of the Neighborhood Association for the most recent fiscal year, the Board shall present the proposed capital improvement and the estimated total cost thereof to all Owners. Said improvements shall be deemed approved if a majority of each class of Members votes to approve such capital improvement.

8.3 CONSTRUCTION OF IMPROVEMENT: After the levy of the capital improvement assessment pursuant to Section 7.5, and at such time and upon such terms and conditions as the Neighborhood Association may deem appropriate, but not exceeding the estimated total cost of such capital improvement determined pursuant to Subsection 8.1.3 above, the Board shall cause to be constructed, installed or acquired, or contract for the construction, installation or acquisition of, the proposed capital improvement. The Board shall establish a capital improvements account in a bank or savings and loan association selected by the Board in which the capital improvement assessments shall be deposited, separate and apart from all other funds collected by the Neighborhood Association.

8.4 COSTS OF IMPROVEMENTS: If for any reason the construction, installation or acquisition of the proposed capital improvement is not approved by the Board or the Owners, the expenses for the actual costs incurred by the Neighborhood Association with respect to the proposed capital improvement shall be paid proportionately by the petitioning Owners. The Board may levy a special assessment against said Owners for the purpose of paying such expense. In the event that such proposed capital improvement was proposed by the Board, the actual costs incurred therefor shall be levied against all Owners in the same proportion as regular assessments.

ARTICLE IXNEIGHBORHOOD ARCHITECTURAL COMMITTEE

9.1 ORGANIZATION: There shall be a Neighborhood Architectural Committee consisting of three (3) persons. There shall also be one alternate committee member who may be designated by the Committee to act as substitute on the Committee in the event of absence or disability of any committee member.

9.2 DESIGNATION OF MEMBERS AND TERMS OF OFFICE:

(a) Initial Members: The initial members of the Neighborhood Architectural Committee shall be appointed by Declarant prior to the conveyance of the first Lot to a member of the public. Such designation shall be reflected in the Minutes of the Association. Declarant shall designate one committee member to serve a term of one (1) year; one member to serve a term of (2) years and one member to serve a term of three (3) years from the date of appointment. The alternate committee member shall serve a term of three (3) years. Each of said committee members shall serve the length of said terms unless they have resigned or have been removed from office. Thereafter, the terms of all Neighborhood Architectural Committee members appointed shall be three (3) years. Any new committee member appointed to replace a member who has resigned or been removed shall serve such member's unexpired term. Committee members who have resigned, been removed or whose terms have expired may be reappointed; provided, however, that no person shall serve as a member of the Neighborhood Architectural Committee, either regular or alternate, for a period in excess of six (6) years in any ten (10) year period.

(b) Appointment and Removal: Until such time as the Owners other than Declarant own ninety percent (90%) or more of the Lots within the Project, or five (5) years after the original issuance of the final subdivision public report of the Department of Real Estate for the first phase of the Neighborhood, the right to appoint and remove all committee members and alternate committee members of the Architectural Committee shall be, and is hereby, vested solely in Declarant unless prior to said time Declarant waives its rights hereunder by notice in writing to the Neighborhood Association; provided, however, that after one year from the issuance of the Final Subdivision Public Report for the first phase of the Neighborhood, the Board shall have the right to appoint one member to the Committee. When Declarant waives or no longer has the right to appoint and remove the members of the Committee, said right shall be vested solely in the Board. All members of the committee appointed by the Board shall be Lot Owners. Exercise of the right of appointment and removal, as set forth herein, shall be evidenced by the specification in the Minutes of the Neighborhood Association of each new committee member or alternate committee member appointed and each member or alternate replaced or removed from the Neighborhood Architectural Committee.

(c) Resignations: Any member or alternate member of the Neighborhood Architectural Committee may at any time resign from the Committee upon written notice delivered to Declarant or to the Board, whichever then has the right to appoint committee members.

(d) Vacancies: Vacancies on the Neighborhood Architectural Committee, however caused, shall be filled by the Declarant or the Board, whichever then has the power to appoint

committee members.

9.3 DUTIES: It shall be the duty of the Neighborhood Architectural Committee to consider and act upon such proposals or plans submitted to it pursuant to the terms hereof, to adopt. Neighborhood Architectural Committee Rules, to perform other duties delegated to it by the Neighborhood Association and to carry out all other duties imposed upon it by this Declaration.

9.4 MEETINGS: The Neighborhood Architectural Committee shall meet from time to time as necessary to properly perform its duties hereunder. The vote or written consent of any two (2) members shall constitute an act by the Committee unless the unanimous decision of its members is otherwise required by this Declaration. The Committee shall keep and maintain a record of all actions taken by it at such meeting or otherwise. The Neighborhood Architectural Committee and its members shall be entitled to reimbursement for reasonable out-of-pocket expenses incurred by them in the performance of any Neighborhood Architectural Committee function.

9.5 NEIGHBORHOOD ARCHITECTURAL RULES: The Neighborhood Architectural Committee may, from time to time and in its sole discretion, adopt, amend and repeal, by unanimous vote, rules and regulations to be known as "Neighborhood Architectural Rules." Said rules shall interpret and implement the provisions hereof by setting forth the standards and procedures for Neighborhood Architectural Committee review and guidelines for architectural design, placement of buildings, landscaping in the Neighborhood Common Areas, color schemes, exterior finishes and materials and similar features which are recommended for use in the Project; provided, however, that said rules shall not be in derogation of the minimum standards required by this Declaration, or the

Community Architectural Rules and Guidelines.

9.6 APPLICATION FOR APPROVAL OF IMPROVEMENTS: Any Owner, except Declarant and his designated agents, proposing to perform any work of any kind whatever which requires the prior approval of the Neighborhood Architectural Committee pursuant to Sub-section 4.2, or any other Section of this Declaration shall apply to such Committee for approval by notifying the Neighborhood Architectural Committee of the nature of the proposed work in writing and furnishing such information as the Committee may require.

9.7 BASIS FOR APPROVAL OF IMPROVEMENTS: The Neighborhood Architectural Committee shall grant the requested approval only if:

9.7.1 The Owner shall have complied with the provisions of Section 9.6 above;

9.7.2 The Neighborhood Architectural Committee shall find that the plans and specifications conform to this Declaration, the Community Declaration and the Neighborhood and Community Architectural Committee Rules in effect at the time such plans were submitted to such Committee; and

9.7.3 The members of the Neighborhood Architectural Committee, in their sole discretion, determine that the proposed improvements would be consistent with the standards of the Project and the purposes of this Declaration as to quality of workmanship and materials, as to harmony of exterior design with the existing structures and as to location with respect to topography and finished grade elevations.

9.8 FORM OF APPROVAL: All approvals given under Section 9.7 shall be in writing; provided, however, that any request for approval which has not been rejected within thirty

(30) days from the date of submission thereof to the Neighborhood Architectural Committee shall be deemed approved.

9.9 PROCEEDING WITH WORK: Upon receipt of approval from the Neighborhood Architectural Committee pursuant to Section 9.8 above, the Owner shall, as soon as practicable, satisfy all conditions hereof and diligently proceed with the commencement and completion of all construction, reconstruction, refinishing, alterations and excavations pursuant to said approval, said commencement to be, in all cases, within one year from the date of such approval. If the Owner shall fail to comply with this paragraph, any approval given pursuant to Section 9.8, above, shall be deemed revoked unless the Neighborhood Architectural Committee, upon written request of the Owner made prior to the expiration of said one-year period, extends the time for such commencement. No such extension shall be granted except upon a finding by the Neighborhood Architectural Committee that there has been no change in the circumstances upon which the original approval was granted. Nothing contained herein shall eliminate the obligation of an Owner to landscape the Front Yard Area of his Lot as required by Section 4.2.1 hereof.

9.10 FAILURE TO COMPLETE WORK: The Owner shall in any event complete the construction, reconstruction, refinishing or alteration of any such improvement within one (1) year after commencing construction thereof, except and for so long as such completion is rendered impossible or would result in great hardship to the Owner due to strikes, fires, national emergencies, natural calamities or other supervening forces beyond the control of the Owner or his agents; provided, however, nothing contained herein shall eliminate the obligation of an Owner to landscape the Front Yard Area of his Lot as required by

Section 4.2.1 hereof. If Owner fails to comply with this paragraph, the Neighborhood Architectural Committee shall notify the Board of such failure, and the Board shall proceed in accordance with the provisions of Section 9.11 below as though the failure to complete the improvement was a non-compliance with approved plans.

9.11 INSPECTION OF WORK: Inspection of work and correction of defects therein shall proceed as follows:

9.11.1 Upon the completion of any construction, reconstruction, alteration or refinishing of the exterior of any improvements, or upon the completion of any other work for which approved plans are required under this Article, the Owner shall give written notice thereof to the Neighborhood Architectural Committee.

9.11.2 Within sixty (60) days thereafter the Neighborhood Architectural Committee, or its duly authorized representative, may inspect such improvement to determine whether it was constructed, reconstructed, altered or refinished to substantial compliance with the approved plans. If the Neighborhood Architectural Committee finds that such construction, reconstruction, alteration or refinishing was not done in substantial compliance with the approved plans, it shall notify the Owner in writing of such non-compliance within such sixty (60) days period, specifying particulars of non-compliance, and shall require the Owner to remedy such non-compliance.

9.11.3 If the Owner shall have failed to remedy such non-compliance upon the expiration of thirty (30) days from the date of such notification, the Neighborhood Architectural Committee shall notify the Board in writing of such failure. The Board shall then set a date on which a hearing before the Board

shall be held regarding the alleged non-compliance. The hearing date shall be not more than thirty (30) nor less than fifteen (15) days after notice of the non-compliance is given to the Board by the Neighborhood Architectural Committee. Notice of the hearing date shall be given at least ten (10) days in advance thereof by the Board to the Owner, to the Neighborhood Architectural Committee and, in the discretion of the Board, to any other interested party.

9.11.4 At the hearing, the Owner, the Neighborhood Architectural Committee and, in the Board's discretion, any other interested person may present information relevant to the question of the alleged non-compliance. After considering all such information, the Board shall determine whether there is a non-compliance and, if so, the nature thereof and the estimated cost of correcting or removing the same. If a non-compliance exists, the Board shall require the Owner to remedy or remove the same within a period of not more than forty-five (45) days from the date of the Board ruling. If the Owner does not comply with the Board ruling within such period or within any extension of such period as the Board, in its discretion, may grant, the Board, at its option, may either remove the non-complying improvement or remedy the non-compliance and the Owner shall reimburse the Association for all expenses incurred in connection therewith upon demand. If such expenses are not promptly repaid by the Owner to the Neighborhood Association, the Board shall levy a reimbursement assessment against such Owner pursuant to Section 7.4 hereof.

9.11.5 If for any reason the Neighborhood Architectural Committee fails to notify the Owner of any non-compliance within sixty (60) days after receipt of said notice of

completion from the Owner, the improvement shall be deemed to be in accordance with said approved plans.

9.12 APPLICATION FOR PRELIMINARY APPROVAL: Any Owner proposing to construct improvements requiring the prior approval of the Neighborhood Architectural Committee may apply to the Committee for preliminary approval by submission of preliminary drawings of the proposed improvements in accordance with the Neighborhood Architectural Rules. The purpose of the preliminary approval procedure is to allow an Owner proposing to make substantial improvements an opportunity to obtain guidance concerning design considerations before expending substantial sums for plans and other exhibits required to apply for final approval. Applications for preliminary approval shall be considered and disposed of as follows:

9.12.1 Within thirty (30) days after proper application for preliminary approval (twenty (20) days in the case of plans for landscaping the Front Yard Area), the Neighborhood Architectural Committee shall consider and act upon such request. The Neighborhood Architectural Committee shall grant the approval only if the proposed improvement, to the extent its nature and characteristics are shown by the application, would be entitled to a final approval on the basis of a full and complete application. Failure of the Neighborhood Architectural Committee to act within said thirty (30) day period (or twenty (20) day period, as the case may be) shall constitute an approval. In granting or denying approval, the Neighborhood Architectural Committee may give the applicant such directions concerning the form and substance of the final application for approval as it may deem proper or desirable for the guidance of the applicant.

9.12.2 Any preliminary approval granted by the Neighborhood Architectural Committee shall be effective for a period of ninety (90) days from the date of the issuance thereof. During said period, any application for final approval which consists of proposed improvements in accordance with the provisions of the preliminary approval, and is otherwise acceptable under the terms of this Declaration, shall be approved by the Neighborhood Architectural Committee.

9.12.3 In no event shall any preliminary approval be deemed to be an approval authorizing construction of the subject improvements.

9.13 WAIVER: The approval by the Neighborhood Architectural Committee of any plans, drawings or specifications for any work done or proposed, or for any other matter requiring the approval of the Neighborhood Architectural Committee under this Declaration, shall not be deemed to constitute a waiver of any right to withhold approval of any similar plan, drawing, specification or matter subsequently submitted for approval.

9.14 ESTOPPEL CERTIFICATE: Within thirty (30) days after written demand is delivered to the Neighborhood Architectural Committee by any Owner, and upon payment to the Neighborhood Association of a reasonable fee (as fixed from time to time by the Neighborhood Association), the Neighborhood Architectural Committee shall record an estoppel certificate, executed by any two (2) of its members, certifying (with respect to any Lot of said Owner) that as of the date thereof, either: (a) all improvements made and other work completed by said Owner comply with this Declaration, or (b) such improvements or work do not so comply, in which event the certificate shall also identify the non-complying improvements or work and set forth with parti-

cularity the basis of such non-compliance. Any purchaser from the Owner, or from anyone deriving any interest in said Lot through him, shall be entitled to rely on said certificate with respect to the matters therein set forth, such matters being conclusive as between the Neighborhood Association, Declarant and all Owners and such persons deriving any interest through them.

9.15 LIABILITY: Neither the Neighborhood Architectural Committee nor any member thereof shall be liable to the Association or to any Owner for any damage, loss or prejudice suffered or claimed on account of: (a) the approval or disapproval or any plans, drawings and specifications, whether or not defective; (b) the construction or performance of any work, whether or not pursuant to approved plans, drawings, and specifications; (c) the development of any property within the Neighborhood; or (d) the execution and filing of an estoppel certificate pursuant to Section 9.14, whether or not the facts therein are correct; provided, however, that such member has acted in good faith on the basis of such information as may be possessed by him. Without in any way limiting the generality of the foregoing, the Neighborhood Architectural Committee, or any member thereof, may, but is not required to, consult with or hear the views of the Neighborhood Association or any Owner with respect to any plans, drawings, specifications or any other proposal submitted to the Neighborhood Architectural Committee.

9.16 NON-APPLICABILITY TO DECLARANT: The provisions of this Article shall not apply to any Lot owned by Declarant or prior to his first conveyance of a Lot to a member of the public.

9.17 PRECEDENCE OF COMMUNITY ARCHITECTURAL COMMITTEE: The Neighborhood Architectural Committee shall act in accordance with the Community Architectural Committee and shall undertake such

duties and responsibilities as may be delegated to the Neighborhood by the Community Architectural Committee, all as more particularly provided in Article VIII of the Community Declaration. The rulings and decisions of the Community Architectural Control Committee shall have precedent over and shall supersede any such decisions or ruling of the Neighborhood Architectural Committee. To facilitate the coordination of the Neighborhood Architectural Committee and the Community Architectural Committee, the Neighborhood Architectural Committee shall have the right, but not the obligation, to assign all or any part of its responsibilities and duties hereunder to the Community Architectural Committee.

9.18 CITY REQUIREMENTS: The application to and the review and approval by the Neighborhood Architectural Committee of any proposals, plans or other submittals shall in no way be deemed to be satisfaction of or compliance with any building permit process or any other requirement of the City of San Diego, the responsibility for which shall lie solely with the respective Owner.

ARTICLE XLIMITATION OF RESTRICTIONS ON DECLARANT

10.1 LIMITATIONS OF RESTRICTIONS: Declarant is undertaking the work of constructing upon the Lots within the Neighborhood, various Residences and other incidental improvements. The completion of that work and the sale, rental and other disposal of Lots is essential to the establishment and welfare of said property and the Additional Property as a residential community. In order that said work may be completed and said property be established as a fully occupied residential community as rapidly as possible, nothing in this Declaration shall be understood or construed to:

10.1.1 Prevent Declarant, its contractors, or subcontractors, from doing within the Neighborhood or any Lot thereof, including property annexed or to be annexed thereto, whatever is reasonably necessary or advisable in connection with the completion of said work; or

10.1.2 Prevent Declarant or its representatives from erecting, constructing and maintaining on any part or parts of the Neighborhood, including property annexed or to be annexed thereto, such structures as may be reasonably necessary for the conduct of its business of completing said work and establishing said property as a residential community and disposing of the same in parcels by sale, lease, or otherwise; or

10.1.3 Prevent Declarant from conducting on any part of the Neighborhood, including property annexed or to be annexed thereto, its business of completing said work and of establishing said property as a residential community and of disposing of said property in parcels or Lots by sale, lease or otherwise; or

10.1.4 Prevent Declarant from maintaining such signs or signs on any within the Neighborhood as may be necessary for the sale, lease or disposition thereof.

10.1.5 Prevent Declarant from maintaining model homes, sales offices, storage facilities or related such facilities on any unsold Lots within the Neighborhood necessary or reasonable, in the opinion of Declarant, for sale or disposition of said Lots. Declarant shall be entitled to reasonable use of the Neighborhood Common Areas and Neighborhood Common Area facilities for undertaking its sale of said Lots.

10.1.6 Prevent Declarant from increasing or decreasing the number of Lots that may be annexed to the Neighborhood pursuant to Section 3.3 hereof, or prevent Declarant from changing the exterior appearance, landscaping and any other matter directly or indirectly connected with the Neighborhood in the manner deemed desirable by Declarant; provided, however, that Declarant has or shall obtain governmental consents where required by law, including where appropriate the consent of the Department of Real Estate, and/or the Federal Housing Administration or the Veterans Administration.

10.2 TITLE RIGHTS: This Declaration shall not in any manner constitute a limitation on Declarant's title rights to the Additional Property prior to annexation to the Neighborhood, nor shall it impose any obligation on Declarant or any other person or entity to improve, develop or annex any of the Additional Property.

The rights of Declarant under this Declaration to all or part of Declarant's interest in the Neighborhood properties and the Additional Property may be assigned to any successor(s) by an express assignment incorporated in a recorded deed, option or lease, as the case may be, transferring such interest to such

successor. This Declaration shall not limit the right of Declarant at any time prior to acquisition of title by a purchaser from Declarant to establish on any part of the Neighborhood additional licenses, reservations and rights-of-way to itself, to utility companies or to others as, from time to time, may be reasonably necessary to the proper development and disposal of the Neighborhood properties and the Additional Property.

ARTICLE XIRIGHTS OF TRUST DEED BENEFICIARIES

11.1 GENERAL: The trust deed Beneficiaries of the Lots in the Project, herein called "Beneficiaries", shall be entitled to the rights and privileges set forth in this Article.

11.2 EXEMPTION FROM RIGHTS OF FIRST REFUSAL: Any Beneficiary who comes into possession of a Lot pursuant to the remedies provided in the mortgage for foreclosure of the mortgage, or deed of trust or assignment in lieu of foreclosure, shall be exempt from any right of first refusal which might be contained in or added to this Declaration.

11.3 NON-LIABILITY FOR UNPAID ASSESSMENTS: Any Beneficiary who comes into possession of a Lot pursuant to the remedies provided in the mortgage or deed of trust, foreclosure of the mortgage or deed of trust, except upon a voluntary conveyance to the Beneficiary, shall take the property free of any claims for unpaid assessments or charges against the mortgaged Lot which accrue prior to the time such Beneficiary comes into possession of the Lot, except for claims for a pro rata share of such assessments or charges to all units including the mortgaged Lot.

11.4 MORTGAGEES' APPROVAL: Unless at least sixty-six and two-thirds percent (66-2/3%) of the Beneficiaries, based upon one vote for each mortgage owned, of Lots or sixty-six and two-thirds percent (66-2/3%) of the Lot Owners other than Declarant have given their prior written approval, the Neighborhood Association shall not be entitled to:

11.4.1 By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer any real estate or improvements thereon which are owned, directly or indirectly, by the Neighborhood Association for the benefit of the Lots and the Owners

thereof. The granting of easements for public utilities or other public purposes consistent with the intended use of such property by the Neighborhood Association and Lot Owners shall not be deemed a transfer within the meaning of this clause;

11.4.2 Change the method of determining the obligations, assessments, dues or other charges which may be levied against a Lot Owner.

11.4.3 By act or omission change, waive or abandon any scheme of regulations, or enforcement thereof, pertaining to architectural design or exterior appearance of Lots, the exterior maintenance of Lots, the maintenance of party walls or common fences and driveways or the upkeep of lawns, plantings or other landscaping in the Neighborhood Common Area.

11.4.4 Fail to maintain fire and extended coverage insurance on insurable common property owned by the Neighborhood Association on a current replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value based on current replacement cost.

11.4.5 Use hazard insurance proceeds for losses to any common property and improvements owned by the Neighborhood Association other than for the repair, replacement or reconstruction of such property and improvements.

11.5 PAYMENT OF TAXES AND INSURANCE: Beneficiaries of Lots may, jointly or singly, pay taxes or other public assessments which are in default and which may or have become a charge against any common property and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for such property and first mortgagees making such payments shall be owed immediate reimbursement therefor from the Neighborhood Association. Entitlement to such reimbursement shall

be reflected in an agreement in favor of all Beneficiaries of Lots duly executed by the Neighborhood Association.

11.6 INSURANCE PROCEEDS AND CONDEMNATION AWARDS: No provision of this Declaration, the By-Laws or the Articles shall give a Lot Owner, or any other party, priority over any rights of the first mortgagees pursuant to their mortgages in the case of a distribution to Lot Owners of insurance proceeds or condemnation and eminent domain awards for losses to or a taking of any Lot or portion thereof or any common property of the Neighborhood owned by the Neighborhood Association or otherwise.

11.7 ASSOCIATION ASSESSMENTS: Association assessments shall at all times include an adequate reserve fund for maintenance, repairs and replacement of Neighborhood Common Area that must be replaced on a periodic basis which assessments shall be payable in regular installments rather than by special assessments.

11.8 NOTICE OF DEFAULT: Beneficiaries who have submitted a request in writing to the Neighborhood Association for such shall be entitled to written notification from the Neighborhood Association of any default by the mortgagor of any Lot in the performance of such mortgagor's obligations under this Declaration and By-Laws which is not cured within sixty (60) days.

11.9 MANAGEMENT AGREEMENTS: Any agreement for professional management of the Neighborhood shall provide that the management contract may be terminated without cause and without payment of a termination fee on a maximum of thirty (30) days written notice and the term of any such contract shall not exceed one (1) year.

11.10 TERMINATION OF PLANNED DEVELOPMENT: Unless written approval of each Beneficiary is first obtained, the Neighborhood Association shall not be entitled to abandon or terminate the Planned Unit Development regime, or, except as otherwise

specifically provided in this Declaration in connection with the granting of easements to governmental or other public entities, in any manner alienate, release, transfer, hypothecate or otherwise encumber the Neighborhood Common Areas and facilities.

11.11 BOOKS AND RECORDS: Each Beneficiary shall have the right to examine the books and records of the Neighborhood Association for the Neighborhood. Upon request, each Beneficiary shall be entitled to receive an annual audited financial statement of the Neighborhood Association within ninety (90) days following the end of any fiscal year and written notice of all meetings of the Neighborhood Association and be permitted to designate a representative to attend all such meetings.

11.12 NOTICES TO BENEFICIARY: The Neighborhood Association shall provide to any Beneficiary who so requests in writing written notice of (i) any action to abandon or terminate the Neighborhood; (ii) any action to amend materially the provisions of this Declaration, the Articles or the By-Laws; or (iii) the effectuation of any decision by the Neighborhood Association to terminate any professional management and assume self-management of the Neighborhood.

11.13 LEASES: Any lease agreement shall be required to provide that the terms of the lease shall be subject in all respect to the provisions of this Declaration and the By-Laws and that any failure by the lessee to comply with the terms of such documents shall be a default under the lease. All leases shall be required to be in writing.

11.14 NOTICE REGARDING SUBSTANTIAL DAMAGE OR DESTRUCTION, CONDEMNATION OR EMINENT DOMAIN: In the event of substantial damage to or destruction of any Lot or portion of the Neighborhood Common Area and facilities or if any Lot or any portion of the

Neighborhood Common Area and facilities is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, each Beneficiary who requests such notice shall be provided timely notice of any such damage, destruction or proceedings.

11.15 MORTGAGE PROTECTION: A breach of any of the conditions contained in this Declaration shall not defeat nor render invalid the lien of any Mortgage or Deed of Trust made in good faith and for value as to any Lot in the Neighborhood; provided, however, that said conditions shall be binding upon and effective against any Owner of a Lot which Lot is acquired by foreclosure, trustee's sale or otherwise.

ARTICLE XIIMISCELLANEOUS PROVISIONS12.1 AMENDMENT AND DURATION:

12.1.1 Amendment: After the conveyance of the first Lot, the provisions hereof may be amended by the vote or written consent of the record Owners constituting not less than seventy-five percent (75%) of both classes of Members of the Neighborhood Association. In the event only one class of Members exists at the time of the proposed amendment, said amendment shall require (1) the vote or written consent of seventy-five percent (75%) of the total votes of Members and (2) the vote or written consent of seventy-five percent (75%) of the votes of Neighborhood Association members other than Declarant in accordance with Section 6.3.2 of the Declaration. Said amendment shall be effective upon the recordation in the Office of the Recorder of the county in which the Neighborhood is situated of an instrument setting forth the terms thereof duly certified and executed by the President and Secretary of the Neighborhood Association. Notwithstanding anything to the contrary herein contained, no such amendment shall affect the rights of the holder of any deed of trust or mortgage recorded prior to the recordation of such amendment.

12.1.2 Duration: The provisions of this Declaration, including the covenants, conditions and restrictions contained herein shall continue to be effective for a period of sixty (60) years from the date of recordation and shall be automatically extended for successive periods of ten (10) years or until a majority vote of the Owners of all of the Lots in the Neighborhood shall determine that they shall terminate.

12.2 ENFORCEMENT AND NONWAIVER:

(a) Right of Enforcement: Except as otherwise provided herein, Declarant, the Neighborhood Association or any Owner or Owners shall have the right to enforce any and all of the covenants, conditions and restrictions now or hereafter imposed by this Declaration upon the Owners or upon any property in the Neighborhood.

(b) Violations and Nuisance: Every act or omission whereby a covenant, condition or restriction of this Declaration is violated in whole or in part is hereby declared to be a nuisance and may be enjoined or abated, whether or not the relief sought is for negative or affirmative action, by Declarant, the Neighborhood Association or an Owner or Owners. However, any other provision of this Declaration notwithstanding, only Declarant, the Board, or the Association or their duly authorized agents may enforce by self-help any covenant, condition or restriction herein set forth.

(c) Violation of Law: Any violation of any state, municipal or local law, ordinance or regulation pertaining to the ownership, occupation or use of any property within the Neighborhood is hereby declared to be a violation of this Declaration and subject to any or all of the enforcement procedures herein set forth.

(d) Remedies Cumulative: Each remedy provided by this Declaration is cumulative and not exclusive.

(e) Nonwaiver: The failure to enforce the provisions of any covenant, condition or restriction contained in this Declaration shall not constitute a waiver of any right to enforce any such provisions or any other provisions of said Declaration.

12.3 OBLIGATIONS OF OWNERS: No Owner may avoid the burdens or obligations imposed on him by this Declaration through non-use of any Neighborhood Common Area or the facilities located thereon or by abandonment of his Lot. Upon the conveyance, sale, assignment or other transfer of a Lot to a new Owner, the transferring Owner shall not be liable for any assessments levied with respect to such Lot after the date of such transfer, and no person, after the termination of his status as an Owner and prior to his again becoming an Owner, shall incur any of the obligations or enjoy any of the benefits of any Owner under this Declaration.

12.4 COMMUNITY ASSOCIATION: The Community Association is hereby granted the right, as a third party beneficiary to the agreements specified herein, to enforce, through the Community Board, all of the terms and provisions hereof to the same extent as any Owner in the Neighborhood or any officer or Director of the Neighborhood Association.

12.5 CONSTRUCTION AND SEVERABILITY; SINGULAR AND PLURAL; TITLES:

(a) Restrictions Construed Together: All of the covenants, conditions and restrictions of this Declaration shall be liberally construed together to promote and effectuate the fundamental concepts of the Project as set forth in the Preamble of this Declaration.

(b) Restrictions Severable: Notwithstanding the provisions of subparagraph (a) above, the covenants, conditions and restrictions of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof shall not affect the validity or enforceability of any other provision.

(c) Singular Includes Plural: The singular shall include the plural and the plural the singular unless the context requires the contrary, and the masculine, feminine or neuter shall each include the masculine, feminine and neuter, as the context requires.

(d) Captions: All captions or titles used in this Declaration are intended solely for convenience of reference and shall not affect that which is set forth in any of the terms or provisions of said Declaration.

12.6 FHA/VA Approval: Notwithstanding the provisions of Section 12.1.1, so long as there is a Class B Membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: Annexation of additional properties, dedication of Common Area, and amendment of this Declaration of Covenants, Conditions and Restrictions.

12.7 Grades, Slopes and Drainage. No change in the established grade or elevation of Lots, and no change in the established slope or ratio of the cuts and fills, which alters the established drainage patterns shall be permitted. "Established drainage" is defined as the drainage which occurred or will occur at the time the overall grading of the Lots, including the landscaping, if any, of each Lot, was or is completed by Declarant. Declarant hereby reserves the right to make any and all cuts and fills on any Lot, and to do such grading as in its judgment may be necessary. Each of the Owners of the Lots covenants to permit free access by Owners of adjacent Lots to slopes or drainage ways located on his property when such access is required for the maintenance or permanent stabilization of said slopes, or maintenance of the drainage facility or for the protection and use of property other than the Lot on which the slope or drainage way is located.

IN WITNESS WHEREOF, Declarant has executed this Declaration the day and year first above written.

DECLARANT: BH Unit #3, a joint venture

By: Christopher Homes Development
By: Christopher Homes, Inc.

By: Christopher C. Gibbs
Christopher C. Gibbs, President

By: Marquis L. Cummings
Marquis L. Cummings, Secretary

By: Gibbs Housing Corporation

By: Christopher C. Gibbs
Christopher C. Gibbs, Vice President

By: Marquis L. Cummings
Marquis L. Cummings, Assistant Secretary

By: Provident Capital Corporation

By: D. R. McArthur
D. R. McArthur, President

By: Jeffrey S. Nelson
Jeffrey S. Nelson, Vice President

STATE OF CALIFORNIA }
COUNTY OF ORANGE } ss.

On this 4th day of May, 19 81, before me LINDA LEE SCHULZ

a Notary Public in and for said State personally appeared CHRISTOPHER C. GIBBS

known to me to be the President, and MARQUIS L. CUMMINGS

known to me to be the Secretary of CHRISTOPHER HOMES INC.

the corporation that executed the within instrument and known to me to be the persons who executed the within

instrument on behalf of said corporation, said corporation being

known to me to be one of the partners of

CHRISTOPHER HOMES DEVELOPMENT

the partnership that executed the within instrument, and acknowl-

edged to me that such corporation executed the same as such

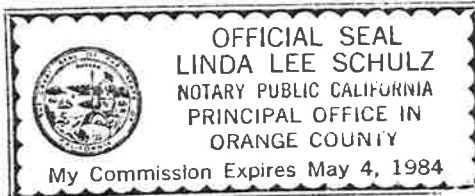
partner and that such partnership executed the same.

WITNESS my hand and official seal.

Signature Linda Lee Schulz

LINDA LEE SCHULZ

Name (Typed or Printed)



(This area for official notarial seal)

Form 3005—(Corporation as a Partner of a Partnership)
First American Title Company

EXHIBIT "A"

Lots 1 to 17 & 52 to 71, both inclusive of BERNARDO HEIGHTS UNIT NO. 3, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 9573, filed in the Office of the County Recorder of said San Diego County, February 25, 1980.

TO 1945 CA (8-74)

(Corporation)



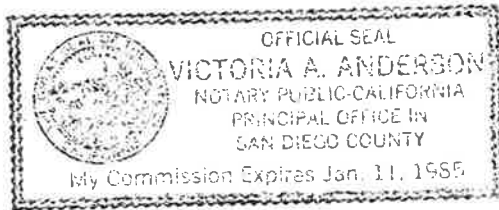
STATE OF CALIFORNIA }
COUNTY OF San Diego } ss.

On May 5, 1981 before me, the undersigned, a Notary Public in and for said State, personally appeared D. R. McArthur known to me to be the President, and Jeffrey S. Nelson

known to me to be Vice President ~~Secretary~~ of the corporation that executed the within Instrument, known to me to be the persons who executed the within Instrument on behalf of the corporation therein named, and acknowledged to me that such corporation executed the within instrument pursuant to its by-laws or a resolution of its board of directors.

WITNESS my hand and official seal.

Signature Victoria A. Anderson



(This area for official notarial seal)

STAPLE HERE

STATE OF CALIFORNIA }
COUNTY OF ORANGE } ss.

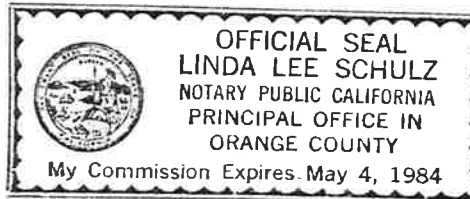
On this 4th day of May, 19 81, before me LINDA LEE SCHULZ a Notary Public in and for said State personally appeared CHRISTOPHER C. GIBBS known to me to be the VICE President, and MARQUIS L. CUMMINGS

known to me to be the ASSISTANT Secretary of GIBBS HOUSING CORPORATION, the corporation that executed the within instrument and known to me to be the persons who executed the within instrument on behalf of said corporation, said corporation being known to me to be one of the partners of

CHRISTOPHER HOMES DEVELOPMENT the partnership that executed the within instrument, and acknowledged to me that such corporation executed the same as such partner and that such partnership executed the same.

WITNESS my hand and official seal.

Signature Linda Lee Schulz
LINDA LEE SCHULZ



(This area for official notarial seal)

Name (Typed or Printed)

Form 3005—Corporation as a Partner of a Partnership
First American Title Company

EXISTING IMPROVEMENTS
PER DWG. NO 18188-4.D

HEIGHTS

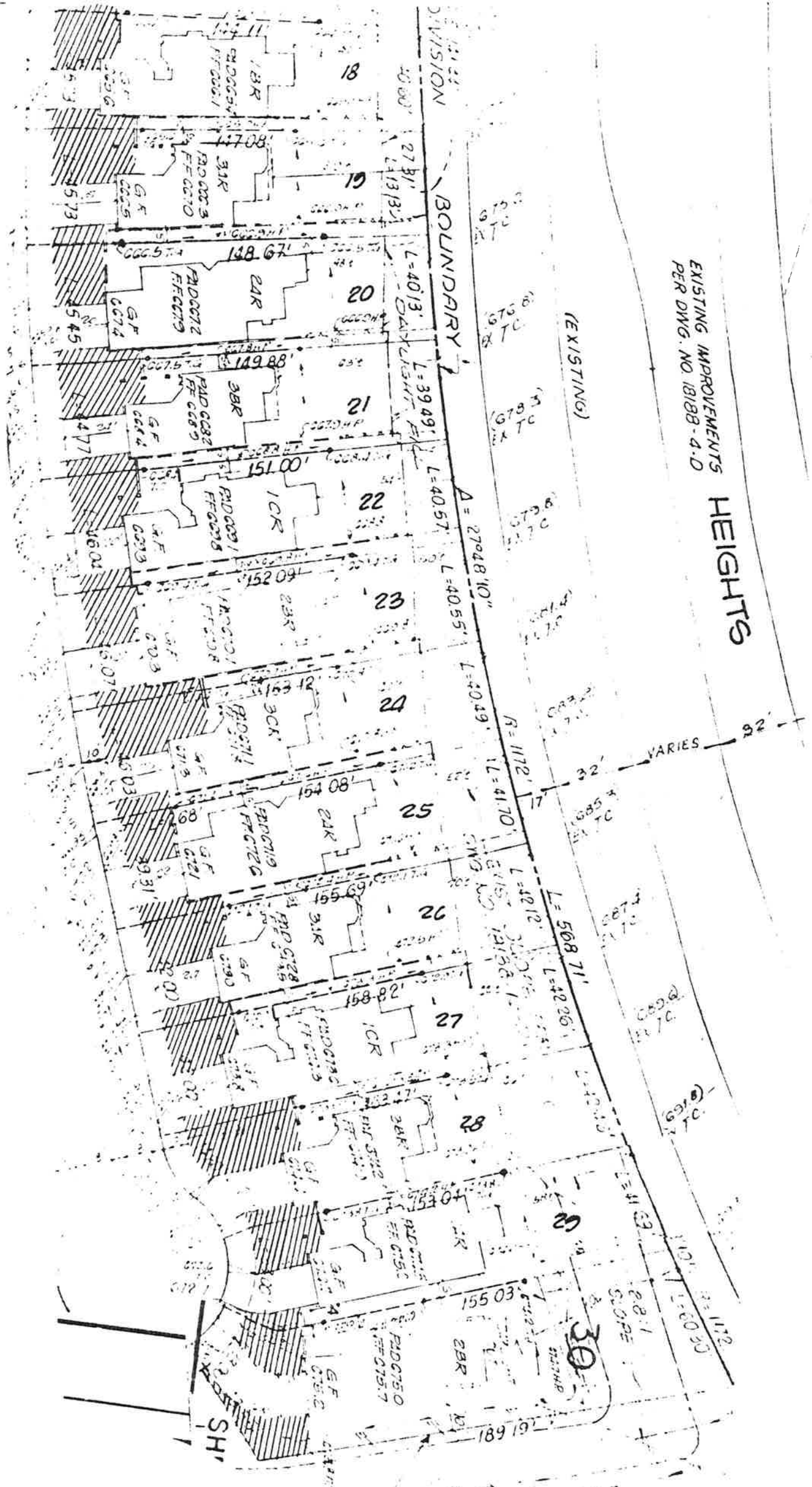


EXHIBIT "B-1"

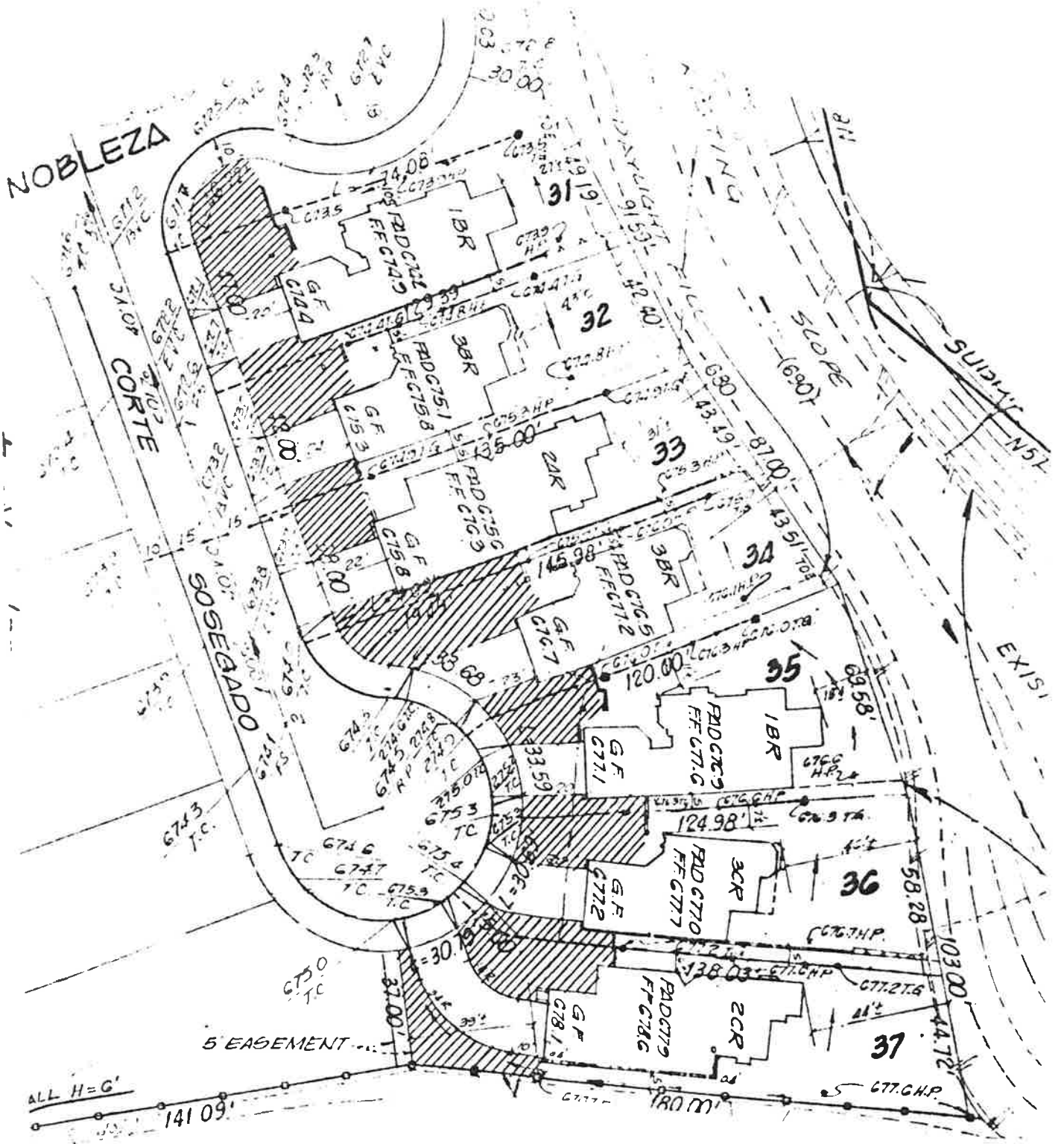


EXHIBIT "B-3"

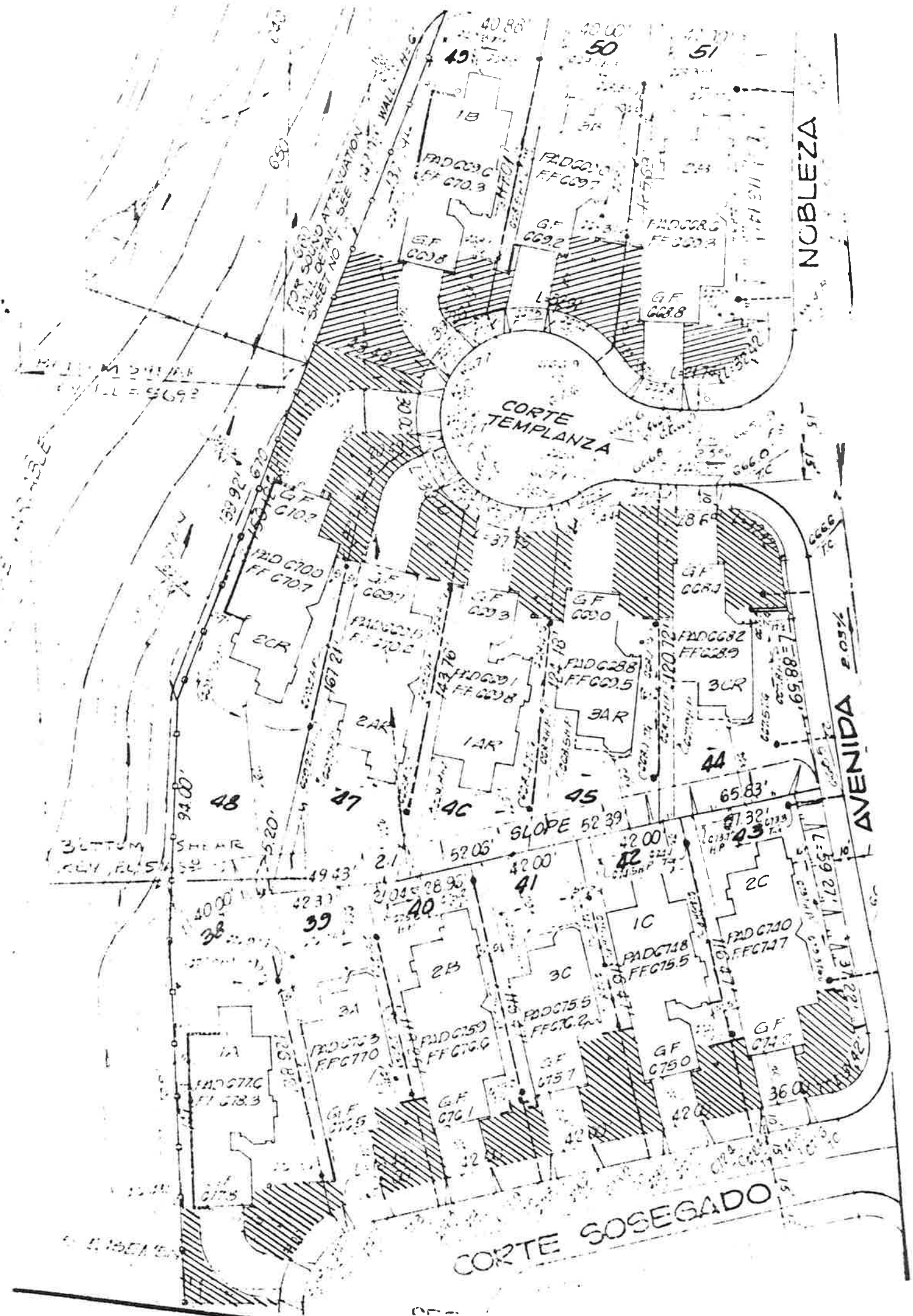
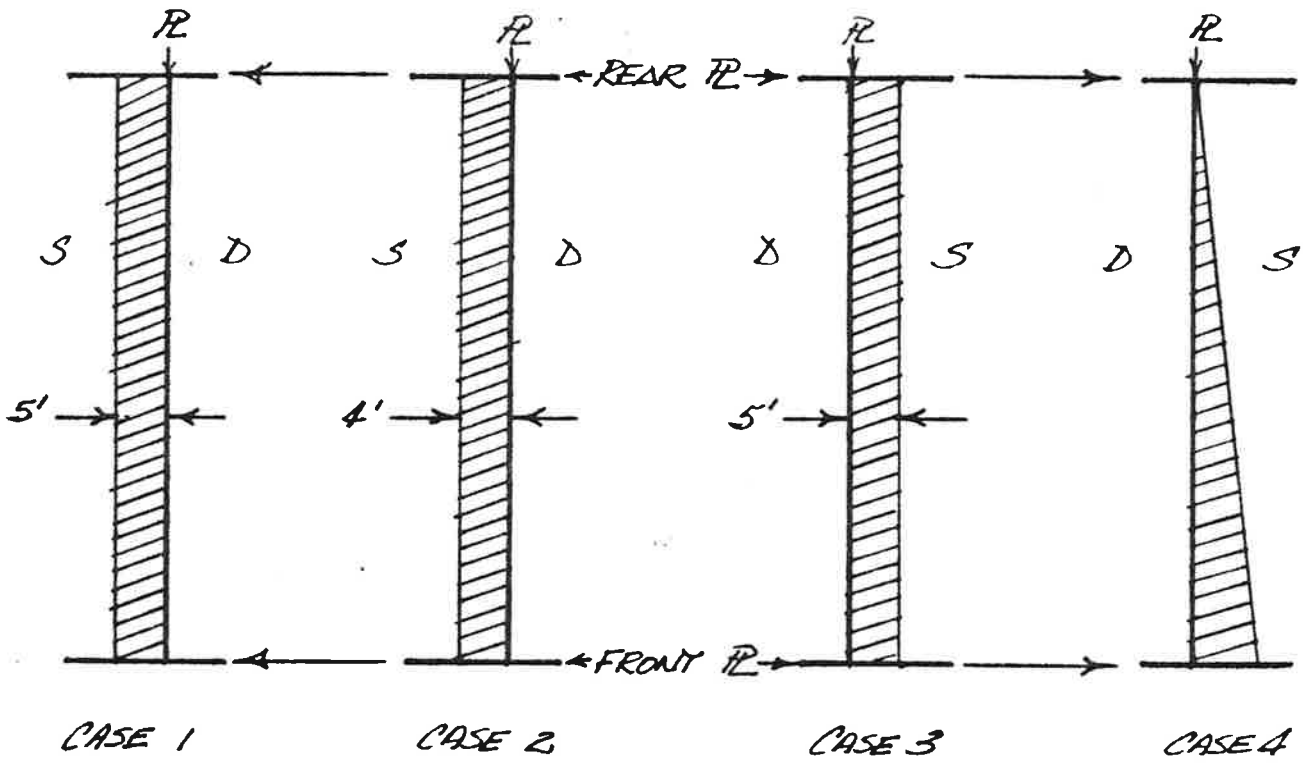


EXHIBIT "C"



LEGEND:

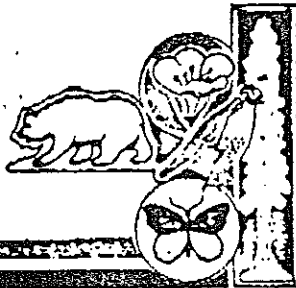
D = DOMINANT TENEMENT
 S = SERVIENT TENEMENT

CASE 1 LOTS 18 THROUGH 29, 31 THROUGH 37 & 44 THROUGH 48, ALL INCLUSIVE

CASE 2 LOT 30

CASE 3 LOTS 49 THROUGH 51 & 38 THROUGH 43, ALL INCLUSIVE

CASE 4 LOT 51



State
of
California
OFFICE OF THE SECRETARY OF STATE

I, *MARCH FONG EU*, Secretary of State of the State of California, hereby certify:

That the annexed transcript has been compared with the record on file in this office, of which it purports to be a copy, and that same is full, true and correct.

IN WITNESS WHEREOF, I execute this certificate and affix the Great Seal of the State of California this

MAY - 5 1981



March Fong Eu

Secretary of State

ARTICLES OF INCORPORATION
OF
VILLA LADERA HOMEOWNERS ASSOCIATION

ARTICLE I

NAME

The name of the corporation (hereinafter called the "Association") is VILLA LADERA HOMEOWNERS ASSOCIATION.

ARTICLE II

PURPOSES OF THE ASSOCIATION

This corporation is a nonprofit mutual benefit corporation organized under the Nonprofit Mutual Benefit Corporation Law. The purpose of this corporation is to engage in any lawful act or activity for which a corporation may be organized under such law.

This Association does not contemplate pecuniary gain or profit to the members thereof, and the specific and primary purposes for which it is formed are to provide for management, administration, maintenance, preservation and architectural control of the residence units and common area within that certain real property situated in the City of San Diego, County of San Diego, California known as the BERNARDO HEIGHTS UNIT NO. 3 and to promote the health, safety and welfare of all the residents within the above-described property and any additions thereto as may hereafter be brought within the jurisdiction of this Association for this purpose, all according to that certain Declaration of Covenants, Conditions and Restrictions, hereinafter called the "Declaration" recorded or to be recorded with respect to said property in the Office of the Recorder of San Diego County.

1643273

ENDORSED
FILED

In the office of the Secretary of State
of the State of California

MAY - 5 1981

MARCH FONG EU, Secretary of State
Carmelle M. Gvy
Deputy

ARTICLE III

LIMIT ON POWERS

Notwithstanding any statement herein to the contrary, the Association shall not, except to an insubstantial degree, engage in any activity or exercise any power that is not in furtherance of its specific and primary purposes. This Association is intended to qualify as a Homeowner's Association under the applicable provisions of the United States Internal Revenue Code, Section 523, and of California Revenue and Taxation Code of California, Section 23701c, as they be amended from time to time. No part of the net earnings of this Association shall inure to the benefit of any private individual except as expressly provided in those Sections with respect to the acquisition, construction or provision for management, maintenance and care of the Association property, and other than by a rebate of excess membership dues, fees or assessments.

ARTICLE IV

GOVERNANCE

The rights of members, number of members of and manner of election of the Board of Directors and all other matters concerning the operation and governance of the Association shall be as set forth in the By-Laws.

ARTICLE V

AGENT FOR SERVICE OF PROCESS

The name and address of the Association's initial agent for service of process is: Marquis L. Cummings, 19700 Fairchild, Irvine, CA 92715.

ARTICLE VI

DISSOLUTION

In the event of the dissolution, liquidation or winding-up of the Association, upon or after termination of the Project, in accordance with provisions of the Declaration, its assets remaining after payment, or provision for payment, of all debts and liabilities of the Association shall be divided among and distributed to its members in accordance with their respective rights therein.


ARTICLE VII

AMENDMENTS

Amendments to these Articles shall require the affirmative vote or written assent of the members as follows:

- A. 1. At least a bare majority of the votes of all members of the Association, and
- 2. At least a bare majority of the votes of members other than the Declarant (as defined in the By-Laws);
- or
- B. Where the two (2) class voting structure is in effect (as provided in the By-Laws), a majority of each class of members.

IN WITNESS WHEREOF, for the purposes of forming this corporation under the laws of the State of California, the undersigned has executed these Articles of Incorporation this 1st day of May, 1981.



Marquis L. Cummings

I hereby declare that I am the person who executed the above Articles of Incorporation, and such instrument is my act and deed.



Marquis L. Cummings