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**DECLARATION OF COVENANTS, CONDITIONS, & RESTRICTIONS FOR
WEST PALM VILLAS ON WALDEN ROAD**

**THE STATE OF TEXAS §
COUNTY OF MONTGOMERY §**

THIS DECLARATION, made on the date hereinafter set forth by *I.C. Enterprises, Inc.*, a Texas corporation, hereinafter referred to as "Declarant".

WHEREAS, Declarant is or was the owner of the certain real property in Montgomery County, Texas described as follows:

SEE EXHIBIT A ATTACHED HERETO

WHEREAS, it is the desire of Declarant to place certain restrictions, covenants, conditions, easements, stipulations, reservations, liens and charges upon and against such property in order to establish a uniform plan for the development, improvement and sale of such property, and insure the preservation of such uniform plan for the benefit of both the present and future owners of such property;

NOW, THEREFORE, Declarant hereby declares that all of the properties described above and any property annexed thereto pursuant to the terms hereof, shall be held, sold and conveyed subject to the following restrictions, covenants, conditions, easements, stipulations, reservations, liens and charges, all of which are for the purpose of enhancing and protecting the value, desirability, and attractiveness of the real property. These restrictions, covenants, conditions, easements, stipulations, reservations, liens and charges shall run with the real property and shall be binding on all parties having or acquiring any right, title or interest in the above described property, or any part thereof, and shall inure to the benefit of each owner thereof.

**ARTICLE I
DEFINITIONS**

SECTION 1.1. ARTICLES OF INCORPORATION or ARTICLES - The Articles of Incorporation of the Homeowners Association of West Palm Villas on Walden Road, Inc., as filed with the Secretary of State of the State of Texas.

SECTION 1.2. ASSOCIATION - Homeowners Association of West Palm Villas on Walden Road, Inc., a Texas non-profit corporation, its successors and assigns. The "BOARD OF DIRECTORS" or "BOARD" shall be the elected body having its normal

meaning under Texas corporate law.

SECTION 1.3. BY-LAWS - The Bylaws of the Homeowners Association of West Palm Villas on Walden Road, Inc., incorporated herein by reference, as they may be amended from time to time.

SECTION 1.4. COMMON AREA - That portion of the Property owned by the Association for the common use and enjoyment of the members of the Association and shall include, but is not limited to, all recreational facilities, bulkhead, community facilities, trees, landscaping, sprinkler systems, pavements, and streets situated thereon, but shall not include any portion of the Property described as "Lots".

SECTION 1.5. COMMON EXPENSES - The actual and estimated expenses incurred by the Association for the general benefit of all Owners, including any reasonable reserve, all as may be found to be necessary and appropriate by the Board pursuant to this Declaration, the Bylaws, and the Articles of Incorporation of the Association.

SECTION 1.6. DECLARANT - I.C. Enterprises, Inc., its successors and assigns if such successors and assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

SECTION 1.7. LOT - That portion of the Property on which there is or will be constructed a single family townhome which is to be individually and separately owned. It is understood that there will be 18 waterfront Lots and 4 interior Lots for a total of 22 Lots upon which single family townhomes are to be erected. Should additional land be annexed pursuant to Article II hereof, the number of Lots shall be increased by the number of single family townhomes erected or to be erected on such property when annexed. Declarant shall be the owner of all of the said 22 Lots, SAVE AND EXCEPT those particular lots which Declarant conveys in fee simple title by recordable deed from and after the date hereon. "Townhome" shall mean a single family residence with a common wall, or walls, roof and foundation.

SECTION 1.8. MEMBER - Any Person entitled to membership in the Association, as provided herein.

SECTION 1.9. MORTGAGE - A mortgage, a deed of trust, a deed of secure debt, or any other form of security deed.

SECTION 1.10. OWNER - Any Person, firm, corporation or other entity, or any combination thereof that is the record owner of fee simple title to any Lot, including contract sellers, but excluding in all cases any party holding an interest merely as security for the performance of an obligation.

SECTION 1.11. PERSON - A natural person, a corporation, a partnership, a trustee, or any other legal entity.

SECTION 1.12. PROPERTY - That certain real property hereinabove described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

SECTION 1.13. RULES AND REGULATIONS - Such Rules and Regulations as the Association may promulgate from time to time with respect to the Subdivision, which may include reasonable provisions for fines for violation of such Rules and Regulations.

SECTION 1.14. SUBDIVISION - Shall mean West Palm Villas on Walden Road development.

**ARTICLE II
ESTABLISHMENT OF GENERAL PLAN**

SECTION 2.1. GENERAL PLAN AND DECLARATION - This Declaration is hereby established pursuant to and in furtherance of a common and general plan for the improvement and sale of Lots within the Subdivision and for the purpose of enhancing and protecting the value, desirability, and attractiveness of the Subdivision. The Subdivision and each part thereof shall be owned, held, transferred, conveyed, sold, leased, rented, encumbered, used, occupied, maintained, altered, and improved subject to the covenants, conditions, restrictions, limitations, reservations, easements, exceptions, and other provisions set forth in this Declaration, for the duration thereof. The Lots and Common Area in the Subdivision shall be subject to the jurisdiction of the Association. These restrictive covenants are to be liberally construed to give effect to their purposes and intent.

SECTION 2.2 COVENANTS APPURTENANT - The covenants, conditions, restrictions, limitations, reservations, easements, exceptions, and other provisions set forth in this Declaration shall run with, and shall inure to the benefit of and shall be binding upon, all of the Subdivision, and each Lot and Common Area therein, if any, and shall be

binding upon and inure to the benefit of: (a) the Subdivision; (b) Declarant and its successors and assigns; (c) the Association and its successors and assigns; and (d) all Persons having, or hereafter acquiring, any right, title, or interest in all or any portion of the Subdivision and their heirs, executors, successors, and assigns.

Section 2.3 ANNEXATION OF ADDITIONAL PROPERTIES - Annexation of property which is located outside the lands above described, shall require the assent of two-thirds (2/3) of the members present at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than 30 days nor more than 50 days in advance of the meeting setting forth the purpose of the meeting. The presence of members or of proxies entitled to cast sixty percent (60%) of the votes of the membership shall constitute a quorum at a meeting called for this purpose. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirements set forth above and the required quorum of such subsequent meeting shall be one-half (1/2) of the required quorum of the preceding meeting. No subsequent meeting shall be held more than 50 days following the preceding meeting. In the event that members entitled to cast 60% of the votes of the membership are not present in person or by proxy at the first meeting called for this purpose, as an alternative to calling another meeting, members not present may give their written assent to the action taken thereat.

**ARTICLE III
MANAGEMENT AND OPERATION OF SUBDIVISION**

SECTION 3.1. MANAGEMENT BY ASSOCIATION - The affairs of the Subdivision shall be administered by the Association. The Association shall have the right, power and obligation to provide for the management, acquisition, construction, maintenance, repair, replacement, administration, and operation of the Subdivision as herein provided for and as provided for in the Articles of Incorporation, Bylaws, and the Rules and Regulations. In the event of any conflict between the Articles of Incorporation and the Bylaws, the Articles of Incorporation shall control; and in the event of a conflict between the Articles of Incorporation or the Bylaws and the provisions of the Declaration, the provisions of the Declaration shall control. The business and affairs of the Association shall be managed by its Board of Directors, unless otherwise reserved to the Members of

the Association by law, the terms of the Declaration, Articles of Incorporation, or the Bylaws. It shall be the responsibility of each Owner or occupant of a townhome to obtain copies of and become familiar with the terms of the Declaration, Articles of Incorporation, Bylaws, Rules and Regulations.

The Association, acting through the Board, shall be entitled to enter into such contracts and agreements concerning the Subdivision as the Board deems reasonably necessary or appropriate to maintain and operate the Subdivision in accordance with the Declaration, including without limitation, the right to grant utility and other easements for uses the Board shall deem appropriate and the right to enter into agreements with adjoining or nearby land owners or governmental entities on matters of maintenance, trash pick-up, repair, administration, security, traffic, operation of recreational facilities, or other matters of mutual interest.

SECTION 3.2. BOARD OF DIRECTORS - The number, term, and qualifications of the members of the Board of Directors shall be governed by the Articles of Incorporation and the Bylaws.

SECTION 3.3. MEMBERSHIP - Every Owner, as defined in Section 1.11 above, shall be deemed to have a membership in the Association. No Owner, whether one (1) or more Persons, shall have more than one (1) vote per Lot owned. The rights and privileges of membership may be exercised by a Member, subject to the provisions of this Declaration, the Bylaws and the Rules and Regulations. The membership rights of a Lot owned by a corporation or partnership shall be exercised by the individual designated from time to time by the Owner in a written instrument provided to the Secretary, subject to the provisions of this Declaration and the Bylaws.

SECTION 3.4. POWER TO ADOPT RULES AND REGULATIONS - The Association, through its Board of Directors, may adopt, amend, repeal, and enforce Rules and Regulations, fines, levies, and enforcement provisions as it deems necessary or desirable with respect to the interpretation and implementation of the Declaration, the operation of the Association, the use and enjoyment of the Common Areas, the use and enjoyment of the boat slips and the use of any other property within the Subdivision, including Lots. Any such Rules and Regulations shall be reasonable and uniformly applied to all Members

and their family, tenants, and guests. Such Rules and Regulations shall be effective only upon adoption by resolution of the Board of Directors. Notice of the adoption, amendment, or repeal of any Rule and/or Regulation shall be given by depositing in the mail to each Member a copy of such Rule or Regulation, and copies of the currently effective Rules and Regulations and shall be made available to each member upon request and payment of the reasonable expense of supplying the same. Each Member shall comply with such Rules and Regulations and shall see that Persons claiming through such Member comply with such Rules and Regulations. Such Rules and Regulations shall have the same force and effect as if they were set forth in, and were part of, this Declaration. In the event of conflict between the Rules and Regulations and the provisions of this Declaration, the provisions of this Declaration shall prevail.

SECTION 3.5. IMPLIED POWERS - The Association may exercise any right, power or privilege given to it expressly by this Declaration or the Bylaws, and every other right, power or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right, power or privilege.

**ARTICLE IV.
VOTING RIGHTS**

The Association shall have two classes of voting memberships.

SECTION 4.1. CLASS "A" MEMBERS - Shall be all Owners with the exception of the Declarant and shall be entitled to one vote for each Lot in which they hold the interest required for Membership by Section 3.3 above. When more than one person holds such interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they, among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

SECTION 4.2. CLASS "B" MEMBER - Shall be Declarant and shall be entitled to three (3) votes for each Lot in which it holds the interest required for Membership in Section 3.3. Class B membership shall cease and be converted to Class A membership on the happening of either of the following events; i) when the total votes outstanding in the Class A membership equals the total votes outstanding in the Class B membership; or ii)

three (3) years from the date hereof.

**ARTICLE V
PROPERTY RIGHTS**

SECTION 5.1. MEMBERS EASEMENTS OF ENJOYMENT - Every member shall have a right and easement of enjoyment in and to the Common Area and such easement shall be appurtenant to and shall pass with the title to every assessed Lot, subject to the following provisions:

- (a) **The right of the Association to limit the number of guests of members using the Common Area.**
- (b) **The right of the Association to charge reasonable admission and other fees for use of any recreational facility situated upon the Common Area.**
- (c) **The right of the Association, in accordance with its Articles and Bylaws, to borrow money for the purpose of improving the Common Area and facilities and in aid thereof to mortgage said property, and the rights of such mortgagee in said properties shall be subordinated to the rights of the homeowners hereunder.**
- (d) **The right of the Association to suspend the voting rights and right to use of the recreational facility by a member for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed thirty (30) days for any violation of its published rules and regulations.**
- (e) **The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by members. No such dedication or transfer shall be effective unless an instrument signed by members entitled to cast two-thirds (2/3) of the votes of the membership has been recorded, agreeing to such dedication or transfer, and unless written notice of the proposed action is sent to every member not less than thirty (30) days nor more than fifty (50) days in advance.**
- (f) **The duty of the Owner, as more fully described in Article VIII, to maintain and repair the boat slip assigned to his Lot, including, but not limited to, the slip, piers, and lift.**

SECTION 5.2. DELEGATION OF USE. Any member may delegate, in accordance with the Bylaws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants or contract purchasers who reside on the property.

SECTION 5.3. TITLE TO THE COMMON AREA - The Declarant hereby covenants for itself, its successors and assigns that it will convey fee simple title to the Common Area to the Association free and clear of all encumbrances and liens. As a right running with the real property, ownership of each Lot shall entail the use and enjoyment of all walks, stairs, pavements, driveways, parking areas, entrances and exits owned by the Association and there shall always be access by both pedestrians and vehicles to and from each townhome to a street dedicated to public use without hindrance of such communication ways by the Association and/or Owners of any townhome. Title to the Common Area shall remain undivided in the Association so as to preserve the rights of the Owners with respect to their use and enjoyment of the Common Area.

SECTION 5.4. RIGHT OF USE OF BOAT SLIPS - It is the intent of the Declarant to construct boat slips for the use of the Owners of the Townhomes. The boat slips will be constructed on underwater lands leased from the state and/or on Common Area. The deed to each Lot will assign a numbered boat slip to that Lot. See site plan attached hereto as Exhibit B for boat slip locations. The Owner's right of use of the boat slips is subject to the lease from the state. The Declarant and the Association do not and cannot guaranty the continuation or the terms of the lease. The Owner must maintain and repair the boat slip assigned to his Lot, including, but not limited to, the slip, piers, and lifts.

**ARTICLE VI
ASSESSMENTS**

SECTION 6.1. CREATION OF ASSESSMENTS - There are hereby created assessments for Association expenses as may from time to time specifically be authorized by the Board of Directors, to be commenced at the time and in the manner set forth herein. There shall be two (2) types of assessments: (a) Annual Assessments and (b) Special Assessments. Each Owner, by acceptance of a deed or recorded contract of sale for any portion of the Properties, is deemed to covenant and agree to pay the assessments. All assessments, together with interest (at a rate not to exceed the highest rate allowed by Texas law) as computed from the date the delinquency first occurs, late charges, costs, and attorney's fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which each assessment is made until paid. Each such assessment, together with

interest, late charges, costs, and attorney's fees, shall also be the personal obligation of the Person who was the Owner of such Lot at the time the assessment arose, and, in the event of a transfer of title, his or her grantee shall be jointly and severally personally liable for such portion thereof as may be due and payable at the time of conveyance, except no first Mortgagee who obtains title to a Lot pursuant to the remedies provided in the Mortgage shall be liable for unpaid assessments which accrued prior to such acquisition of title. The Association shall, upon demand at any time, furnish to any Owner liable for any type of assessment a statement in writing signed by an officer of the Association setting forth whether such assessment has been paid as to any particular Lot. Such statement shall be conclusive evidence of payment to the Association of any assessments therein stated to have been paid. The Association may require the advance payment of a reasonable processing fee for the issuance of such statement.

Assessments shall be paid in such manner and on such dates as may be fixed by the Board of Directors. Unless the Board otherwise provides, the annual assessment shall be due and payable on January 1 of each year.

No Owner may waive or otherwise exempt himself from liability for the assessments provided for herein, including, by way of illustration and not limitation, by non-use of Common Areas or abandonment of the Lot. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessment or set-off shall be claimed or allowed by reason of any alleged failure of the Association or Board to take some action or perform some function required to be taken or performed by the Association or Board under this Declaration or the Bylaws, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken to comply with any law, ordinance, or with any other or directive of any municipal or other governmental authority.

Both Annual and Special Assessments must be fixed at a uniform rate; provided, however, Declarant shall only pay ten percent (10%) of both annual and special assessments attributable to its Lots, and assessments due from Declarant on a Lot shall not be paid until the closing of the sale of that Lot from Declarant to an Owner.

SECTION 6.2. PURPOSE OF THE ANNUAL ASSESSMENT - The assessments

levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents in the properties and in particular for the improvement and maintenance of the Properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Area, and of the townhomes situated upon Properties. Such uses shall include, but are not limited to, the cost to the Association of all taxes, repairs, replacement, and maintenance of the Common Area and of the maintenance of the exteriors of the Lots or townhomes as may from time to time be authorized by the Board of Directors, and other facilities and activities, including, but not limited to, mowing grass, caring for grounds, including easements, screening, landscaping, any recreational buildings and equipment, and other charges required by this Declaration of Covenants, Conditions and Restrictions or that the Board of Directors of the Association shall determine to be necessary or desirable to meet the primary purpose of the Association, including the establishment and maintenance of a reserve for repair, maintenance, taxes, and other charges as specified herein. It is understood that the judgment of the Association in the expenditure of said funds shall be final and conclusive so long as said judgment is exercised in good faith. Nothing herein shall constitute a representation that any of the above will, in fact, be provided by the Association.

Section 6.3 ASSESSMENT FOR MAINTENANCE OF SCREENING AND DRAINAGE EASEMENTS AND MAINTENANCE AND REPAIR OF PRIVATE STREETS
- A portion of the annual assessment imposed hereinabove shall be designated as a Screening, Drainage Easement, and Private Street Maintenance and Repair Assessment and shall be levied, collected and secured by a lien in favor of the Association all as described hereinabove.

In addition to the Association's powers with regard to the Screening, Drainage Easement and Private Street Maintenance and Repair Assessment, the City of Conroe (hereinafter City) shall have the following powers with regard to screening, drainage easements and the private streets:

1. The City is hereby authorized, but not obligated to assume the Association's obligation to maintain screening and drainage easements and to maintain and repair

the private streets and to exercise the Screening, Drainage Easement, and Private Street Maintenance and Repair Assessment power as described in this Section and to levy a special assessment for maintenance of screening, the drainage easements and maintenance and repair of private streets as provided in Section 6.5(a)(iv) hereinbelow.

2. In the event that the City elects to exercise such power, the City shall be the beneficiary of the lien described in Section 6.6 hereinbelow and is hereby granted the right to exercise all of the powers of collection granted to the Association herein.

3. This Section 6.3 may not be amended without the express consent of the City of Conroe.

SECTION 6.4. ANNUAL ASSESSMENT - It shall be the duty of the Board, at least sixty (60) days before the beginning of each calendar year, to prepare a budget covering the estimated Common Expenses of the Association during the coming year. The budget shall include a capital contribution establishing a reserve fund in accordance with a budget separately prepared, as provided in Section 6.6. However, in the event the proposed budget is disapproved or the Board fails for any reason to determine the budget for any year, then and until such time as a budget shall have been determined as provided herein, the budget in effect for the immediately preceding year shall continue for the current year.

(a). The maximum annual assessment shall be Two Thousand One Hundred Sixty and 00/100 Dollars (\$2,160.00) on each waterfront Lot and One Thousand Four Hundred and Forty and 00/100 (\$1,440.00) on each interior Lot.

(b) From and after January 1, of the year immediately following the recordation of this Declaration, the maximum annual assessment may be increased each year not more than ten percent (10%) above the maximum annual assessment for the previous year without a vote of the membership.

(c) From and after January 1 of the year immediately following the recordation of this Declaration, the maximum annual assessment may be increased above ten percent (10%) by a vote of two-thirds (2/3) of the Members who are voting in person, at a meeting duly called for this purpose.

(d) The Board of Directors may fix the annual assessment at an amount not to

exceed the maximum permitted herein. The Board shall cause notice of the amount of the annual assessment to be levied against each Lot for the following year to be delivered to each Owner at least thirty (30) days prior to the beginning of the calendar year.

SECTION 6.5. SPECIAL ASSESSMENTS

(a) **Entire Membership.** Special Assessments payable by the entire Membership shall be levied as follows:

(i) **Bulkhead Assessments.** The Association may levy a Special Assessment for the purpose of bulkhead repair or replacement by the affirmative vote of the Board of Directors. Within forty five (45) days of receipt of written notice of such special assessment, the membership may overrule the Board in this matter by the vote against the assessment of the owners of seventy-five percent (75%) of the Lots in the Property.

(ii) **Painting Assessment.** The Association may levy a Special Assessment for the purpose of painting the Townhomes by the affirmative vote of the Board of Directors. Within forty five (45) days of receipt of written notice of such special assessment, the membership may overrule the Board in this matter by the vote against the assessment of the owners of seventy-five percent (75%) of the Lots in the Property.

(iii) **Roofing Assessment.** The Association may levy a Special Assessment for the purpose of replacing the roofs of the Townhomes by the affirmative vote of the Board of Directors. Within forty five (45) days of receipt of written notice of such special assessment, the membership may overrule the Board in this matter by the vote against the assessment of the owners of seventy-five percent (75%) of the Lots in the Property.

(iv) **Other Purposes.** The Association may levy special assessments for other purposes from time to time provided such assessment receives the affirmative vote of two-thirds (2/3) of the Members who are voting in person, at a meeting duly called for this purpose.

Special assessments levied against the entire membership shall be allocated to the Lots in the same manner as annual assessments. Special assessments pursuant to this paragraph shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the special assessment is approved, if the Board so determines.

(b) Less Than All members. Special assessments payable by less than all members shall be levied as follows:

(i) Reimbursement Assessment. The Association may levy a Special Assessment against any Member individually and against such Member's Lot to reimburse the Association for costs incurred in bringing a Member and his Lot into compliance with the provisions of the Declaration, any amendments thereto, the Articles, the Bylaws or the Association Rules and Regulations, which Special Assessment may be levied upon the vote of the Board after reasonable notice to the Member and an opportunity for a hearing in front of the Board.

(ii) Building by Building Slab Assessments. In the event that Owners of two Townhomes in one building vote to repair the slab on which that building rests, the cost of slab repair shall be a special assessment payable in equal shares by the Owners of the Townhomes in that building.

SECTION 6.6. LIEN FOR ASSESSMENTS - The annual, special and reimbursement assessments, together with late fees, interest, costs, and attorney's fees, shall be a charge on the Lot and shall be a continuing lien upon the property against which each such assessment is made. Such lien shall be prior and superior to all other liens, except the lien or charge of any first Mortgage of record (meaning any recorded Mortgage with first priority over other Mortgages) made in good faith and for value. Such lien, when delinquent, may be enforced by suit, judgment, and judicial or non-judicial foreclosure. Each Owner expressly grants to the Association a power of sale in connection with the non-judicial foreclosure of the Association's lien and the right to appoint trustees to exercise said power of sale. Non-judicial foreclosure shall be conducted by notice and posting of sale in accordance with the then applicable laws of the State of Texas; and the Board of Directors of the Association is expressly empowered hereby to from time to time designate in writing a trustee to post or cause to be posted any required notices and to conduct any such non-judicial foreclosure sale. The Association, acting on behalf of the Owners, shall

have the power to bid for the Lot at foreclosure sale and to acquire and hold, lease, mortgage, and convey the same. During the period in which a Lot is Owned by the Association following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be levied on it; and (c) each other Lot shall be charged, in addition to its usual assessment, its equal pro rata share of the assessment that would have been charged such Lot had it not been acquired by the Association as a result of foreclosure. Suit to recover a money judgment for unpaid assessments, interest, costs and attorney's fees shall be maintainable without foreclosing or waiving the lien securing the same.

SECTION 6.7. RESERVE BUDGET AND CAPITAL CONTRIBUTION. The Board of Directors shall make a reasonable effort to annually prepare a reserve budget to take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board shall set the required capital contribution in an amount sufficient to permit meeting the projected needs of the Association, as shown on the budget, with respect to both amount and timing by annual assessments over the period of the budget to the extent achievable under current funding. The capital contribution required, if any, shall be fixed by the Board and included within and distributed with the applicable budget and notice of assessments, as provided in Section 6.2 of this Article.

SECTION 6.8. SUBORDINATION OF THE LIEN TO FIRST MORTGAGES - The lien of assessments, including interest, late charges (subject to the limitations of Texas law), and costs (including attorney's fees) provided for herein, shall be subordinate to the lien of any first Mortgage upon any Lot. The sale or transfer of any Lot shall not affect the

assessment lien. However, the sale or transfer of any Lot pursuant to judicial or non-judicial foreclosure of a first Mortgage shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from Lien rights for any assessments thereafter becoming due. Where the Mortgagee holding a first Mortgage of record or other purchaser of a Lot obtains title pursuant to judicial or non-judicial foreclosure of the Mortgage, it shall not be liable for the share of the Common Expenses or assessments by the Association chargeable to such Lot which became due prior to such acquisition of title. Such unpaid share of Common Expenses or assessments shall be deemed to be Common Expenses collectible from Owners of all the Lots, including such acquirer, its successors and assigns.

SECTION 6.9. EXEMPT PROPERTY - Notwithstanding anything to the contrary herein, the following property shall be exempt from payment of annual and special assessments; (a) all Common Area; and (b) all property dedicated to and accepted by any governmental authority or public utility, including, without limitation, public schools, public streets, and public parks, if any.

**ARTICLE VII
INSURANCE AND REPAIR OF DAMAGE CAUSED BY CASUALTY LOSSES**

SECTION 7.1 BLANKET PROPERTY INSURANCE - COMMON AREA The Board of Directors of the Association shall obtain and continue in effect blanket property insurance to insure the buildings and structures in the Common Areas and the Association against risks of loss or damage by fire, and other hazards as are covered under standard extended coverage provisions, and said insurance may include coverage against vandalism, in an amount equal to the maximum replacement value of said buildings and structures. The costs, charges and premiums for this insurance shall be a common expense of all Owners and be a part of the maintenance assessment.

SECTION 7.2 - LIABILITY INSURANCE - The Board of Directors of the Association shall obtain comprehensive public liability insurance in such limits as it shall deem desirable, insuring the Association, its Board of Directors, agents and employees, and each Owner, from and against liability in connection with the Common Area. The costs, charges and premiums for this insurance shall be a common expense of all Owners and be a part of the annual assessment by the Association.

SECTION 7.3 - PROPERTY INSURANCE - INDIVIDUAL TOWNHOMES

Each Owner shall be held responsible at his own expense and cost for the fire and casualty insurance on his townhome and for liability insurance. Such insurance must be for full replacement value along with a five hundred thousand dollar personal liability policy. The Association shall be named in said policy as an additional named insured. Proof of such insurance shall be provided to the Association immediately upon purchase of a Townhome and on policy renewal date of each year thereafter. The Board may file suit against Owners who fail to comply with this restriction and/or insure Townhomes whose Owners have failed to insure them and assess the Owner for the cost of the insurance. The Board shall have all the remedies to collect such assessment as are given to the Board for collection of the annual assessment.

SECTION 7.4 INSURANCE ON PERSONAL PROPERTY - Each Owner is responsible, at his own expense and cost, for personal casualty and flood insurance on the contents of their Townhomes including decorations, furnishings and personal property therein; their personal property stored elsewhere on the Property and their boat slips, lifts, canopies, docks and piers; and for personal liability not covered by the liability insurance for all Owners described in Section 7.2 of this Article.

SECTION 7.5 REPAIRS, REBUILDING OR REPLACEMENT OF TOWNHOMES - Each owner is responsible for all repairs, rebuilding and replacement of the structure of his Townhome and or boat slip, lift, canopy, dock and pier following damages from storm, fire or other causes.

SECTION 7.6 GENERAL CRITERIA FOR REPAIRS - All repairs, rebuilding or replacement shall be completed within a reasonable period of time following the incident which caused the damage. The reasonableness of the time required for completion of

repairs, rebuilding or replacement shall be determined by the Board of Directors of the Association. All repairs, rebuilding or replacement shall be done in a manner, style and quality that returns the Townhomes to a condition equal to, or better than that existing immediately prior to the damaging incident. The workmanship for all repair, rebuilding or replacement shall be in keeping with the appearance and quality of the Townhomes as originally built. Any exterior variation from the original plans must be submitted for review by the Architectural Control Committee of the Association and approved by the Board of Directors of the Association prior to initiation of repair, rebuilding or replacement.

**ARTICLE VIII
PARTY WALLS AND SHARED PIERS**

SECTION 8.1. PARTY WALLS - GENERAL RULES OF LAW TO APPLY - Each wall which is built as a part of the original construction of the townhomes upon the Properties and placed on the dividing line between the Lots shall constitute a Party Wall, and to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omission shall apply thereto. The Owner of a townhome shall not cut through or make any penetration through a party wall for any purpose whatsoever.

SECTION 8.2 SHARED PIERS - GENERAL RULES OF LAW TO APPLY - Each pier which is built as a part of the original construction of the boat slips and located between two boat slips shall constitute a Shared Pier, and to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omission shall apply thereto. Each Owner shall have an equal right to use the pier for access and for construction of a boat lift.

SECTION 8.3. WALLS AND PIERS - SHARING OF REPAIR AND MAINTENANCE - The cost of reasonable repair and maintenance of a party wall or a shared pier shall be shared in equal portions by the Owners who make use of the wall or the shared pier.

SECTION 8.4. PARTY WALLS - WEATHERPROOFING - Notwithstanding any

other provisions of this Article, to the extent that such damage is not insured and paid by the insurance provided for herein, an Owner who by his negligent or willful act causes the Party Wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

SECTION 8.5. RIGHT TO CONTRIBUTION RUNS WITH LAND - The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to and run with land and shall pass to such Owner's successors in title.

SECTION 8.6. ARBITRATION - In the event of any dispute arising concerning a party wall or a shared pier, under the provision of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators. Should any party refuse to appoint an arbitrator within ten (10) days after written request therefore, the Board of Directors of the Association shall select an arbitrator for the refusing party.

**ARTICLE IX
ARCHITECTURAL CONTROL**

No building, structure, waterfront structures, including but not limited to boat lifts, boat slips, canopies, docks and piers, or improvements, including but not limited to landscaping, exterior lighting, yard ornaments or permanently placed lawn or patio furniture shall be placed erected or installed upon any Lot, no construction (which term shall include within its definition staking, clearing, excavation, grading, and other site work), and no exterior alteration or modification of existing buildings, structures or improvements, including but not limited to boat lifts, boat slips, canopies, docks, piers, landscaping, exterior lighting and yard ornaments or permanently placed lawn or patio furniture upon any Lot shall be commenced until the requirements below have been fully met, and until the written approval of the Architectural Control Committee has been obtained pursuant to Section 9.1 below.

All townhomes constructed on any portion of the Properties shall be designed by and built in accordance with the plans and specifications of a licensed architect or licensed building designer.

The Board of Directors shall have the authority and standing, on behalf of the

Association, to enforce in courts of competent jurisdiction decisions of the committee established in Section 9.1.

SECTION 9.1. ARCHITECTURAL CONTROL COMMITTEE ("ACC") - The ACC shall consist of a least two (2) but not more than five (5), persons and shall have exclusive jurisdiction over all original construction and all modifications, additions, or alterations on any portion of the Properties. The Board of Directors may serve as the ACC or may appoint the members of the ACC, who shall serve and may be removed at the discretion of the Board of Directors. Plans and specifications showing the nature, kind, shape, color, size, materials, and location of such new construction, modifications, additions, or alterations, shall be submitted to the ACC for approval as to quality of workmanship and design and as to harmony to external design with existing structures, location in relation to surrounding structures, topography, and finish grade elevation. Plans for changes or additions to exterior lighting must be submitted to the ACC for approval as to placement and brightness. Nothing contained herein shall be construed to limit the right of an Owner to remodel the interior of his townhome, or to paint the interior of his townhome any color desired; provided modifications or alterations to the interior of porches, patios, balconies, and similar portions of a townhome visible from outside shall be subject to approval hereunder. In the event that the ACC fails to approve or to disapprove such plans or to request additional information reasonably required within forty-five (45) days after submission, the plans shall be deemed approved.

SECTION 9.2. MINIMUM CONSTRUCTION STANDARDS - The ACC from time to time may establish, supplement or amend Minimum Construction Standards, providing an outline of minimum acceptable construction standards; provided, however, that such outline will serve as a minimum guideline, only, and the ACC may impose other requirements in connection with its review of any proposed buildings, structures or improvements. If the Minimum Construction Standards impose requirements that are more stringent than the provision of this Declaration, the provision of the Minimum Construction Standards shall control.

SECTION 9.3. NO WAIVER OF FUTURE APPROVALS - The approval of the ACC of any proposals or plans and specifications or drawings for any work done or

proposed, or in connection with any other matter requiring the approval and consent of such Committee, shall not be deemed to constitute a waiver of any right to withhold approval of consent as to any similar proposal, plans and specifications drawings, or matters whatever subsequently or additionally submitted for approval or consent.

SECTION 9.4. VARIANCE - The ACC may authorize variances from compliance with any of its guidelines and procedures when circumstances such as topography, natural obstructions, hardship, or environmental considerations require, but only in accordance with Rules and Regulations adopted pursuant hereto. Such variances may only be granted, however, when unique circumstances dictate and no variance shall (a) be effective unless in writing, or (b) stop the committee from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing shall not be considered a hardship warranting a variance.

SECTION 9.5. COMPLIANCE WITH GUIDELINES - Any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of the guidelines and procedures may be excluded by the Board from the Properties without liability to any person.

SECTION 9.6. NO LIABILITY - Review and approval of any application pursuant to this Article is made on the basis of aesthetic considerations only. The ACC shall not bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes and other governmental requirements. Neither the Association, the Board of Directors, any committee, or member of any of the foregoing shall be held liable for any injury, damages or loss arising out of the manner or quality of approved construction on or modifications to any Lot.

**ARTICLE X
EXTERIOR MAINTENANCE**

The Association shall provide exterior maintenance of the Common Area including maintenance and repairs of walks, driveways, parking areas, and other exterior improvements, including but not limited to the bulkhead. The Association shall also

provide maintenance on the Common Area and upon each Lot which is subject to assessment hereunder, as follows: landscaping including care for and replacement of trees, shrubs, and grass.

Maintenance, repair and replacement of the exterior of the Townhomes, including but not limited to roofs, slabs and walls shall be the sole responsibility and duty of the individual Lot owner and must be accomplished in a prompt and appropriate manner.

Provided, however, that in the event that a special assessment for painting, for the replacement of one building's roof or all of the roofs in the property or repair of a building's slab is levied in accordance with Article VI, Section 6.5 hereinabove, the Association shall assume the responsibility for such replacement or repair and shall collect the assessment, administer the funds, chose the contractors and materials and supervise the project.

It is the intent of this section to insure that the Townhomes in West Palm Villas are appropriately and attractively maintained, painted when necessary and kept in good condition. The Board of Directors shall, from time to time, adopt rules and regulations regarding such maintenance. Failure to abide by such rules shall be deemed to be a violation of these restrictions.

**ARTICLE XI
USE RESTRICTIONS**

SECTION 11.1. GENERAL - No Owner shall use the Common Area, if any, or use or permit such Owner's Lot or Townhome to be used for any purpose that would (a) void any insurance in force with respect to the Subdivision; (b) make it impossible to obtain any insurance required by this Declaration; (c) constitute a public or private nuisance, which determination may be made by the Board in its sole discretion; (d) constitute a violation of the Declaration or any applicable law or (e) unreasonably interfere with the use, occupancy, and enjoyment of the Subdivision by the other Owners.

SECTION 11.2. SINGLE FAMILY RESIDENTIAL USE - Each Lot conveyed shall be designated by a separate legal description and shall constitute a freehold estate subject to the terms, conditions, and provisions hereof. No buildings other than Townhomes, being single family residences joined together by a common wall or walls roof and foundation,

shall be constructed on the Lots. Each Owner shall use his Lot for single family residential purposes only. The term "single family" shall be defined as: (a) one or more person related by blood, marriage, or adoption, only one (1) other person who is not so related, and domestic servants; and (b) no more than two (2) unrelated persons living together as a single housekeeping unit and their children, and domestic servants. As used herein, the term "single family residential purposes" shall be deemed to specifically prohibit, by way of illustration but without limitation, the use of any Lot for a duplex apartment, or any other apartment for any multi-family use or for any business, educational, church, professional or the commercial activity of any type, except that an Owner may use his residence as a personal office for a profession or occupation, provided: (a) the public is not invited, permitted, or allowed to enter the townhome or any structure or improvement upon such Lot and conduct business therein; (b) no signs advertising such profession or business are permitted; (c) no on-site employees are permitted; (d) no offensive activity or condition, noise and/or odor are permitted; and (e) such use in all respects complies with the laws of the State of Texas, ordinances, laws, rules, and regulations of any regulatory body or governmental agency having authority and jurisdiction over such matters.

SECTION 11.3. VEHICLES - No motor vehicle or non-motorized vehicle, boat, trailer, marine craft, recreational vehicle, camper, tractor-truck, trailer, hovercraft, aircraft, machinery or equipment of any kind may be parked or stored on any part of any Lot, easement, right-of-way, Common Area or parking spaces along the private streets, unless such vehicle or object is completely concealed from public view inside a garage or enclosure approved by the Architectural Control Committee, except that one and only one passenger automobile, or passenger van, or motorcycle, or pick-up truck that: (a) is in operating condition; (b) is attractively maintained; (c) has current license plates and inspection stickers; (d) is in daily use as a motor vehicle on the streets and highways of the State of Texas; (e) which does not exceed six feet six inches (6'6") in height, or eight feet (8') in width, or eighteen feet (18') in length, may be parked in the driveway accessing a Lot. The streets are reserved for short term visitor parking. No vehicle may be repaired within the Subdivision unless the vehicle being repaired is concealed from view inside a garage or other provided enclosure. This restriction shall not apply to any vehicle,

machinery, or equipment temporarily parked and in use for the construction, repair or maintenance of a townhome.

It is the intent of this section that only one vehicle per Townhome will be parked in a driveway on a regular basis and that no vehicle that is an eyesore will be parked in public view. The Board of Directors, in its sole discretion, shall have the authority to decide whether or not a vehicle is an eyesore.

SECTION 11.4. SIGNS - A single "for sale" or "for lease" sign shall be permitted on any Lot being offered for sale or for lease, provided it does not exceed two and one-half (2 1/2) feet by three and one-half (3 1/2) feet in size and does not stand higher than five (5) feet from the ground. Political signs shall be allowed for a limited time period before elections. Such time period to be established by the Board of Directors. The Board reserves the right to restrict the size, color, lettering and placement of signs. The Board of Directors shall have the right to erect signs as they, in their discretion, deem appropriate. Notwithstanding the above, no signs, banners or similar items advertising or providing directional information with respect to activities being conducted inside or outside the Properties shall be permitted displayed or posted within the Properties. The Association, acting through the Board, shall be authorized to enter upon any Lot and remove any sign, advertisement, billboard or other structure displayed in violation hereof, and in doing so shall not be subject to any liability for trespass or other tort in connection with or arising from such entry and/or removal.

SECTION 11.5. ANIMALS AND PETS - No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any portion of the Properties, except that dogs, weighing twenty-five pounds or less (unless the presence of a larger dog is specifically approved by the Board of Directors), cats, or other usual and common household pets may be permitted on a Lot. Pets which are permitted to roam free, or, at the sole discretion of the Association, endanger health, make objectionable noise, or constitute a nuisance to the Owners of other Lots are not permitted. No pets shall be kept, bred, or maintained for any commercial purpose on a scale that creates a local or public nuisance. Dogs shall at all times, whenever they are outside a Lot, be confined on a leash held by a responsible person. Pet owners must comply with all county and state laws pertaining to ownership of

such pets, and promptly and properly dispose of all pet excrement which has been deposited on Lots or in the Common Area.

SECTION 11.6. QUIET ENJOYMENT - No portion of the Properties shall be used, in whole or in part, for the storage of any property or thing that will cause it to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept upon any portion of the Properties that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the occupants of surrounding property.

No noxious, illegal, or offensive activity shall be carried on upon any portion of the Properties, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance, or nuisance to any person using any portion of the Properties. There shall not be maintained any plants or animals or device or thing of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, unlawful, or of a nature as may diminish or destroy the enjoyment of the Properties. No outside burning of trash, garbage or household refuse shall be permitted within the Properties. No horn, whistle, bell or other sound device, except speakers and alarm devices, which devices are used exclusively for security purposes, shall be installed or operated on any Lot.

SECTION 11.7. ANTENNAS - The Association may adopt guidelines with regard to the placement of dish antennas of one meter or less in diameter.

- (a) Dish antennas with a diameter of over one meter are prohibited.
- (b) Dish antennas of one meter or less in diameter may be installed without prior approval of the ACC. If possible these dishes are to be located so as not to be seen from fronting streets in the case of interior Lots and from the water in the case of waterfront Lots.
- (c) Over the air television reception antennas which do not exceed twelve (12) feet in height may be installed without approval of the ACC. If possible these antennas are to be located within the attic. If an external antenna is required to obtain an acceptable signal, the preferred location on waterfront townhomes is behind the roof ridge so as not to be seen from the lake. The preferred location on interior Lots is behind the roof ridge so as not to be

seen from the fronting streets. No other type of antennas are permitted.

SECTION 11.8. CLOTHESLINES, EQUIPMENT, ETC. - No clothes lines shall be erected or installed on any Lot or Common Area, and no clothing, linens or other material shall be aired or dried on any Lot. No clothing or towels may be hung on or from the balcony of a townhome. All play and yard equipment including but not limited to toys and barbecue grills and other similar items on Lots shall be located so as to be completely concealed from view. All trash shall be kept in garbage cans or other similar type containers and shall be stored so as to be completely concealed from view.

SECTION 11.9. FENCES, WALLS, LANDSCAPING - No fences, landscaping, hedges or walls shall be erected or maintained upon said property, except as installed in accordance with the initial construction of the building or as approved by the Association's Board of Directors or the ACC.

SECTION 11.10. SUBDIVISION OF LOT AND TIME SHARING - No Lot shall be subdivided or its boundary lines changed except with the prior written approval of the Board of Directors of the Association. No Lot shall be made subject to any type of timesharing, fraction-sharing or similar program whereby the right to exclusive use of the Lot rotates among members of the program on a fixed or floating time schedule over a period of years.

SECTION 11.11. FIREARMS - The discharge of firearms with the Properties is prohibited. The term "firearms" shall include but not be limited to: pistols, rifles, "B-B" guns, pellet guns, sling-shots and bow and arrows.

SECTION 11.12. TENTS, MOBILE HOMES AND TEMPORARY STRUCTURES - Except with the express written consent of the ACC, during initial construction within the Properties, no tent, shack, mobile home, or other structure of a temporary nature shall be placed upon a Lot or any part of the Properties.

SECTION 11.13. DRAINAGE AND SEPTIC SYSTEMS - Catch basins and drainage areas are for the purpose of natural flow of water only. No obstructions or debris shall be placed in these areas. No Person may obstruct or rechannel the drainage flows, drainage swales, storm sewers, or storm drains. Septic tanks and drain fields, other than those installed by or with the consent of the Board of Directors, are prohibited within the

Properties.

SECTION 11.14. DUMPING - No trash, ashes, stumps, trees, underbrush or any refuse of any kind or scrap material from any source shall be placed on any tract of land in the Subdivision, any Lot, drive or street in the Subdivision. No Owner or occupant shall dump grass clippings, leaves or other debris, petroleum products, fertilizer or other potentially hazardous or toxic substances, in any drainage ditch within the Properties.

SECTION 11.15. TREE REMOVAL - No trees in Common Areas shall be removed, except for diseased or dead trees and trees needing to be removed to promote the growth of other trees or for safety reasons. In the event of an intentional or unintentional violation of this Section, the violator may be required, by the Board of Directors, to replace the removed tree with one (1) or more comparable trees of such size and number, and in such locations, as such committee may determine necessary, in its sole discretion, to correct the damage.

SECTION 11.16. ON-SITE FUEL STORAGE - No on-site fuel storage of gasoline, heating or other fuels shall be permitted on any part of the Properties except that up to five (5) gallons of fuel may be stored on each Lot for emergency purposes and operation of lawn mowers and similar tools or equipment, and the Association shall be permitted to store fuel for operation of maintenance vehicles, generators and similar equipment.

SECTION 11.17. LEASING OF LOTS - "Leasing," for purposes of this Declaration, is defined as regular, exclusive occupancy of a Lot by any person or persons other than the Owner for which the Owner receives any consideration or benefit, including, but not limited to a fee, service, or gratuity.

Lots may be rented only in their entirety; no fraction or portion may be rented. Individual Lots may be leased at the Lot Owners discretion. All contracts relating to lease agreements shall be carried forth between Owner and the lessee and shall only involve the Board if the lessee fails to take reasonable care of the Lot's exterior in keeping with the Association's rules and regulations. Every Owner shall cause all occupants of his or her Lot to comply with the Declaration, Bylaws, and the Rules and Regulations adopted pursuant thereto, and shall be responsible for all violations and losses to the Common Areas caused by such occupants, notwithstanding the fact that such occupants of a Lot are fully

liable and may be sanctioned for any violation of the Declaration, Bylaws, and Rules and Regulations adopted pursuant thereto.

SECTION 11.18. LAWS AND ORDINANCES - Every Owner and occupant of any Lot, their guests and invitees, shall comply with all laws, statutes, ordinances and rules of federal, state and municipal governments applicable to the Properties and any violation thereof may be considered a violation of the Declaration; provided the Board shall have no obligation to take action to enforce such laws, statutes, ordinances and rules.

SECTION 11.19. CARE-GIVING FACILITIES - No Lot shall be used for the operation of a boarding or rooming house, a residence for transients, day-care center, or residence of unrelated individuals who are engaging in, undertaking, or participating in any group living, rehabilitation, treatment, therapy, or training with respect to previous or continuing criminal activities or convictions, alleged criminal activities, alcohol or drug dependency, physical or mental handicaps or illness, or other similar matter, *unless any such facility is otherwise allowed by the terms of any law specifically negating the provisions of restrictive covenants prohibiting same.*

SECTION 11.20. GARAGE, YARD AND ESTATE SALES - No garage, yard or estate sales shall be allowed on any Lot unless otherwise approved by the Board of Directors.

SECTION 11.21. FIXTURES AND EQUIPMENT WITHIN A TOWNHOME - All fixtures and equipment installed within a Townhome shall be maintained and kept in repair by the Owner thereof.

SECTION 11.22. STRUCTURAL INTEGRITY - An Owner shall do no act nor any work that will impair the structural soundness or integrity of another townhome or impair any easement or hereditament, nor do any act nor allow any condition to exist which will adversely affect the other townhomes or their Owners.

SECTION 11.23. WINDOW COVERINGS - All window coverings, including but not limited to miniblinds, must be approved by the ACC and must be a neutral color approved by the ACC. The use of window film is prohibited.

SECTION 11.23. BOAT LIFTS, BOAT SLIPS, CANOPIES, DOCKS AND PIERS - Over head boat lifts are prohibited. No portion of any waterfront structure, including but

not limited to dock, pier, boat lift, boat slip, canopy or any other permanent or semi-permanent structure, may extend more than three feet above the bulkhead. Leasing of waterfront space, other than in conjunction with leasing of the Townhome which it serves, whether for money or other remuneration of any kind, is prohibited.

All boats shall be affixed to waterfront structures in such a way so that no portion of the boat interferes with another Owner's access to his waterfront structure.

SECTION 11.24 BOAT TYPES - All boats permanently or semi-permanently kept at such waterfront structures shall be for the personal, private, non-commercial use of property owners. No live aboards, nor occupancy of any boat as a residence, nor any use of toilet or washbasin facilities is permitted while at the waterfront structure. Any boat which sits out of the water higher than eight feet (8') must be submitted to and approved by the Architectural Control Committee. All boats shall be maintained in a neat and clean manner and shall present an attractive appearance.

SECTION 11.25. BOAT COVERS - All boat covers must be custom fitted and must be in the dark green color approved by the Architectural Control Committee. Boat covers must be maintained in a neat and attractive condition at all times. The use of tarps or other loose fitting materials as boat covers is prohibited.

SECTION 11.26. LOT MAINTENANCE - Lot maintenance will be provided by the Association. The Association, and its agents, during normal business hours, shall have the right to enter on the Lots (without any liability whatsoever for damages for wrongful entry, trespass or otherwise to any person or entity) to provide lawn maintenance including but not limited to landscaping as described in Article X, mowing, edging and weeding.

ARTICLE XII EASEMENTS

SECTION 12.1. Each townhome and property included in the Common Area shall be subject to an easement for encroachments created by construction, settling and overhang of the structures built by Declarant. A valid easement for said encroachment and for the maintenance of same, so long as they stand, shall and does exist. In the event a multi-family building containing two or more townhomes is partially or totally destroyed and then

rebuilt, the Owners of the townhomes agree that valid easements shall exist for any encroachment resulting therefrom.

SECTION 12.2. EASEMENTS FOR UTILITIES, ETC. - There are hereby reserved blanket easements upon, across, over, and under all of the Properties for ingress, egress, installation, replacing, repairing, and maintaining pest control systems, cable television systems, master television antenna systems, security, and similar systems, roads, walkways, bicycle pathways, drainage systems, street lights, signage, and all utilities, including, but not limited to, water, sewer, meter boxes, telephones, gas, and electricity; provided, the exercise of the easement shall not unreasonably interfere with the use of any Lot and, except in an emergency, entry into any Lot shall be made only after reasonable notice to the Owner or occupant thereof. Without limiting the generality of the foregoing, there are hereby reserved for the local water supplier, electric company, and natural gas supplier easements across all Lots and Common Areas for ingress, egress, installation, reading, replacing, repairing, and maintaining utility meters and boxes. Notwithstanding anything to the contrary contained in this Section, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on the Properties, except as may be approved by the Association's Board of Directors. Should any entity furnishing a service covered by the general easement herein provided request a specific easement by separate recordable document, the Board of Directors shall have the right to grant such easement over the Properties without conflicting with terms hereof. The easements provided for in this Article shall in no way adversely affect any other recorded easement on the Properties.

SECTION 12.3. Underground single phase electric service shall be available on all residential Townhomes within the Property and to any recreation buildings to be constructed on the Common Area and the metering equipment shall be located on the exterior surfaces of their walls at a point to be designated by the utility company. The utility company furnishing the service shall have a two foot wide easement along and centered on the underground electric power service conductors installed from the utility company's easement to the designated point of service on the Townhome building.

SECTION 12.4. Neither Declarant nor any utility company using the easement shall be liable for any damage done by any entity, its employees, or agents, to shrubbery, trees,

flowers or other improvements located on the land while furnishing a service covered by said easement.

SECTION 12.5. The Owners of the respective Lots shall not be deemed to separately own pipes, wires, conduits, or other service lines running through their property which are utilized for or serve other Lots, but each Owner shall have an easement in the and to the aforesaid facilities as shall be necessary for the use, maintenance and enjoyment of his Lot.

SECTION 12.6. Easements and alleys for the installation and maintenance of utilities and drainage facilities may be recorded in the office of the County Clerk of Montgomery County, Texas, by instrument as provided in Section 12.2 above. Copies of these shall be kept on file in the initial registered office of the Association. No shrubbery, fence or other obstruction shall be placed in any easement or alleyways. Right of use of ingress and egress shall be had at all times over dedicated easement, and for the installation, maintenance, operation, repair or removal of any utility, together with the right to remove any obstruction that may be placed in such easement, that would constitute interference with the use, maintenance, operation or installation of such utility.

**ARTICLE XIII
GENERAL PROVISIONS**

SECTION 13.1. DURATION - The covenants and restrictions of this Declaration shall run with and bind the Properties, and shall inure to the benefit of and shall be enforceable by the Association or the Owner of any property subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years, unless amended or terminated as hereinafter set forth.

SECTION 13.2. AMENDMENT - The terms of this Declaration may be amended at any time by an instrument signed by those Owners owning at least two-thirds (2/3) of the Lots within the Subdivision. No person shall be charged with notice of or inquiry with respect to any amendment until and unless it has been filed for record in the Official Public Records of Real Property of Montgomery County, Texas.

Declarant reserves and shall have the right at any time, from time to time, without the joinder or consent of any Person or Owner, to amend this Declaration by an instrument in writing duly signed, acknowledged and filed of record, for the purpose of correcting any typographical error, ambiguity or inconsistency appearing in this Declaration, provided that any such amendment shall be consistent with and in furtherance of the general plan and scheme of development as evidence in this Declaration, and shall not impair the vested property rights of Owner or his mortgagee.

Declarant, further reserves the right to amend this Declaration in any manner by an instrument in writing duly signed, acknowledged and filed of record. The Owners may overrule such an amendment by an instrument in writing signed and acknowledged by owners of two thirds (2/3rds) of the Lots in the Property and duly recorded, if such document is recorded within six months of the date of recording of the amendment to be overruled.

SECTION 13.3. INDEMNIFICATION - The Association shall indemnify every officer, director, and committee member against any and all expenses, including counsel fees, reasonably incurred by or imposed upon such officer, director, or committee member in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be party by reason of being or having been an officer, director, or committee member. The officers, directors, and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or directors may also be Members of the Association), and the Association shall indemnify and forever hold each such officer and director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer, director, or committee member, former officer, director, or committee member may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability

insurance to fund this obligation, if such insurance is reasonably available.

SECTION 13.4. SEVERABILITY - Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

SECTION 13.5. COMPLIANCE - Every Owner and occupant of any Lot shall comply with all lawful provisions of this Declaration, the Bylaws and Rules and Regulations of the Association. Failure to comply shall be grounds for an action to recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity, maintainable by the Association or, in a proper case, by any aggrieved Lot Owner or Owners. In addition, the Association may avail itself of any remedies provided in this Declaration or the Bylaws.

SECTION 13.6. SECURITY - The Association may, but shall not be obligated to, maintain or support certain activities within the Properties designated to make the properties safer than they otherwise might be. The Association shall in no way be considered insurers or guarantors of security within the properties, and the Association, shall not be held liable for any loss or damage by reason or failure to provide adequate security or ineffectiveness of security measures undertaken. Each Owner and occupant of any Lot, and each tenant, guest and invitee of any Owner, as applicable, acknowledges and understands that the Association, its board of directors and committees, are not insurers and that each Owner and occupant of any Lot and each tenant, guest and invitee of any Owner assumes all risks for loss or damage to persons, to Lots, townhomes, outlying buildings and structures including but not limited to boat lifts, jet skis, boats, vehicles, their contents and personal property.

SECTION 13.7. NUMBER AND GENDER - Pronouns, whenever used herein, and of whatever gender, shall include natural persons and corporations, entities, and associations of every kind and character, and the singular shall include the plural, and vice versa, whenever and as often as may be appropriate.

SECTION 13.8. DELAY IN ENFORCEMENT - No delay in enforcing the provisions of the Declaration with respect to any breach or violation thereof shall impair, damage or waive the right of any party entitled to enforce the same to obtain relief against

or recover for the continuation or repetition of such breach or violation or any similar breach or violation thereof at any later time.

SECTION 13.9. ENFORCEABILITY - This Declaration shall run with the Subdivision and shall be binding upon and inure to the benefit of and be enforceable by the Association and each Owner of a Lot in the Subdivision, or any portion thereof, and their respective heirs, legal representatives, successors and assigns. In the event any Person shall violate or attempt to violate any of the provisions of the Declaration, the Association, or the Owner of a Lot within the Subdivision, or any portion thereof, may institute and prosecute any proceeding at law or in equity to abate, preempt or enjoin any such violation or attempted violation or to recover monetary damages caused by such violation or attempted violation, and shall be entitled to recover reasonable attorney's fees from the Owner or occupant of a Lot who violated this Declaration.

SECTION 13.10. RIGHT OF ENTRY; ENFORCEMENT BY SELF HELP - The Association shall have the right, in addition to and not in limitation of the rights it may have under this Declaration, to enter upon any Lot, including any improvements located thereon, if deemed reasonably necessary by the Board of Directors of the Association for emergency, health, safety and/or security purposes to make repairs to improvements, secure the Property or abate or remove things or conditions which are potentially hazardous or which violate any provisions of this Declaration. Such right may be exercised by the Association's Board, officers, agents, employees, managers, and all police officers, fire fighters, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, the Association shall first attempt to provide reasonable notice to the last known Owner of the Lot. All costs of such efforts, including reasonable attorney's fees actually incurred, shall be assessed against the Owner of the Lot and shall be collected as provided for herein for the collection of the Assessments.

SECTION 13.11. VARIATIONS FROM SITE PLAN - To the extent that the placement of a boat slip varies from the location of the slip as it appears on the attached site plan, the actual placement shall control.

SECTION 13.12. VIOLATIONS OF LAW - Any violation of any federal, state,

municipal, or local law, ordinance, rule, or regulation, pertaining to the ownership, occupation, or use of any property within the Subdivision hereby is declared to be a violation of this Declaration and shall be subject to any and all of the enforcement procedures set forth in this Declaration.

SECTION 13.13. REMEDIES CUMULATIVE - Each remedy provided under this Declaration is cumulative and not exclusive.

SECTION 13.14. NO REPRESENTATIONS OR WARRANTIES - No representations or warranties of any kind, express or implied, shall be deemed to have been given or made by Declarant or its agents or employees in connection with any portion of the Subdivision, or any improvement thereon, its or their physical condition, compliance with applicable laws, fitness for intended use, or in connection with the subdivision, sale, operation, maintenance, cost of maintenance, taxes, or regulation thereof, unless and except as specifically shall be set forth in writing.

SECTION 13.15. LIMITATION OF LIABILITY - Neither the Association, the Board, the Architectural Control Committee, Declarant, or any officer, agent, or employee of any of the same acting within the scope of their respective duties described in this Declaration shall be liable to any Person for any reason or for any failure to act if the action or failure to act was in good faith and without malice.

SECTION 13.16. CAPTIONS FOR CONVENIENCE - The titles, heading, captions, article and section numbers used in this Declaration are intended solely for convenience of reference and shall not be considered in construing any of the provisions of this Declaration. Unless the context otherwise requires, references herein to articles and section are to articles and section of this Declaration.

SECTION 13.17. GOVERNING LAW - This Declaration shall be construed and governed under the laws of the State of Texas.

SECTION 13.18. RATIFICATION BY LIENHOLDER - The undersigned lienholder has executed this Declaration to evidence its joinder in, consent to, and ratification of the imposition of the foregoing covenants, conditions, and restrictions.

IN WITNESS WHEREOF, the undersigned, being Declarant and Lenders herein set forth, have set their hands and seals this 8th day of OCTOBER, 1999.

ATTEST

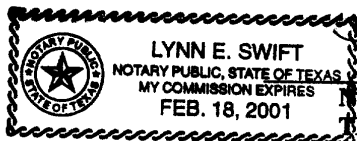
Ken Vaught, Secretary

DECLARANT
I.C. Enterprises, INC.

By: Jim Winkler, President

THE STATE OF TEXAS §
 §
COUNTY OF MONTGOMERY §

This instrument was acknowledged before me by Jim Winkler, President of I.C. Enterprises, Inc., a Texas corporation, on this 8th day of OCTOBER, 1999, on behalf of said corporation.



L E Swift
NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

LIENHOLDER:

SOUTHWEST BANK OF TEXAS

BY: John B. Avara
JOHN B. AVARA, SENIOR VICE PRES.
(Print Name and Title)

THE STATE OF TEXAS §
 §
COUNTY OF MONTGOMERY §

This instrument was acknowledged before me, on the 8th day of Oct, 1999, by John B. Avara, S.R.V.P. of **SOUTHWEST BANK OF TEXAS**, on behalf of said bank and in the capacity stated.



Teresa Kennedy
NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

EXHIBIT "A"

WEST PALM VILLAS
ON WALDEN ROAD

609-00-0413

FIELD NOTE DESCRIPTION OF 8.0513 ACRES OF LAND BEING ALL OF UNRESTRICTED RESERVE "C" AND "D", DEL LAGO, SECTION THREE, AS RECORDED IN CABINET D, SHEET 85-B AND 86-A OF THE MONTGOMERY COUNTY MAP RECORDS, AND LOCATED IN THE JOHN CORNER SURVEY, A-8, MONTGOMERY COUNTY, TEXAS, SAID 8.0513 ACRES OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS; [BEARINGS REFERENCED TO THE NORTH LINE OF SAID UNRESTRICTED RESERVE "D", DEL LAGO, SECTION THREE, BEARING N 89°57'49" E]:

BEGINNING at a 5/8 inch iron rod found marking the intersection of the South right-of-way line of Walden Road and the West right-of-way line of La Costa Drive (width varies), said iron rod also marks the Northeast corner of said Unrestricted Reserve "D", Del Lago Section Three and the herein described tract;

THENCE, South 00°02'11" East, along the West line of said La Costa Drive, a distance of 100.00 feet to a point for the Point of Curvature of a curve to the Left;

THENCE, Southerly, continuing along the West line of La Costa Drive, with said curve to the Left, having a radius of 670.33 feet, a central angle of 08°34'46", an arc length of 100.37 feet and a chord bearing S 04°19'34" E for a distance of 100.28 feet to a point for the Point of Reverse curve to the Right;

THENCE, Southerly, continuing along the West line of La Costa Drive, with said curve to the Right, having a radius of 670.33 feet, a central angle of 05°38'30", an arc length of 66.00 feet and a chord bearing S 05°47'42" E for a distance of 65.98 feet to a point in the North line of Verde Lane (50' wide) for the Southeast corner of said Reserve "D";

THENCE, South 89°57'49" West, along the North line of said Verde Lane, a distance of 346.14 feet to 5/8 inch iron rod found in the Northeast line of said Unrestricted Reserve "C" for corner;

THENCE, South 55°12'15" East, along said Northeast line, a distance of 87.54 feet to 1/2 inch iron rod found in the South line of said Verde Lane for an angle point;

THENCE, North 89°57'49" East, along the South line of said Verde Lane, a distance of 66.46 feet to 1/2 inch iron rod found for the Northeast corner of said Unrestricted Reserve "C";

THENCE, South 00°02'11" East, along the East line of said Reserve "C", a distance of 335.55 feet to a 1/2 inch iron rod found for an angle point;

THENCE, South 21°25'44" West, continuing along the East line of said Reserve "C", a distance of 112.80 feet to a P.K. Nail found for an angle point;

THENCE, South 25°32'55" West, continuing along the East line of said Reserve "C", a distance of 52.04 feet to a point for the Southeast corner of said Reserve "C" and the herein described tract;

THENCE, along the Southerly line of said Unrestricted Reserve "C" of Del Lago Section Three, the following Eight (8) courses and distances:

- 1) S 77°10'01" W, 38.09 feet to an angle point;
- 2) N 73°01'41" W, 84.69 feet to an angle point;
- 3) N 37°37'03" W, 71.62 feet to a 5/8 inch iron rod set for an angle point;
- 4) N 56°05'42" W, 127.08 feet to an angle point;
- 5) N 62°02'04" W, 89.65 feet to an angle point;
- 6) N 26°06'43" W, 77.82 feet to a 5/8 inch iron rod set for an angle point;
- 7) N 10°57'34" E, 86.69 feet to a 5/8 inch iron rod set for an angle point;
- 8) N 27°04'19" W, 162.26 feet to a 5/8 inch iron rod set for the westerly corner of said Reserve "C", from which a found 5/8 inch iron rod bears S 27°41' W, 0.98 feet;

THENCE, North 34°47'35" East, along the West line of said Reserve "C", at a distance of 250.00 feet pass a 1-inch iron pipe making the Common West corner of said Reserves "C" and "D" and continuing a total distance of 386.71 feet to a 3/4 inch iron rod found in the South right-of-way line of Walden Road for the Northwest corner of said Reserve "D" and the herein described tract;

THENCE, North 89°57'49" East, along the South line of Walden Road, a distance of 474.41 feet to the POINT OF BEGINNING and containing 8.0513 acres of land.

CENTURY ENGINEERING, INC.

Dated this 21st day of September, 1999

Gerald E. Munger, Jr.
Gerald E. Munger, Jr.

Registered Professional Land Surveyor No. 3438

CEI Job No. 97013-04.0
(svy) SV del3C.t



ORIGINAL PRINT INCOMPLETE



SCALE 1" = 80'

SITE PLAN EXHIBIT B

WALDEN ROAD (100' R.O.W.) ±4200' TO N.E. CORNER OF JOHN CORNER SURVEY, A--

609-00-0415

ACREAGE

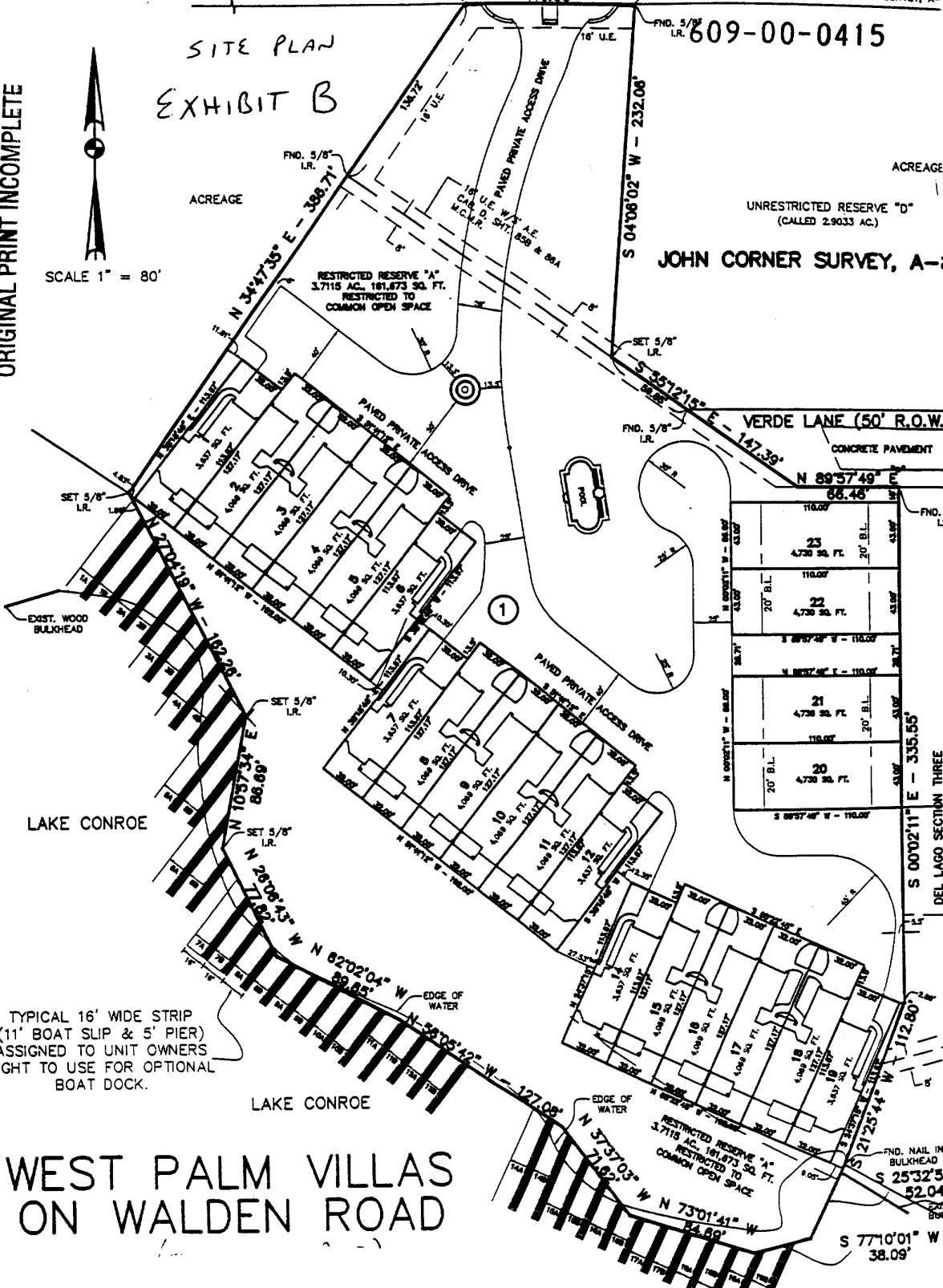
ACREAGE

UNRESTRICTED RESERVE "D"
(CALLED 2.9033 AC.)

JOHN CORNER SURVEY, A--

RESTRICTED RESERVE "A"
3.7115 AC., 161,673 SQ. FT.
RESTRICTED TO
COMMON OPEN SPACE

VERDE LANE (50' R.O.W.)
CONCRETE PAVEMENT



TYPICAL 16' WIDE STRIP
(11' BOAT SLIP & 5' PIER)
ASSIGNED TO UNIT OWNERS
RIGHT TO USE FOR OPTIONAL
BOAT DOCK.

WEST PALM VILLAS ON WALDEN ROAD

DEL LAGO SECTION THREE

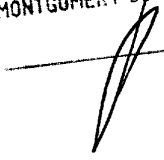
FND. NAIL IN
BULKHEAD
S 25°32'5
52.04
S 77°10'01" W
38.09'

609-00-0416

FILED FOR RECORD

99 OCT 28 AM 8:43

MARK TURNBULL, CO. CLERK
MONTGOMERY COUNTY, TEXAS

 DEPUTY

RECORDER'S MEMORANDUM:
At the time of recordation, this instrument was found to be inadequate for the best photographic reproduction because of illegibility, carbon or photo copy, discolored paper, etc. All black-outs, additions and changes were present at the time the instrument was filed and recorded.

STATE OF TEXAS
COUNTY OF MONTGOMERY
I hereby certify that this instrument was filed in file number [redacted] on the date and at the time stated herein by me and was duly RECORDED in the Official Public Records of Real Property of Montgomery County, Texas.

OCT 28 1999



Mark Turnbull
COUNTY CLERK
MONTGOMERY COUNTY, TEXAS