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This instrument was prepared by:  
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Bonita Springs, FL 34134

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**SIXTY SECOND SUPPLEMENT**  
**TO THE**  
**DECLARATION AND GENERAL PROTECTIVE COVENANTS**  
**FOR**  
**PELICAN LANDING**

THIS SUPPLEMENT is made this 30 day of December, 1997 by WCI COMMUNITIES LIMITED PARTNERSHIP, a Delaware limited partnership, successor of Pelican Landing Communities, Inc., formerly Westinghouse Bayside Communities, Inc., a Florida corporation, which was Declarant of that particular AMENDED AND RESTATED DECLARATION AND GENERAL PROTECTIVE COVENANTS FOR PELICAN LANDING and is hereinafter referred to as DECLARANT.

**WITNESSETH:**

WHEREAS, DECLARANT has recorded the Amended and Restated Declaration and General Protective Covenants for Pelican Landing (hereinafter referred to as DECLARATION) at Official Records Book 2198, Pages 1873 through 2026, inclusive, of the Public Records of Lee County, Florida, as amended; and

WHEREAS, Article VIII, Section 1, of the DECLARATION provides that Declarant shall have the unilateral right, privilege and option, from time to time at any time until all property described therein has been subjected to the DECLARATION or December 31, 2020, whichever is earlier, to subject to the provisions of the DECLARATION and the jurisdiction of the Association any portion of real property by filing in the Public Records of Lee County, Florida, a Supplemental Declaration annexing such property; and

WHEREAS, in accordance with the terms of the DECLARATION, DECLARANT desires to subject all of the real property described in Exhibit "A" attached hereto and incorporated herein by this reference (hereinafter defined and referred to as the PROPERTY) to the DECLARATION for those reasons set forth in the preamble to the DECLARATION; and

WHEREAS, DECLARANT has determined that in order to create a quality development within the PROPERTY, new provisions applicable to the PROPERTY shall be imposed for the preservation of the property values of the owners therein.

RECORD VERIFIED - CHARLIE GR...  
BY: TRENT A. VOGES, D.C.

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NOW, THEREFORE, DECLARANT hereby declares that real property described in Exhibit "A" attached hereto shall be held, transferred, sold, conveyed and occupied subject to the DECLARATION, as limited by the terms of Section 18 below, and the supplemental restrictions, covenants, servitudes, impositions, easements, charges and liens hereinafter set forth.

**ARTICLE I**  
**DEFINITIONS**

1. "ASSOCIATION" shall mean and refer to the Pelican Landing Community Association, Inc., a Florida not-for-profit corporation, and the master owners' association for Pelican Landing, its successors and assigns.
2. "BUILDING HEIGHT" shall mean the vertical distance measured from the finished grade of the LOT or minimum base flood elevation, whichever is greater, to the mean high level between eaves and ridge of gable, hip and gambrel roofs.
3. "CPD ZONING" shall mean and refer to that certain Pelican Landing RPD/CPD Resolution Z-94-014 of the Board of County Commissioners of Lee County, Florida adopted on August 29, 1994 approving CPD zoning, as amended.
4. "DECLARANT" shall mean and refer to WCI COMMUNITIES LIMITED PARTNERSHIP, a Delaware limited partnership, presently having its principal place of business in Lee County, Florida, its successors or assigns of any or all of its rights under the DECLARATION.
5. "DECLARATION" shall mean and refer to the AMENDED AND RESTATED GENERAL COVENANTS AND GENERAL PROTECTIVE COVENANTS FOR PELICAN LANDING as recorded in Official Records Book 2198 at Pages 1873 through 2026, inclusive, of the Public Records of Lee County, Florida, as amended, and as may be amended from time to time.
6. "DISTRICT" shall mean and refer to Bayside Improvement Community Development District as established pursuant to Chapter 190, Florida Statutes.
7. "OWNER" shall mean and refer to any person or persons, entity or entities, who are the record owner or owners of any fee interest in the PROPERTY, their heirs, successors, legal representatives or assigns.
8. "PROPERTY" shall mean and refer to the real property or any portion thereof as more particularly described in Exhibit "A" attached hereto.
9. "PROPERTY ASSOCIATION" shall mean and refer to any property owners' association or other such entity, its successors and assigns, for the PROPERTY.

10. "STRUCTURE" shall mean that which is built or constructed, or any piece of work artificially built up or composed of parts joined together in some definite manner, the use of which requires more or less permanent location on the ground, or which is attached to something having a more or less permanent location on the ground. The term shall be construed as if followed by the words "or part thereof."

11. "SUPPLEMENT" shall mean this Sixty Second Supplement to the DECLARATION.

**ARTICLE II**  
**CONDITIONS, RESERVATIONS AND RESTRICTIONS**

1. **EXISTING IMPROVEMENTS.**

There are existing improvements on the PROPERTY as of this date consisting of a commercial office building which has been approved by DECLARANT in its present form and location. The following conditions, reservations and restrictions apply to maintenance of the PROPERTY and the STRUCTURES, replacement, reconstruction, additions or alterations to the STRUCTURE or the improvements on the PROPERTY or new structures.

2. **PERMITTED USES**

a. The PROPERTY may be used only for the purposes identified on Exhibit "B" attached hereto and incorporated herein by this reference, except that DECLARANT, in its sole discretion, may approve other uses that may be compatible with the said primary use and neighboring uses and only in accordance with CPD ZONING. Notwithstanding the above, under no circumstances shall any heavy equipment be stored on the PROPERTY.

b. All service and deliveries for the PROPERTY shall be contained to designated delivery areas as approved by DECLARANT.

c. All permitted uses shall be conducted entirely within a completely enclosed building.

d. There shall be no outside sale or display of any materials, products or goods; and there shall be no advertising flags pennants, streamers, balloons or the like permitted, displayed or tethered on any portion of the PROPERTY or on any building, structure or vehicle on the PROPERTY, except that DECLARANT may, in its reasonable discretion, if notified in advance of special promotional events, approve in writing such displays.

e. There shall be no use of the PROPERTY that, in the sole opinion of DECLARANT, is or may be obnoxious because of dust, dirt, smoke, fumes, odors, noises or vibrations and there shall be no outside paging systems or loudspeakers permitted in the PROPERTY.

f. There shall be no free-standing "kiosk" type buildings or small light structures permitted in the parking area, service area or building setback area unless approved in writing by DECLARANT prior to construction or installation thereof.

g. There shall be no outside music, festivities, gatherings, events, or food service prior to 8:00 a.m. or later than 11:00 p.m. without Declarant's prior written approval.

h. Except as approved by DECLARANT in writing, awnings, canopies, hurricane shutters, and similar additions shall not be attached or affixed to the exterior of any structure.

i. No decorative objects such as weather vanes, statuary, sculptures, birdbaths, fountains, flagpoles and the like shall be placed or installed in or on the PROPERTY without the prior written approval of DECLARANT.

j. No outside satellite receptor dish or device or any other type of electronic device now in existence or that may hereafter come into existence, that is utilized or designed to be utilized for the transmission or reception of electronic or other type of signal shall be allowed without the prior written approval of DECLARANT.

k. No structure of any kind of what is commonly known as "factory built", "manufactured", "modular" type construction shall be erected in or on the PROPERTY without the prior written permission of DECLARANT.

l. No newspaper or magazine vending machines, "racks", or other vending machines shall be placed on the PROPERTY until the appropriateness, style, design, type, appearance, material, mounting, color, and location thereof shall have been approved in writing by DECLARANT prior to installation. DECLARANT shall have the right and power to select a uniform style and/or brand of newspaper, magazine, or any other type of vending machines or "racks" for use on the PROPERTY and upon such selection OWNER shall only use the uniform machine or "rack" selected by DECLARANT.

m. No tents and no accessory or temporary buildings or structures shall be permitted on the PROPERTY unless approved in writing by DECLARANT. DECLARANT may, upon request of OWNER, permit a temporary construction facility during construction and its size, appearance, and temporary location in the PROPERTY must be first approved in writing by DECLARANT. No accessory STRUCTURE shall be permitted except with the prior written approval of DECLARANT.

n. No pollution or contamination of the soil, water or atmosphere by harmful or offensive substances shall be permitted, allowed or conducted upon any portion of the PROPERTY. DECLARANT shall have the right in the exercise of its discretion to determine what activities or substances constitute pollution and contamination. Pollution and contamination include, but are not limited to, those activities and substances described as such in any statute, ordinance, regulation or rule promulgated by an appropriate governmental authority.

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o. No use may be made of the PROPERTY as a domicile or residence, either permanent or temporary.

p. Notwithstanding the forgoing, any use or STRUCTURE on the PROPERTY as of the date hereof, may be maintained to its present extent and in its present design, size, and configuration without further approval by DECLARANT; but no expansion of any such use or STRUCTURE shall be permitted except as otherwise provided herein. The reconstruction or replacement of any STRUCTURE or improvement shall be regarded an expansion thereof for purposes of this provision.

**3. BUILDING SETBACK LINES, SIZE OF BUILDING AND BUILDING HEIGHT**

a. The minimum setback from tract boundaries to principal structure(s), accessory structure(s) or improvements shall be in accordance with the site plan for the PROPERTY approved in writing by DECLARANT and Lee County. The minimum distance between any two unattached principal structures shall be in accordance with CPD zoning and the site plan for the PROPERTY approved in writing by DECLARANT and Lee County.

b. Unless otherwise approved by DECLARANT and governmental authorities in writing, the PROPERTY shall contain no more than Six Thousand Two Hundred Eighty Eight (6288) square feet of gross leasable office area.

c. No building or structure shall exceed forty-five (45') feet above average grade in height. All structures shall be developed with a common architectural theme and shall be subject to review and approval by DECLARANT as further described herein.

**4. PLANS, SPECIFICATIONS AND LOCATIONS OF STRUCTURES**

a. No STRUCTURE shall be commenced, erected, improved or altered, nor shall any grading, excavation, landscaping, tree removal or change of exterior color or other work which in any way alters the exterior appearance of any STRUCTURE or the PROPERTY be done, nor shall the OWNER apply for a permit for any such activity or submit any plat thereof to Lee County, without the prior written approval of the DECLARANT. DECLARANT shall use its best efforts to provide OWNER with a decision within ten (10) business days following receipt of a written request from OWNER for the performance of such work.

b. The OWNER shall, prior to the commencement of any such work or construction, submit to DECLARANT the following materials:

- (i) a "preliminary concept plan" which shall include schematic site plans, floor plans and exterior elevations;
- (ii) "design proposals" which shall include more detailed building and site design documents sufficient and definitive in detail so that DECLARANT can determine the character, exterior appearance, exterior materials and colors, and the quality

and kind of building and landscape materials proposed, and all restrictions or design requirements shall be subject to the rules, regulations and statutes of any state agencies;

- (iii) "construction plans and specifications" which shall be a true and faithful extension of the preliminary concept plans and design proposals.

c. Failure to obtain written approval of DECLARANT of all such plats, plans, proposals and specifications prior to the commencement of any such work or construction or application for a permit therefor shall be deemed a material breach hereof and DECLARANT shall then have the right, in addition to any other right permitted by law or in equity, to proceed in the courts to obtain a mandatory injunction requiring any such work or construction done without said written approval to cease and be torn down or removed forthwith.

d. The approval, rejection or withholding of any approval by DECLARANT of the plats, plans, proposals, location, and specifications concerning any STRUCTURES, alteration of any STRUCTURE, or any other work, shall not be construed or interpreted as a representation or determination by DECLARANT that any building, plumbing, electrical code or other applicable governmental regulations or requirements have or have not been properly met by the OWNER. Each OWNER shall be responsible for obtaining all necessary technical data and to make application to and obtain the approval of Lee County, DISTRICT, and any other appropriate governmental agencies prior to commencement of any work or construction.

e. DECLARANT shall have no duty, responsibility nor liability to any OWNER or to any other person whomsoever in respect to the exercise of its rights or the failure to exercise its rights. DECLARANT may reject or accept plans, proposals and specifications in whole or in part based on any grounds or reason whatsoever, in its reasonable discretion.

## 5. LANDSCAPE AND SITE AMENITIES

a. OWNER acknowledges that an appropriate landscape plan is currently in existence for the PROPERTY and shall maintain landscaping throughout the PROPERTY in the same quantities and qualities as set forth in the approved landscape plans. Prior to making any change, variation or deviation from the approved landscaping plan, OWNER shall first obtain DECLARANT'S written approval of the change, variation or deviation. Any additional landscaping to be installed requires written approval of DECLARANT prior to installation. All landscaping, trees, shrubs and lawns shall be maintained by OWNER in good and living condition at all times.

b. OWNER shall be responsible for any repair and/or replacement of existing landscaping which abuts the PROPERTY and which is damaged or destroyed as a result of the acts of OWNER or its agents.

c. OWNER shall install or retain the landscape material as approved by DECLARANT. All landscaping, trees, shrubs and lawns shall be maintained by OWNER in good and living condition at all times.

d. OWNER shall be responsible for maintaining and keeping in good working order the landscape irrigation system installed in or on the PROPERTY and adjacent right-of-way areas between the property line of the PROPERTY and any abutting road or water's edge.

e. All privacy and/or decorative walls shall require the written approval of DECLARANT. If a wall and/or fence is approved in writing by DECLARANT it shall be located in a manner to limit the area enclosed to that necessary to afford privacy to outdoor activity areas. No wall or fence shall be constructed with a height of more than six (6') feet above the existing ground level of adjoining property. No walls or fences shall be erected or placed on any property line. Any fences or walls shall have a landscape buffer between the wall or fence and the adjacent property line. All proposed walls must be approved in writing prior to construction by the DECLARANT.

f. A wall, fence or enclosure shall only be constructed of materials and with a design and color as approved by DECLARANT in writing. No chain link fencing shall be allowed.

g. No stone, gravel, or paving of any type shall be used as a lawn unless approved as part of the final landscape plan.

h. No artificial trees, shrubs, grass or other vegetation will be placed or maintained as part of the landscaping in the PROPERTY.

i. All required lawns and landscaping shall be completed at the time of completion of the principal building on the PROPERTY as evidenced by the issuance of a Certificate of Occupancy by the appropriate governmental agency.

j. All areas not covered by structures shall be landscaped to the edge of the PROPERTY.

k. Failure by OWNER to install and/or maintain the landscaping or irrigation system as required herein, and upon fifteen (15) days after written notice to commence the corrections or improvements as required by DECLARANT, shall be cause for DECLARANT to enter upon the PROPERTY to install and/or maintain such landscape material and/or irrigation system and such entry shall not be deemed a trespass. Any costs incurred by DECLARANT shall be borne by OWNER and shall be due and payable within fifteen (15) days after request from DECLARANT for payment. Upon failure by OWNER to make such payment within said period DECLARANT is hereby empowered to file a Claim of Lien against the PROPERTY in the Public Records of Lee County, Florida, in order to secure such payment, and other sums all as hereinafter set forth.

**6. PARKING AND STORAGE AREAS**

a. Alterations to the design and layout of all service roads and parking areas must be submitted to DECLARANT for approval. No parking shall be permitted on any street or service road, and adequate permanent paved parking and service roads shall be constructed and maintained in accordance with standards acceptable to DECLARANT and Lee County for such use.

b. No bus, truck, commercial vehicle or trailer of any kind shall be permitted to be parked on the PROPERTY for a period of more than four (4) hours unless such vehicle is necessary in the actual construction or repair of a STRUCTURE or for ground maintenance, or are necessary and incident to business in the PROPERTY, or unless kept fully enclosed inside a structure so that it is not visible from outside of the STRUCTURE. No bus, truck, commercial vehicle or trailer of any kind shall be parked overnight on the PROPERTY except in accordance with a plan approved by DECLARANT restricting such parking to specified areas on the PROPERTY which are surrounded by an approved opaque screen sufficient to substantially obscure said items from view from off the PROEPRTY.

c. No boat, boat trailer, or other trailer of any kind, camper, motor home, recreation vehicle, mobile home or disabled vehicle shall be permitted to be parked or stored on the PROPERTY at any time unless kept fully enclosed inside a STRUCTURE so that it is not visible from outside of the STRUCTURE.

d. None of the aforementioned vehicles, boats, motor homes, campers, vans, or trailers shall be used as a domicile or residence, either permanent or temporary.

e. All service and deliveries for any building on the PROPERTY shall be contained to the rear of the buildings where physically possible, or to designated delivery areas as approved by DECLARANT.

f. All garbage and trash containers, fuel tanks, sprinkler pumps and other such outdoor equipment must be underground or placed in walled-in, sight-screened, or fenced-in areas so that they will not be readily visible from any adjacent streets or properties. In addition, DECLARANT may require that adequate landscaping be installed around these facilities and maintained by the OWNER to the satisfaction of DECLARANT. No unenclosed storage area shall be permitted on the PROPERTY except in conjunction with construction and then only with DECLARANT'S express written consent. No enclosed storage shall be constructed or erected which is separated from the principal structure on the PROPERTY. Garbage shall be kept in closed containers. Garbage, trash and all waste material shall be regularly removed from the PROPERTY and not allowed to accumulate.



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7. WATER MANAGEMENT AREAS

Surface water drainage and management, including but not limited to storm water storage and capacity, shall conform to the overall water management requirements of the South Florida Water Management District and the DISTRICT and meet with the approval of DECLARANT.

8. MAILBOXES

All mailboxes must be installed and maintained in accordance with the standards established by DECLARANT. The design, material and location of all mailboxes must be first approved in writing by DECLARANT.

9. CONSTRUCTION

During any construction activity within the PROPERTY, the construction area shall be maintained in a neat and orderly manner and OWNER shall provide for trash and debris containment and removal. No temporary trailers shall be placed in the PROPERTY without the prior written approval of DECLARANT. Construction vehicles shall be parked so as not to block or interfere with the use of the streets or roads within the PROPERTY. Construction vehicles shall not be stored in the PROPERTY.

10. UNDERGROUND UTILITY LINES

All electric, telephone, cable television, gas and other utility lines installed subsequent to the date hereof must be installed underground.

11. LIGHTING

No exterior lighting fixtures, structures or improvements shall be placed in, on or about the PROPERTY, unless the written approval of DECLARANT has been obtained. All lighting shall be white in color unless approved in writing by DECLARANT.

12. ACCESS

Permanent access to the PROPERTY shall be via two (2) access points, one from Walden Center Drive and the other from Pelican Colony Boulevard.

13. SIGNS

Signs shall not be erected nor displayed in the PROPERTY unless the placement and character, form, size, and time of placement of the sign is first approved in writing by DECLARANT. Signs must also conform with local regulatory ordinances. No sales price may be displayed on any sign. No flashing signs shall be permitted. DECLARANT may summarily remove and destroy all unauthorized signs and same shall not be deemed a trespass.

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**14. ANIMALS**

No animals, livestock or poultry of any kind may be raised, bred or kept in the PROPERTY.

**15. NATIVE VEGETATION**

To the extent possible, OWNER shall protect suitable native vegetation to be integrated into the final landscape plan. The design review process and construction activities shall include these steps:

- a. Site review by OWNER or builder with DECLARANT of existing native vegetation.
- b. Review by DECLARANT of tree-clearing plans.
- c. Review by DECLARANT of building placement so as to minimize disturbance and removal of existing native vegetation.
- d. Installation of protective barriers and identification of native vegetation before commencement of construction.
- e. Transplanting of suitable trees removed from construction areas.

**16. SOLID/HAZARDOUS/MEDICAL WASTE**

a. All storage, siting, and disposal of hazardous wastes and/or hazardous materials must be accomplished in accordance with federal, state, and local regulations. OWNERS and operators are responsible for compliance with all permitting, reporting, emergency notification provisions and other regulations relating to hazardous materials and hazardous wastes.

b. All OWNERS and operators must insure that regulated substances are loaded, off-loaded and stored in an area that is curbed and provided with an impervious base. The impervious base must be maintained free of cracks and gaps so as to contain any spills or leaks.

c. Outdoor storage of hazardous waste is prohibited.

d. Any business that generates hazardous waste defined by the Code of Federal Regulations 40 CFR Part 261, shall notify the Division of Natural Resources Management for an assessment as required by Section 403.7225, Florida Statutes. This assessment will address any deficiencies in the management practices of hazardous waste generated at the facility.

e. The OWNER of any property which will be used to store, manufacture, or use hazardous materials, shall contact the Lee County Office of Emergency Management, Hazardous

Material Representative, prior to obtaining a development order to discuss the proposed development in relation to potential type, use, and storage of hazardous materials which will be located on the premises.

f. If required by federal, state and/or local regulations:

(i) The OWNER shall prepare or have available material safety data sheets (MSDS) and submit either copies of MSDS or a list of MSDS chemicals to the appropriate fire department or district and to the Lee County Division of Public Safety.

(ii) The OWNER shall establish an emergency notification system to be used in the event of a hazardous material release.

17. SUBDIVISION AND REGULATION OF LAND

a. The PROPERTY shall not be divided or subdivided without the express written consent of DECLARANT, who may impose certain requirements and conditions on OWNER and the PROPERTY related to the purpose for the division or subdivision, which consent may be reasonably withheld.

b. OWNER shall not inaugurate or implement any variation from, modification to, or amendment of the Pelican Landing RPD/CPD or any other governmental plans, land development regulations, development orders or development permits applicable to Pelican Landing or the PROPERTY, without the prior written approval of DECLARANT, which approval may be denied at the sole discretion of DECLARANT.

18. AIR CONDITIONERS

All air conditioning units shall be shielded and hidden so that they shall not be readily visible from any adjacent streets and properties. Wall air conditioning units may be permitted only upon the prior written approval of DECLARANT. Window air conditioning units shall not be permitted.

19. WELLS

No wells shall be applied for, drilled, or installed without the prior written approval of DECLARANT.

20. CASUALTY DESTRUCTION TO IMPROVEMENTS

In the event that a STRUCTURE or other improvement is damaged or destroyed by casualty loss or other loss, then within a reasonable period of time after such incident, as determined by DECLARANT, the OWNER thereof shall either commence to rebuild or repair the damaged STRUCTURE or improvement and diligently continue such rebuilding or repairing until completion, or properly clear the damaged STRUCTURE or improvement and restore or

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repair the PROPERTY in a manner aesthetically satisfactory to DECLARANT. As to any such reconstruction of a destroyed STRUCTURE or improvement, the same shall only be replaced with STRUCTURES or improvements as are approved by DECLARANT as provided herein.

**ARTICLE III**  
**GENERAL PROVISIONS**

**1. PROPERTY UNITS**

In accordance with Article 1, Section 34 of the DECLARATION, DECLARANT hereby assigns a total of one and one-quarter (1 1/4) Units to the PROPERTY.

**2. APPROVALS**

All approvals and disapprovals under the DECLARATION and this SUPPLEMENT shall be in writing.

**3. OWNER COMPLIANCE**

The covenants, conditions, restrictions and other provisions of the DECLARATION and this SUPPLEMENT shall apply not only to OWNER but also to any persons, entity or entities, occupying OWNER'S premises under lease from OWNER or by permission or invitation of OWNER or OWNER'S tenants, expressed or implied. Failure of OWNER to notify any person, entities or occupants of the existence of the DECLARATION and this SUPPLEMENT shall not in any way act to limit or divest the right of DECLARANT of enforcement of the DECLARATION or this SUPPLEMENT. OWNER shall be responsible for any and all violations of the DECLARATION and this SUPPLEMENT by OWNER'S tenants, delegates, licensees, invitees or guests, and by guests, licensees and invitees of OWNER'S tenants at any time.

**4. NOTICE TO DECLARANT**

Any notice to DECLARANT, or requests for approval of plans, specifications and location of structures, buildings, signs or other improvements shall be in writing and delivered or mailed to DECLARANT at its principal place of business as shown by the records of the Florida Department of State, or at any other location designated by DECLARANT.

**5. ENFORCEMENT**

a. DECLARANT reserves unto itself and its successors and assigns the right, and the power, (i) to enforce the covenants, conditions, restrictions, and other provisions of the DECLARATION and this SUPPLEMENT, and (ii) to delegate or assign, either exclusively or non-exclusively, any or all of its rights, powers, duties or privileges hereunder to a PROPERTY Owners' Association, or to an OWNER, or to any other person, corporation, or organization,

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and (iii) to resolve any dispute as to the interpretation and application of any of the provisions of the DECLARATION and this SUPPLEMENT.

b. DECLARANT and its successors and assigns shall have the right and the power to enforce the covenants, conditions, restrictions and other provisions imposed by the DECLARATION and this SUPPLEMENT by any proceeding at law or in equity against any person violating or attempting to violate any such provisions, to restrain any violation or attempted violation of such provisions, to require specific performance of such provisions, to recover damages for violations of such provisions, and against the land to enforce any lien created by the DECLARATION and this SUPPLEMENT.

c. Failure by DECLARANT, or a PROPERTY ASSOCIATION, or any OWNER, or any other person to enforce any of such provisions shall in no event be deemed a waiver of the right to enforce the same at any other time or from time to time.

d. The costs and reasonable attorneys fees, including those resulting from any appellate proceedings, incurred by DECLARANT or its successors or assigns in any action against an OWNER to enforce any provision of the DECLARATION or this SUPPLEMENT shall be a personal obligation of such OWNER which shall be paid by such OWNER and any amount thereof which remains due and unpaid shall be a continuing lien upon OWNER'S PROPERTY, collectible in the manner provided in the DECLARATION. The costs and reasonable attorneys fees, including those resulting from any appellate proceedings, incurred by OWNER or its successors or assigns in any action against OWNER to enforce any provision of the DECLARATION or this SUPPLEMENT shall be a personal obligation of DECLARANT if DECLARANT is not the prevailing party.

## 6. CREATION OF THE LIEN AND PERSONAL OBLIGATION

a. OWNER, by acceptance of a deed for the PROPERTY or any part thereof, whether or not it shall be so express in such deed, thereby covenants and agrees to promptly pay all costs incurred by DECLARANT for enforcement of this DECLARATION due to any breach of the OWNER'S obligations or responsibilities set forth herein. Each OWNER also thereby grants to DECLARANT a lien on the PROPERTY of the OWNER as security for the payment of such costs.

b. Costs recoverable by DECLARANT shall include all expenses incurred in the correction or removal of any violation of this DECLARATION together with interest thereon at the highest legal rate, costs of collection of such expenses and reasonable attorneys' fees including those resulting from any appellate proceedings.

c. All such costs, shall be the obligation of the OWNER of the PROPERTY at the time such costs fell due, and any due and unpaid costs shall also be the obligation of each person who becomes an OWNER thereafter. Each OWNER, by acceptance of a deed for the PROPERTY, is covenanting and agreeing to pay any such obligation falling due prior to or during the time of such ownership and such obligation shall survive any conveyance. In seeking

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to satisfy any obligation created herein DECLARANT shall be entitled to any recourse available under the law, and is expressly not limited to recourse against the PROPERTY, or under the lien created hereby.

7. LIEN

a. If OWNER fails to pay any costs or make any other payment herein required to be paid to the DECLARANT within thirty (30) days after written request by the DECLARANT, then the DECLARANT is hereby granted a lien on the PROPERTY, which lien shall secure the payment then due and all sums coming due thereafter up to the date of the satisfaction or other discharge of the claim of lien hereinafter mentioned, together with interest at the highest permitted legal rate under the laws of the State of Florida from date of delinquency, and all costs of collection, including reasonable attorneys' fees which includes those resulting from appellate proceedings, which may be incurred by the DECLARANT in enforcing this lien and the costs of performing any other work required to enforce compliance with this Article.

b. The lien herein granted shall be effective from and after the date of recording of a Claim of Lien in the Public Records of Lee County, Florida, stating the description of the PROPERTY encumbered thereby, the name of the OWNER, the amount then due and the date when due. The lien shall continue in effect for a period of twenty (20) years, unless all sums secured by said lien shall have been fully paid and the lien satisfied or discharged.

c. The DECLARANT may bring an action of law or equity against an OWNER to pay such obligations to the DECLARANT, or it may foreclose the lien against the PROPERTY, or pursue both remedies at the same time. An OWNER against whom any such proceeding is successfully brought shall pay all costs of collection, including reasonable attorneys' fees, which includes those resulting from appellate proceedings.

d. No OWNER may waive or otherwise escape liability for the payments provided for herein by non-use or abandonment of the PROEPRTY.

8. SUBORDINATION OF THE LIEN

The lien herein created is specifically declared to be subordinate and inferior to the lien and operation of any first mortgage encumbering the PROPERTY given by the OWNER to an institutional mortgagee, or in conjunction with the issuance of any bonded indebtedness. For the purpose of this Section, an institutional mortgagee shall be a bank, savings and loan association, insurance company, union pension fund or any agency of the United States government, or any person given a mortgage insured by the Federal Housing Administration, the Veterans Administration, Federal National Mortgage Association, or any branch or agency of the United States government or the government of the State of Florida, and, furthermore, the term "institutional mortgagee" shall be deemed to include any mortgagee that DECLARANT shall declare by instrument in writing and place of record among the Public Records of Lee County, Florida, to be an institutional mortgagee. As used herein "bonded indebtedness" shall mean any

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public or private obligation related to any instrument commonly known as a bond as typically sold or traded in public markets as regulated securities.

9. SUBMISSION TO PROPERTY ASSOCIATION

Nothing contained herein shall be construed as in any manner limiting or preventing the PROPERTY, or any part thereof, from being submitted to a PROPERTY ASSOCIATION, or the ASSOCIATION may administer the PROPERTY. Provided however, if the PROPERTY, or any part thereof, is submitted to a PROPERTY ASSOCIATION, all applicable provisions of the DECLARATION and this SUPPLEMENT shall be fully satisfied.

10. NON-LIABILITY OF DECLARANT

DECLARANT shall not in any way or manner be held liable or responsible for any violation of the DECLARATION or this SUPPLEMENT by any person or entity other than itself.

11. CONFLICT

In the event of any conflict among the provisions of the DECLARATION and the provisions of this SUPPLEMENT, the DECLARANT reserves the right and the power to resolve any such conflict, and its decision shall be final.

12. AMENDMENT

The DECLARANT may, in its sole discretion, modify, amend, delete, waive or add to this SUPPLEMENT or any part thereof. The power of amendment, however, shall be limited to modification or enlargement of existing covenants which shall not substantially impair the general and uniform plan of development originally set forth herein.

13. SUPPLEMENT TO GENERAL COVENANTS RUNS WITH THE LAND

The covenants, conditions, restrictions and other provisions under the SUPPLEMENT shall run with the land and bind the PROPERTY and shall inure to the benefit of and be enforceable by the DECLARANT for a term of thirty (30) years from the date this SUPPLEMENT is recorded, after which time these provisions shall automatically be extended for successive periods of ten (10) years. Any time after the initial thirty (30) year period provided for in this Section, these provisions may be terminated or modified in whole or in part by the recordation of a written instrument providing for the termination or modifications executed by the then OWNERS of two-thirds (2/3) of the PROPERTY agreeing to the termination or modifications.

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14. WAIVER

Any waiver by DECLARANT of any provision of this SUPPLEMENT or breach hereof must be in writing and shall not operate or be construed as a waiver of any other provision or subsequent breach.

15. DECLARANT'S EXCULPATION

DECLARANT may grant, withhold or deny its permission or approval in any instance where its permission or approval is permitted or required without any liability of any nature or kind to OWNER or any other person for any reason whatsoever, and any permission or approval granted shall be binding upon all persons.

16. COMPLETION OF CONSTRUCTION - REMEDY

When the construction of any STRUCTURE is once begun, work thereon must be prosecuted diligently and completed within a reasonable time. If for any reason work is discontinued or there is no substantial progress toward completion for a continuous sixty day period, except as the same may be delayed or prevented due to reasons of "force majeure," as such term is defined below, then DECLARANT shall have the right to notify the OWNER of its intentions herein, enter the PROPERTY and take such steps as might be required to correct the undesirable appearance. The reason for such correction shall be solely in the discretion of DECLARANT and may include but not be limited to aesthetic grounds. The OWNER shall be liable for all costs incurred in such action as provided in Article 4 hereof. As used herein, the term "force majeure" shall mean and include acts of God, strikes, lockouts, labor troubles, inability to provide materials, delay in collecting insurance proceeds, restrictive government laws or regulations or other causes without fault and beyond the reasonable control of the party obligated, (financial inability excepted).

17. SEVERABILITY

If any section, subsection, sentence, clause, phrase or portion of this SIXTY SECOND SUPPLEMENT TO THE DECLARATION AND GENERAL AND PROTECTIVE COVENANTS FOR PELICAN LANDING is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and shall not affect the validity of the remaining portion thereof.

18. MODIFICATION OF SCOPE OF DECLARATION

Notwithstanding any term or provision contained herein to the contrary, the PROPERTY shall be held, transferred, sold, conveyed and occupied subject to all of the terms and provisions of the DECLARATION, provided, however, the PROPERTY shall not be held, transferred, sold, conveyed or occupied subject to Article III (Membership and Voting Rights) or Article X (Assessments) thereof or references thereto which purport to (i) grant to the



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PROPERTY any membership or voting rights in the ASSOCIATION (ii) impose upon the fee owner of the PROPERTY an obligation to pay to the ASSOCIATION any Assessments or other charges imposable by the ASSOCIATION under the DECLARATION or (iii) give the ASSOCIATION a lien on the PROPRTY for payment of any such Assessment or other charge. By virtue of this Supplemental Declaration, no such rights, obligations or liens shall exist. DECLARANT'S intention is that the PROPERTY shall under no circumstances, now or hereafter, be subject to assessment by the ASSOCIATION. Any provision of the DECLARATION, including, but not limited to, Article III (Membership and Voting Rights) and Article X (Assessments), which purports to grant to the PROPERTY any membership or voting rights in the ASSOCIATION or purports to obligate the PROPERTY for the payment to the ASSOCIATION of any assessments or other charges, including, but not limited to, initial capital contributions, is hereby superseded, voided and invalidated to the extent the DECLARATION purports to grant to the PROPERTY any membership or voting rights in the ASSOCIATION or purports to obligate the PROPERTY for the payment to the ASSOCIATION of any assessments or other charges, including, but not limited to, initial capital contributions. Otherwise, the PROPEY shall be held, transferred, sold, conveyed and occupied subject to all of the terms and provisions of the DECLARATION to the extent not expressly superseded, voided or invalidated hereby. DECLARANT'S authority for granting the limitation set forth in this Section 18 is set forth in Article XIII, Section 2 of the DECLARATION.

IN WITNESS WHEREOF, WCI COMMUNITIES LIMITED PARTNERSHIP, a Delaware limited partnership, does hereby execute this SIXTY SECOND SUPPLEMENT TO THE DECLARATION AND GENERAL AND PROTECTIVE COVENANTS FOR PELICAN LANDING, in its name by its undersigned, authorized officer and affixes its corporate seal hereto, this 30<sup>th</sup> day of December, 1997.

WITNESSES:

Stephen C. Pierce  
Name: Stephen C. Pierce

WCI COMMUNITIES LIMITED PARTNERSHIP  
a Delaware limited partnership

Carin A. Melby  
Name: CARIN A MELBY

BY: JH  
Jerry H. Schmoyer  
ITS: Senior Vice President\*

\*Executed pursuant to authority granted in that certain Certificate of Authority/Power of Attorney recorded in O.R. Book 2809, Page 0986, Public Records of Lee County, Florida.

STATE OF FLORIDA        )  
COUNTY OF LEE         )

The foregoing instrument was acknowledged before me this 30 day of December, 1997, by Jerry H. Schmoyer, Senior Vice President of WCI Communities Limited Partnership, a

Delaware limited partnership, on behalf of the limited partnership. He is personally known to me.

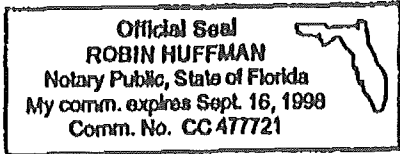
*[Handwritten Signature]*

Notary Public, State of Florida

My Commission Expires:

*Robin Huffman*

Printed Name of Notary Public



DR2907 260018

Q. GRADY MINOR, P.E.  
MARK W. MINOR, P.E.  
C. DEAN SMITH, P.E.  
DAVID W. SCHMITT, P.E.

ALAN V. RCSEMAN  
ROBERT W. THINNES, A.L.C.P.  
ERIC V. SANDOVAL, P.S.M.

PROPERTY DESCRIPTION

PELICAN LANDING SALES FACILITY

A PARCEL OF LAND LOCATED IN SECTION 9, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHERLYMOST CORNER OF TRACT "A", (NORTH COMMONS DRIVE, A 60 FOOT WIDE RIGHT-OF-WAY), AS SHOWN ON THE PLAT OF PELICAN LANDING UNIT TWENTY-TWO, RECORDED IN PLAT BOOK 58 AT PAGES 17 THROUGH 21 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, AND BEING A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF PELICAN COLONY BOULEVARD, (TRACT "A", A 120 FOOT WIDE RIGHT-OF-WAY), AS SHOWN ON THE PLAT OF PELICAN LANDING UNIT NINETEEN, RECORDED IN PLAT BOOK 56 AT PAGES 36 THROUGH 38 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, ALSO BEING A POINT ON A CIRCULAR CURVE CONCAVE TO THE NORTHEAST WHOSE RADIUS POINT BEARS N 19°05'14" E, A DISTANCE OF 30.00 FEET THEREFROM; THENCE RUN NORTHWESTERLY ALONG THE EASTERLY RIGHT-OF-WAY LINE OF SAID NORTH COMMONS DRIVE AND ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 30.00 FEET, THROUGH A CENTRAL ANGLE OF 92°19'38", SUBTENDED BY A CHORD OF 39.49 FEET AT A BEARING OF N 29°44'57" W, FOR AN ARC LENGTH OF 43.11 FEET TO A POINT OF REVERSE CURVATURE; THENCE RUN NORTHERLY ALONG THE EASTERLY RIGHT-OF-WAY LINE OF SAID NORTH COMMONS DRIVE AND ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 180.00 FEET, THROUGH A CENTRAL ANGLE OF 09°50'12", SUBTENDED BY A CHORD OF 30.86 FEET AT A BEARING OF N 06°29'46" E, FOR AN ARC LENGTH OF 30.90 FEET TO THE END OF SAID CURVE; THENCE RUN N 68°33'45" E FOR A DISTANCE OF 427.15 FEET; THENCE RUN S 63°14'54" E, FOR A DISTANCE OF 170.00 FEET; THENCE RUN S 26°45'05" W FOR A DISTANCE OF 367.27 FEET TO THE BEGINNING OF TANGENTIAL CIRCULAR CURVE CONCAVE TO THE NORTHWEST; THENCE RUN SOUTHWESTERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 30.00 FEET, THROUGH A CENTRAL ANGLE OF 95°12'58", SUBTENDED BY A CHORD OF 44.31 FEET AT A BEARING OF S 74°21'34" W, FOR AN ARC LENGTH OF 49.85 FEET TO A POINT OF COMPOUND CURVATURE AND A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF SAID PELICAN COLONY BOULEVARD; THENCE RUN NORTHWESTERLY ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF SAID PELICAN COLONY BOULEVARD AND ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 690.00 FEET, THROUGH A CENTRAL ANGLE OF 07°45'20", SUBTENDED BY A CHORD OF 93.33 FEET AT A BEARING OF N 54°09'17" W, FOR AN ARC LENGTH OF 93.40 FEET TO A POINT OF REVERSE CURVATURE; THENCE RUN NORTHWESTERLY ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF SAID PELICAN COLONY BOULEVARD AND ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 800.00 FEET, THROUGH A CENTRAL ANGLE OF 20°38'09", SUBTENDED BY A CHORD OF 286.58 FEET AT A BEARING OF N 60°35'42" W, FOR AN ARC LENGTH OF 288.13 FEET TO THE END OF SAID CURVE AND THE POINT OF BEGINNING, CONTAINING 2.849 ACRES, MORE OR LESS.

SHEET 1 OF 3

(941) 947-1144 • FAX (941) 947-0375 • E-Mail: QGMA@aol.com  
3800 Via Del Rey • Bonita Springs, Florida 34134

EXHIBIT A

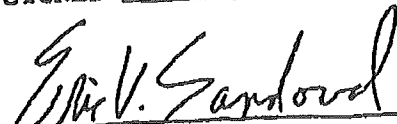
0R2907 P60019

BEARINGS REFER TO THE WESTERLY LINE OF THE PROPOSED WALDEN CENTER  
DRIVE ~~AS~~ BEING S 26°45'05" W.

SUBJECT TO EASEMENTS, RESERVATIONS AND/OR RESTRICTIONS OF RECORD.

Q. GRADY MINOR & ASSOCIATES, P.A.

SIGNED 9-29-97

  
ERIC V. SANDOVAL

P.S.M. #5223  
STATE OF FLORIDA

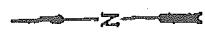
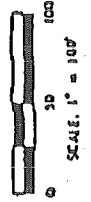
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THIS IS NOT A SURVEY

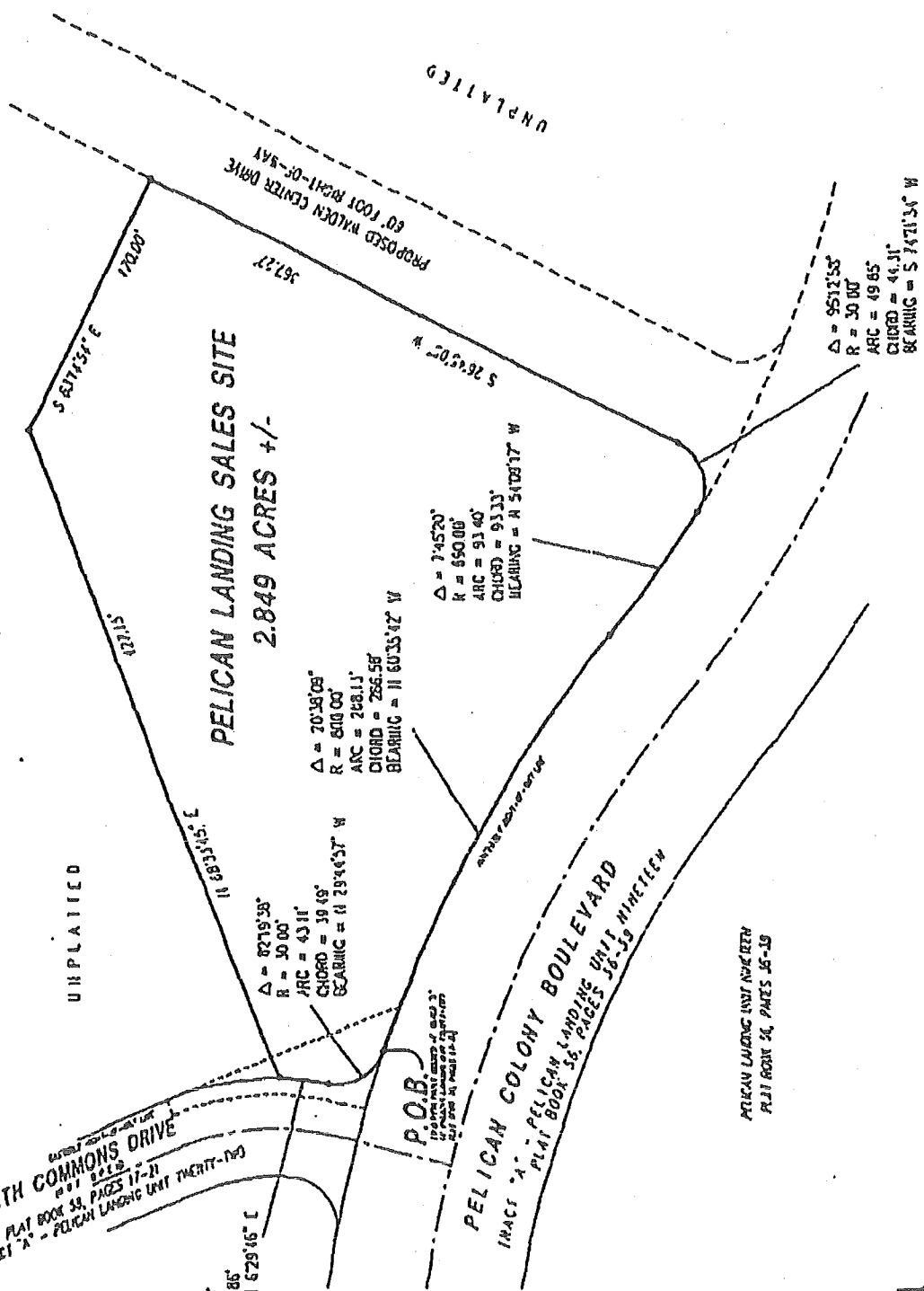
SKETCH TO ACCOMPANY LEGAL DESCRIPTOR  
 PELICAN LANDING SALES FACILITY  
 SECTION 9, TOWNSHIP 47 SOUTH, RANGE 25 EAST  
 LEE COUNTY, FLORIDA  
 DATE: SEPTEMBER, 1997 DRAWING # D-1274

Q. GRADY MINOR AND ASSOCIATES, P.A.  
 CIVIL ENGINEERS & LAND SURVEYORS & PLANNERS  
 3800 W. VIA DEL REY  
 BOCA RATON, FLORIDA 33434  
 PHONE: (813) 947-1114 FAX: (813) 947-0070

SHEET 3 OF 3  
 DRAWN: C.A.O.  
 JOB CODE: ECL2  
 SCALE: 1" = 100.00'



# EXHIBIT A



NORTH COMMONS DRIVE  
 60' R.O.W.  
 TRACT "A" - PELICAN LANDING UNIT TWENTY-ONE

P.O.B.  
 POINT OF BEGINNING  
 AT THE INTERSECTION OF  
 NORTH COMMONS DRIVE AND  
 PELICAN COLONY BOULEVARD

PELICAN COLONY BOULEVARD  
 110' R.O.W.  
 IMPACT "A" - PELICAN LANDING UNIT NINETEEN  
 PLAT BOOK 56, PAGES 28-30

PELICAN LANDING UNIT NINETEEN  
 PLAT BOOK 56, PAGES 28-30

PELICAN LANDING SALES SITE  
 2.849 ACRES +/-

UNPLATTED

UNPLATTED

$\Delta = 93^{\circ}17'$   
 $R = 180.00'$   
 $ARC = 31.90'$   
 $CHORD = 20.86'$   
 $BEARING = N 62^{\circ}29'46" E$

$\Delta = 87^{\circ}19'38"$   
 $R = 30.00'$   
 $ARC = 43.11'$   
 $CHORD = 39.49'$   
 $BEARING = N 29^{\circ}44'57" W$

$\Delta = 20^{\circ}38'09"$   
 $R = 600.00'$   
 $ARC = 268.11'$   
 $CHORD = 268.58'$   
 $BEARING = N 60^{\circ}35'42" W$

$\Delta = 7^{\circ}45'20"$   
 $R = 690.00'$   
 $ARC = 93.40'$   
 $CHORD = 93.33'$   
 $BEARING = N 54^{\circ}03'17" W$

$\Delta = 95^{\circ}12'55"$   
 $R = 30.00'$   
 $ARC = 49.65'$   
 $CHORD = 44.31'$   
 $BEARING = S 74^{\circ}11'34" W$

## Exhibit "B"

### 5. Permitted Uses in CPD land development Area D: Mixed Use Commercial

- Administrative Offices
- Business Services - Group I (excluding blood banks, blood donor stations, bail bonding, check exchange, detective agencies)
- Business Services - Group II (no outdoor storage of vehicles or equipment)
- Banks and Financial Establishments - Groups I and II with drive-thru
- Broadcasting Studio
- Commercial Radio and Television
- Place of Worship
- Religious Facilities
- Private Club
- Food Store - Group I
  
- Restaurants, Standard - Groups I, II and III with consumption on premises
- Specialty Retail Shops - Groups I, II and III
- Pharmacy and Drug Stores
- Commercial School
- Social Services - Group I (excluding Public Welfare Centers)
- Studios
- Health Care Facilities - Group III
- Adult Congregate Living Facilities
- Insurance Companies
- Medical Office
- Standard Offices
- Cocktail Lounge
- Consumption on Premises
- Package Store
  
- Convenience Food and Beverage Store
- Residential Uses, including but not limited to:
  - Two family attached
  - Townhouse
  - Duplex
  - Multi-family building
- Residential Accessory Uses, including
  - Private garages, carports, parking areas
  - Swimming pools, tennis courts
  - Model Homes, Model Units and Model Display Centers
  - Home Occupation
- Clothing Stores, General
- Contractors and Builders - Group I
  
- Cultural Facilities (limited to Art Galleries, Museums)
- Hobby, Toy, Game Shops
- Household/Office Furnishings - Groups I and II
- Personal Services - Group I (excluding coin operated laundries Laundromat)
- Personal Services - Group II (limited to hearing aids, optical supplies and other similar health related devices (excluding massage establishments, massage parlors, steam or Turkish baths)
- Personal Services - Group IV (limited to debt counseling, portrait copying, and tax return services)
- Recreation, Commercial (limited to Health Club)
- Theatres

DR2907 PG0022

CHARLIE GREEN LEE CIV. FL  
98 JAN -7 PM 5:09