

Prepared by and returned to:

Becker & Poliakoff, P.A.  
Joseph E. Adams, Esquire  
12140 Carissa Commerce Court, Suite 200  
Fort Myers, FL 33966

## **CERTIFICATE OF RECORDATION**

### **AMENDED AND RESTATED DECLARATIONS OF CONDOMINIUM**

**WEDGEWOOD AT LEXINGTON CONDOMINIUM NO. 1**

**WEDGEWOOD AT LEXINGTON CONDOMINIUM NO. 2**

**WEDGEWOOD CONDOMINIUM AT LEXINGTON NO. 3**

### **AMENDED AND RESTATED ARTICLES OF INCORPORATION**

### **AMENDED AND RESTATED BYLAWS**

### **WEDGEWOOD AT LEXINGTON CONDOMINIUM ASSOCIATION, INC.**

I HEREBY CERTIFY that the attached Amended and Restated Condominium Documents were duly adopted by the Association membership at the duly noticed Annual Members' Meeting of the Association on the 28<sup>th</sup> day of February 2013. The original Declaration of Condominium for Wedgewood at Lexington Condominium No. 1 is recorded at O.R. Book 2668, Page 2173 *et seq.*, of the Lee County Public Records. The original Declaration of Condominium for Wedgewood at Lexington Condominium No. 2 is recorded at O.R. Book 2788, Page 2938 *et seq.*, of the Lee County Public Records. The original Declaration of Condominium for Wedgewood at Lexington Condominium No. 3 is recorded at O.R. Book 2760, Page 2311 *et seq.*, of the Lee County Public Records.

The Amended and Restated Declaration of Condominium for Wedgewood at Lexington Condominium No. 1, Wedgewood at Lexington Condominium No. 2 and Wedgewood at Lexington Condominium No. 3 are attached hereto. All previous site plans of record are incorporated by reference. Certain photocopies or summaries are recorded for reference as Exhibit "A" to the respective Amended and Restated Declarations of Condominium. A photocopy of the Deeds for Association Property is recorded at Exhibit "A-1" to the Amended and Restated Declaration of Condominium for Wedgewood at Lexington Condominium No. 1, and are incorporated by reference herein as Exhibit "A-1" to the Amended and Restated Declarations of Condominium for Wedgewood at Lexington Condominium No. 2 and Wedgewood at Lexington Condominium No. 3. The Amended and Restated Articles of Incorporation of Wedgewood at Lexington Condominium Association, Inc. are attached as Exhibit "B" to the Amended and Restated Declaration of Condominium for Wedgewood at Lexington Condominium No. 1, and are incorporated by reference herein as Exhibit "B" to the Amended and Restated Declarations of Condominium for Wedgewood at Lexington

Page 1 of 2



**AMENDED AND RESTATED**  
**DECLARATION OF CONDOMINIUM**  
**OF**  
**WEDGEWOOD AT LEXINGTON CONDOMINIUM NO. 1**

**RECITALS:**

In a Declaration of Condominium recorded at O.R. Book 2668, Page 2173, *et seq.* of the Lee County Public Records on 18<sup>th</sup> day of January 1996, the Condominium Developer did submit to condominium ownership pursuant to Chapter 718, Florida Statutes, known as the Condominium Act, that property situated in Lee County, Florida, more particularly described as follows:

FOUR PARCELS OF LAND SITUATED IN SECTION 4 AND 9, TOWNSHIP 46 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA, SAID PARCELS BEING PART OF THE LANDS PLATTED AS "LEXINGTON COUNTRY CLUB" IN LEE COUNTY FLORIDA, AND BEING MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS;

**PARCEL 1:** ALL OF TRACT 13 AS DESIGNATED IN THE PLAT OF LEXINGTON COUNTRY CLUB

**PARCEL 2:** ALL OF TRACT 14 AS DESIGNATED IN THE PLAT OF LEXINGTON COUNTRY CLUB

**PARCEL 3:** PART OF TRACT 17 BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS; BEGINNING AT A POINT MARKING AN ORIGINAL CORNER ON A LINE BETWEEN TRACT 17 OF LEXINGTON COUNTRY CLUB OF WHICH THIS IS A PART AND TRACT 18, THENCE WITH SAID TRACT LINE; NORTH 29°55'09" EAST 151.28 FEET TO A POINT ON THE SOUTH RIGHT OF WAY LINE OF BAYBERRY BEND (35' WIDE), THENCE; SOUTH 54°27'44" EAST 122.90 FEET ALONG SAID RIGHT OF WAY, THENCE; RUN 143.45 FEET ALONG SAID RIGHT OF WAY AND A TANGENT CURVE TO THE RIGHT, HAVING A RADIUS OF 222.50 FEET AND A DELTA ANGLE OF 36°56'25", TO A POINT, THENCE; RUN 18.56 FEET ALONG SAID RIGHT OF WAY AND A TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 2330.75 FEET AND A DELTA ANGLE OF 02°27'22", TO A POINT, THENCE LEAVING SAID ROAD RIGHT OF WAY AND RUNNING THRU TRACT 17; SOUTH 68°05'12" WEST 140.38 FEET TO A POINT ON THE OUTSIDE LINE OF TRACT 17, THENCE; NORTH 14°06'57" WEST 36.53 FEET ALONG SAID TRACT LINE TO A POINT, THENCE; NORTH 54°27'44" WEST 153.22 FEET TO THE BEGINNING. AND CONTAINING A COMPUTED AREA OF 0.798 ACRES OF LAND MORE OR LESS.

**PARCEL 4:** PART OF TRACT 18 BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS; BEGINNING AT A POINT IN THE ORIGINAL LINE OF TRACT 18 OF LEXINGTON COUNTRY CLUB OF WHICH THIS IS A PART, THENCE WITH SAID LINE THE FOLLOWING FOUR (4) COURSES AND DISTANCES; SOUTH 50°12'34" EAST 132.31 FEET THENCE; SOUTH 48°51'14" EAST 58.65 FEET THENCE; SOUTH 31°39'46" EAST 140.29 FEET THENCE; SOUTH 12°38'10" EAST 27.42 FEET THENCE LEAVING ORIGINAL TRACT LINE AND RUNNING THRU SAID TRACT 18; SOUTH 68°05'12" WEST 143.86 FEET TO A POINT ON THE ORIGINAL LINE OF TRACT 18 AND ALSO ON THE NORTH RIGHT OF WAY LINE OF BAYBERRY BEND ROAD RIGHT OF WAY (35 FEET WIDE), THENCE; RUN 15.87 FEET ALONG SAID RIGHT OF WAY AND A TANGENT CURVE

Amended and Restated Declaration of Condominium  
(Page 1 of 45)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

TO THE LEFT HAVING A RADIUS OF 2365.75 FEET AND A DELTA ANGLE OF 00°23'03", TO A POINT, THENCE CONTINUE; RUN 166.02 FEET ALONG SAID RIGHT OF WAY AND A TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 257.50 FEET AND A DELTA ANGLE OF 36°56'25", TO A POINT, THENCE CONTINUE; NORTH 54°27'44" WEST 110.86 FEET ALONG SAID RIGHT OF WAY TO A POINT, THENCE LEAVING ROAD RIGHT OF WAY AND THRU TRACT 18; NORTH 37°12'10" EAST 116.91 FEET TO A POINT, THENCE; NORTH 56°48'11" EAST 33.62 FEET TO THE BEGINNING. AND CONTAINING A COMPUTED AREA OF 1.078 ACRES OF LAND MORE OR LESS.

Said Declaration was subsequently amended as follows:

Amendment recorded at O.R. Book 2677, Page 2236, *et seq.*, Lee County Public Records;

Amendment recorded at O.R. Book 2708, Page 200, *et seq.*, Lee County Public Records;

Amendment recorded at O.R. Book 2713, Page 1561, *et seq.*, Lee County Public Records;

Amendment recorded at O.R. Book 2734, Page 1106, *et seq.*, Lee County Public Records;

Amendment recorded at O.R. Book 3065, Page 2056, *et seq.*, Lee County Public Records;

Amendment recorded at O.R. Book 3162, Page 2324, *et seq.*, Lee County Public Records; and

Amendment recorded at Instrument No. 2012000156332, Lee County Public Records;

The submission of the land to the condominium form of ownership by that document is and will remain effective. By adoption of this Amended and Restated Declaration of Condominium (hereinafter "Declaration"), the Association Members hereby adopt certain amendments to the Declaration of Condominium and amendments thereof and hereby restate the Declaration in its entirety. By adoption of this Declaration, the Members of the Association ratify governance of the property described above and in Exhibit "A" hereto under the condominium form of ownership and the provisions of the Condominium Act, as defined in Article 1.1 hereof.

**1. DEFINITIONS.** As used herein or elsewhere in the Condominium Documents, unless otherwise provided, the terms used shall be as defined in the Act and as herein provided:

**1.1 "Act" or "Condominium Act"** means the Condominium Act (Chapter 718, Florida Statutes, 2012), as it now exists or as it may be amended from time to time, including the definitions therein contained.

Amended and Restated Declaration of Condominium  
(Page 2 of 45)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

**1.2 “Articles”** means the Articles of Incorporation as attached hereto as Exhibit “B”, as they may be amended from time to time.

**1.3 “Assessment”** means a share of the funds required for the payment of Common Expenses, which from time to time is assessed against the Units.

**1.4 “Association”** means WEDGEWOOD AT LEXINGTON CONDOMINIUM ASSOCIATION, INC., a Florida Corporation Not For Profit, the entity responsible for the operation of the Wedgewood at Lexington Condominium No. 1, Wedgewood at Lexington Condominium No. 2 and Wedgewood at Lexington Condominium No. 3.

**1.5 “Association Property”** means all property owned by the Association for the use and benefit of the Unit Owners. The two recreation areas which serve the Condominiums are intended to be Association Property.

**1.6 “Board of Directors” or “Board” or “Directors”** means the representative body which is responsible for the administration of the Association’s affairs, and which is the same body that is sometimes referred to in the Condominium Act as the “Board of Administration.”

**1.7 “Building”** means the structures in which the Units and portions of the Common Elements are located.

**1.8 “Bylaws”** mean the Bylaws of the Association as attached hereto as Exhibit “C”, as they may be amended from time to time.

**1.9 “Casualty”** for the purposes of this Declaration, and not for the purpose of construing coverage between any insurer and insured, means an event which causes damage to the Condominium Property due to some sudden, fortuitous cause, including (but not limited to) fire, flood, hail, wind, rain, vandalism, explosion, or bursting pipes, but does not include progressive decay or corrosion, or slow or continuous leaks.

**1.10 “Charge”** means any legal or equitable indebtedness or sums owed to or due to the Association, incurred by, or on behalf of, a Unit Owner, other than Assessments for Common Expenses. Said obligations may arise by oral or written contract, by law or in equity, or may be created by these Condominium Documents.

**1.11 “Common Elements”** means and includes:

**1.11.1** The portions of the Condominium Property not included within the Units.

**1.11.2** Easements through Units for conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility and other services to Units and the Common Elements.

Amended and Restated Declaration of Condominium  
(Page 3 of 45)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

**1.11.3** An easement of support in every portion of a Unit which contributes to the support of the Building, including but not limited to all load bearing interior walls within the Units.

**1.11.4** The property and installations required for the furnishing of utilities and other services to more than one Unit or to the Common Elements and for the furnishing of wastewater treatment (sewer) services to the Units, provided that such properties and installations are located within the Condominium Property.

**1.11.5** Any other parts of the Condominium Property designated as Common Elements in this Declaration.

**1.12** “**Common Expenses of the Association**” means those expenses for which all Unit Owners are liable to the Association, including but not limited to expenses of administration, maintenance, and operation of the Association and such other expenses as may be declared Common Expenses of the Association either by this Declaration, the Articles of Incorporation, the Bylaws or by the Board of Directors. Maintenance and repair of all Association Property is a Common Expense of the Association. Bulk interior pest control for Units, if provided by the Association, is a Common Expense of the Association. Common Expenses of the Association include, but are not limited to, such items as cost of premiums for public liability insurance, pool service, operation, maintenance, and management of the two recreation areas serving the Condominiums, accounting and legal fees, and wages and fees for managerial and other services. Legal fees regarding the rights, liabilities, interests or affairs of the Association as an entity shall be a Common Expense of the Association. The expenses of communications services as defined in Chapter 202, information services, or Internet services, are specifically considered a Common Expense of the Association, if so designated by the Board. Common Expenses of the Association also include reasonable insurance for directors and officers, commonly used road maintenance and operation expenses, security services and other expenses which are reasonably related to the general benefit of the Unit Owners of the several Condominiums even if such expenses do not attach to the property or the Condominiums of the Association.

Common Expenses of the Association shall be shared 74/238 by Condominium No. 1 Owners, 84/238 by Condominium No. 2 Owners, and 80/238 by Condominium No. 3 Owners. Determining the allocation of the Common Expenses of the Association as opposed to Common Expenses of the Condominium shall be in the sole discretion of the Board of Directors of the Association.

**1.13** “**Common Expenses of the Condominium**” means those expenses for which Unit Owners in the individual Condominiums are liable to the Association. Expenses pertaining to the maintenance, repair, and replacement of the Common Elements of the individual Condominiums is Common Expense of the Condominium. By way of example, but not limitation, building painting, roof repair, exterior ground maintenance, and casualty insurance are Common Expenses of the Condominium. Legal fees involving the interests of the physical

Amended and Restated Declaration of Condominium  
(Page 4 of 45)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

property within a particular Condominium, including but not limited to assessment collection matters, shall be a Common Expense of the Condominium. Determining the allocation of the Common Expenses of the Condominium as opposed to Common Expenses of the Association shall be in the sole discretion of the Board of Directors of the Association. When the Association receives a single billing for an item that is declared a Common Expense of the Condominium (e.g., lawn maintenance, casualty insurance, etc.) the Board may allocate segments of said invoices to the individual Condominiums as the Board in its sole discretion deems fair and equitable. Common Expenses of the Condominium shall be shared by Condominium No. 1 Unit Owners on a 1/74 basis, by Condominium No. 2 Unit Owners on a 1/84 basis, and by Condominium No. 3 Unit Owners on a 1/80 basis. Reserves required by the Act and the Condominium Documents are a Common Expense of the Condominium.

**1.14 “Common Surplus”** means the excess of all receipts of the Association, including, but not limited to, Assessments, rents, profits and revenues on account of the Common Elements, above the amount of the Common Expenses. Common Surplus shall be determined in the same manner as Common Expenses.

**1.15 “Community Association”** means Lexington Community Association, Inc., a Florida corporation not for profit, being the entity responsible for the administration of the Community Declaration.

**1.16 “Community Covenants”** means the Declaration of Covenants for Lexington recorded in the Public Records of Lee County, Florida, which Declaration encumbers, *inter alia*, the Condominium Property, and when the context permits, shall also mean the Articles of Incorporation and By-Laws of the Community Association, all as now or hereafter amended, modified or supplemented.

**1.17 “Condominium Documents”** means this Declaration; the Surveyor’s Plat and Site Plans, hereinafter collectively referred to as “the Plat” or “Condominium Plat”, copies of which are attached hereto as Exhibit “A”; Articles of Incorporation of Wedgewood at Lexington Condominium Association, Inc. attached hereto as Exhibit “B”; Bylaws attached hereto as Exhibit “C”; and Rules and Regulations. The Rules and Regulations need not (but may) be recorded in the County Public Records in order to be valid.

**1.18 “Condominium Parcel”** means a Unit together with the undivided share in the Common Elements which is appurtenant to said Unit and when the context permits, the term includes all of the appurtenances to the Unit.

**1.19 “Condominium Property”** means the land and property interests subjected to condominium ownership under this Declaration, all improvements on the land as depicted in the Surveyor’s Plat, or replacement thereof of like kind and quality, and alterations or additions made to the Common Elements or Association Property by the Association and all easements and rights appurtenant thereto intended for use in connection with the Condominium. Additions or alterations made to the Units or Common Elements by Unit Owners (or their predecessors in

Amended and Restated Declaration of Condominium  
(Page 5 of 45)

title) are not part of the Condominium Property. References in the Condominium Documents to Condominium Property shall include Association Property, unless indicated otherwise.

**1.20 “County”** means the County of Lee, State of Florida.

**1.21 “Declaration” or “Declaration of Condominium”** means this instrument, and as it may be amended from time to time.

**1.22 “Domestic Partners”** means two adults who have chosen to share their lives in a committed relationship that includes a mutual and exclusive commitment to each other’s well-being, wherein each partner shares the same permanent address, have no blood relationship that would preclude marriage in the State of Florida, are of the age of legal majority, are jointly responsible for each other’s common welfare, share financial interdependence and mutual obligation akin to those of marriage. Domestic Partners shall be considered as married individuals for the purpose of the Declaration.

**1.23 “Family” or “Single Family”** shall refer to any one of the following:

**1.23.1** One natural person, his spouse or Domestic Partner, if any, and their custodial children, if any.

**1.23.2** Not more than two natural persons not meeting the requirement of Article 1.23.1 above, but who customarily and continuously reside together as a single housekeeping Unit, and the custodial children of said parties, if any.

**1.23.3** The reference to “natural” herein is intended to distinguish between an individual and a corporation or other artificial entity. “Family member” is a person who resides in a Unit as part of the Owner’s Family, but is not a title holder.

**1.24 “Fractional Ownership” or “Unit Sharing”** means any arrangement (whether written or verbal) whereby multiple individuals, artificial entities, or other combinations acquire title to a Unit (or any other possessory or use right in a Unit) with the intention of allocating use rights among legal or beneficial owners, whether pursuant to verbal or written agreements, regarding the sharing of use and possession rights for a Unit.

**1.25 “Guest”** means any person who is not the Unit Owner or a Tenant or a member of the Owner’s or Tenant’s Family, who is physically present in, or occupies the Unit on a temporary basis at the invitation of the Owner or other legally permitted occupant, without the payment of consideration.

**1.26 “Insurable Improvements”** shall mean the “Buildings” as defined in Article 1.7 of this Declaration, less upgrades or additions by Unit Owners (or their predecessors in title) and those portions of the Condominium Property required by the Act to be insured by the Association. If a Unit Owner has replaced any glass with impact glass which meets the

Amended and Restated Declaration of Condominium  
(Page 6 of 45)



applicable code at the time of such replacement, such glass and its related framework shall be considered part of the Insurable Improvements, unless prohibited by law.

**1.27 "Invitee"** a person or persons allowed entry for the purpose of conducting business with a Unit's occupant, or otherwise entering the Condominium Property on a temporary basis at the express or implied consent of the Unit Owner, including contractors, workmen, delivery persons, domestic assistants and health care assistants.

**1.28 "Lease,"** when used in the context of the renting of Units, means the grant by a Unit Owner of a right of use of the Owner's Unit for consideration.

**1.29 "Lien for Charges"** means a lien which is recorded to secure a Charge.

**1.30 "Limited Common Elements"** means those Common Elements which are reserved for the use of a certain Unit or Units to the exclusion of all other Units, as specified in the Declaration. References herein to Common Elements shall include all Limited Common Elements, unless the context would prohibit or it is otherwise expressly provided. Whenever a portion of the Condominium Property naturally and exclusively services a particular Unit, and where the area in question lies outside of the boundaries of the Unit, the delegation of maintenance responsibility for the area (by way of example, but not limitation, air conditioning compressors) shall serve to define the area as a Limited Common Element.

**1.31 "Limited Common Expenses"** means those expenses affiliated with the maintenance, repair, replacement, or reconstruction after Casualty of a Limited Common Element, the costs of which are assessed only against the benefiting Unit Owner(s), as authorized by Section 718.113(1) of the Act, and if so provided in this Declaration.

**1.32 "Member"** means the record Owner(s) of legal title to a Unit.

**1.33 "Occupant"** when used in connection with a Unit, means a person who is physically present in a Unit on two or more consecutive days, including staying overnight for one night.

**1.34 "Person"** means any individual or representative of an entity, including Unit Owners, Family members, Tenants, Guests, and Invitees. Whenever the word "Person" is used to require or prohibit certain conduct, it is the intention that the Owner of the Unit with which such Person is affiliated shall be responsible for ensuring such Person's compliance with the Condominium Documents.

**1.35 "Primary Occupant"** means a natural person designated for occupancy of a Unit when title to the Unit is held in the name of two or more persons who are not husband and wife, or Domestic Partners, or by a trustee or a corporation or other entity which is not a natural person, except where the content clearly indicates otherwise, the term "Owner" shall include "Primary Occupant".

Amended and Restated Declaration of Condominium  
(Page 7 of 45)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

**1.36 “Rules and Regulations”** means those rules and regulations promulgated by the Board of Directors, governing the use, occupancy, alteration, maintenance, transfer and appearance of Units, Common Elements and Limited Common Elements, and the operation and administration of the Association, subject to any limits set forth in the Declaration of Condominium.

**1.37 “Tenant” or “Lessee”** means a person occupying a Unit, other than the Owner, whether pursuant to a verbal or written agreement, where said occupancy by the non-owner involves consideration, the payment of money, the exchange of goods and services, etc. The term “Tenant” shall be used interchangeably with “Lessee”.

**1.38 “Unit”** means a part of the Condominium Property subject to exclusive ownership.

**1.39 “Unit Owner” or “Owner”** means the record Owner of a Condominium Parcel.

**1.40 “Utility Services”** as used in the Condominium Act and as construed with reference to this Condominium, and as used in the Declaration and Bylaws, shall include but not be limited to electric power, gas, hot and cold water, heating, refrigeration, air conditioning and garbage and sewage disposal.

**1.41 “Voting Interests of the Association”** means and refers to the arrangement established in the Condominium Documents by which the Owners of each Unit collectively are entitled to one vote in the Association matters. There are 238 Units, so the total number of Voting Interests of the Association is 238. Matters affecting the entire Association (all Condominiums), as determined by the Board of Directors, shall be decided by the Voting Interests of the Association. By way of example, but not limitation, the election of Directors, the recall of Directors, the waiver of financial reporting requirements, alterations of Association Property, certain alterations of Common Elements, certain amendments to the Declaration of Condominium, amendments to the Articles of Incorporation, and amendments to the Bylaws, are decided by the Voting Interests of the Association. Determining whether a voting item involves the Voting Interests of the Association as opposed to the Voting Interests of the Condominium, shall be determined in the sole discretion of the Board of Directors of the Association.

**1.42 “Voting Interests of the Condominium”** means those voting items which are to be considered for vote by the Unit Owners in individual Condominiums in accordance with the Class Quorum and Voting procedures specified in Article 2.11 of the Bylaws. By way of example, but not limitation, certain material alterations of Common Elements, certain amendments to the Declaration of Condominium, and the waiver or reduction of reserve funding shall be based upon the Voting Interests of the Condominium. Determining whether a voting item is a matter involving the Voting Interests of the Condominium, as opposed to Voting Interests of the Association shall be determined in the sole discretion of the Board of Directors of the Association.

Amended and Restated Declaration of Condominium  
(Page 8 of 45)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

**2. STATEMENT OF CONDOMINIUM DECLARATION.** Worthington Communities, Inc. submitted the property described in Exhibit "A" hereto and as described above to condominium ownership in accordance with Florida Statutes.

**3. CONDOMINIUM NAME.** The name by which this Condominium is identified is "Wedgewood at Lexington Condominium No. 1".

**4. UNIT IDENTIFICATION.** The identification of each Unit shall be by number and shall be as indicated on the Plat, Exhibit "A."

**5. SURVEY AND GRAPHIC DESCRIPTION.** A survey of the land previously submitted to condominium ownership and a plat thereof describing each Unit, Common Elements and their relative location and the approximate dimensions of each Unit are as shown on the Plat which is attached as Exhibit "A".

**6. VOTING RIGHTS; OWNERSHIP OF COMMON ELEMENTS.** The voting rights of the Owner of each Unit shall be 1/238<sup>th</sup> (one Voting Interest per Unit) for Association matters and 1/74<sup>th</sup> for individual Condominium voting issues. Voting rights may be suspended pursuant to the terms of the Condominium Documents and/or Florida Law. The sharing of Common Expenses and ownership of Common Elements and Common Surplus shall be on a 1/74<sup>th</sup> basis for Common Expenses of the Condominium and 1/238<sup>th</sup> basis for Common Expenses of the Association. Suspension of voting rights shall not affect the basis for which Common Expenses are shared or Common Elements and Common Surplus owned. However, suspended Voting Interests shall be subtracted from the total number of votes required when calculating any required vote or quorum during the period for which said Voting Interest is suspended. The undivided share of ownership of the Common Elements and Common Surplus appurtenant to a Unit cannot be conveyed or separately hypothecated. As long as the Condominium exists, the Common Elements cannot be partitioned. The shares in the funds and assets of the Association cannot be assigned by a Unit Owner, pledged or transferred except as an appurtenance to the Units.

**7. EASEMENTS.**

**7.1 Easements.** Each of the following easements and easement rights is reserved through the Condominium Property and is a covenant running with the land of the Condominium, and notwithstanding any of the other provisions of this Declaration, may not be revoked and shall survive the exclusion of any land from the Condominium, unless released in connection with termination of the Condominium. None of these easements may be encumbered by any leasehold or lien other than those on the Condominium Parcels. Any lien encumbering these easements shall automatically be subordinate to the rights of the Unit Owners with respect to such easements.

**7.2 Support.** Each Unit shall have an easement of support and of necessity and shall be subject to an easement of support and necessity in favor of all other Units and the Common Elements.

Amended and Restated Declaration of Condominium  
(Page 9 of 45)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

**7.3 Utility and Other Services; Drainage.** Easements are reserved under, through and over the Condominium Property as may be required from time to time for utility, cable television, communications and security systems, and other services and drainage in order to serve the Condominium. The Association shall have the right of access to each Unit during reasonable hours when necessary for maintenance, repair or replacement of any Common Elements or of any portion of a Unit to be maintained by the Association pursuant to the Declaration or as necessary to prevent damage to the Common Elements or to a Unit or Units.

**7.4 Encroachments.** If (a) any portion of the Common Elements encroaches upon any Unit; (b) any Unit encroaches upon any other Unit or upon any portion of the Common Elements; or (c) any encroachment shall hereafter occur as a result of (i) construction of the Improvements; (ii) settling or shifting of the Improvements; (iii) any alteration or repair to the Common Elements made by or with the consent of the Association; or (iv) any repair or restoration of the Improvements (or any portion thereof) or any Unit after damage by fire or other casualty or any taking by condemnation or eminent domain proceedings of all or any portion of any Unit or the Common Elements, then, in any such event, a valid easement shall exist for such encroachment and the maintenance of the same so long as the Improvement shall stand.

**7.5 Ingress and Egress.** A non-exclusive easement shall exist in favor of each Unit Owner and Occupant, their respective Guests, Tenants, and Invitees for pedestrian traffic over, through, and across sidewalks, streets, paths, walks, and other portions of the Common Elements as from time to time may be intended and designated for such purpose and use, and for vehicular and pedestrian traffic over, through, and across such portion of the Common Elements as from time to time may be paved or intended for such purposes, and for purposes of ingress and egress to the public ways.

**7.6 Other Condominiums; Community Association.** The Community Association shall have all easements provided it in the Community Covenants including, without limitation, those over "Lots" (as defined therein). Additionally, the Community Association shall have a perpetual easement over the Common Elements to perform the maintenance, repair and replacement functions described in this Declaration.

Any recreation or other commonly-used facilities located within the Condominium Property shall be subject to a perpetual, non-exclusive easement in favor of the Owners of Units in any other Condominium operated by the Association, provided that (i) the use of such easement shall be subject to a reasonable regulation by the Association and (ii) such Unit Owners shall share in the expenses of such facilities in the manner provided in herein.

Each Owner and Occupant, and the Guests and Invitees thereof, if any Unit in a Condominium operated by the Association shall also have a perpetual easement of ingress and egress for vehicular and pedestrian use over all portions of the Common Elements reasonably suited for such purposes.

Amended and Restated Declaration of Condominium  
(Page 10 of 45)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

**7.7 Additional Easements.** The Association, by and through the Board of Directors on behalf of all Unit Owners (each of whom hereby appoints the Association as its attorney-in-fact for this purpose), shall have the right to grant such additional general (“blanket”) and specific electric, gas or other utility, cable television, security systems, communications or service easements (and appropriate bills of sale for equipment, conduits, pipes, lines and similar installations pertaining thereto), or relocated any such existing easements or drainage facilities, in any portion of the Condominium Property, and to grant access easements or relocate any existing access easements in any portion of the Condominium Property, as the Association shall deem necessary or desirable, provided that such easements or the relocation of existing easements will not prevent or unreasonably interfere with the reasonable use of the Units for dwelling purposes.

**8. CONDOMINIUM UNITS AND APPURTENANCES.** The Land has constructed thereon the Building, consisting of three (3) buildings containing six (6) Units each and seven (7) buildings containing eight (8) Units each for a total of seventy-four (74) Units. Each such Unit is identified by a separate numerical designation. The designation of each of such Units is set forth on Exhibit “A” attached hereto. Exhibit “A” consists of a survey of the Land, a graphic description of the Improvements located thereon, including, but not limited to, the Building in which the Units are located, and a plot plan thereof. Said Exhibit “A”, together with this Declaration, is sufficient in detail to identify the Common Elements and Each Unit and their respective locations and dimensions.

There shall pass with a Unit as appurtenances thereto (a) an undivided share in the Common Elements and Common Surplus; (b) the exclusive right to use such portion of the Common Elements as may be provided in this Declaration, including the applicable Limited Common Element garage; (c) an exclusive easement for the use of the airspace occupied by the Unit as it exists at any particular time and as the Unit may lawfully be altered or reconstructed from time to time, provided that an easement in airspace which is vacated shall be terminated automatically; (d) membership in the Association with the full voting rights appurtenant thereto; and (e) other appurtenances as may be provided by this Declaration or the Act.

**8.1 Unit Boundaries.** Each Unit shall include that part of the Condominium Property containing the Unit that lies within the following boundaries:

**8.1.1 Upper and Lower Boundaries.** The upper and lower boundaries of the Unit shall be the following boundaries extended to their planar intersections with the perimetrical boundaries:

**8.1.1.1 Upper Boundaries.** The horizontal plane of the unfinished lower surface of the ceiling of the Unit.

Amended and Restated Declaration of Condominium  
(Page 11 of 45)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

**8.1.1.2 Lower Boundaries.** The horizontal plane of the unfinished upper surface of the floor of the Unit.

**8.1.1.3 Interior Divisions.** Except as provided in subsections 8.1.1.1 and 8.1.1.2 above, no part of the floor of the top floor, ceiling of the bottom floor, stairwell adjoining the two-floors or nonstructural interior walls shall be considered a boundary of the Unit.

**8.2 Perimetrical Boundaries.** The perimetrical boundaries of the Unit shall be the vertical planes of the unfinished interior surfaces of the walls bounding the Unit extended to their planar intersections with each other and with the upper and lower boundaries.

**8.3 Apertures.** Where there are apertures in any boundary, including, but not limited to, windows, doors, bay windows and skylights, such boundaries shall be extended to include the windows, doors and other fixtures located in such apertures, including all frameworks thereof; provided, however, that exterior surfaces made of glass or other transparent material, and the exterior of doors, shall not be included in the boundaries of the Unit and shall therefore be Common Elements.

**8.4 Exceptions.** In cases not specifically covered above, and/or in any case of conflict or ambiguity, the survey of the Units set forth in Exhibit "A" hereto shall control in determining the boundaries of a Unit, except that the provisions of Section 8.3 above shall control unless specifically depicted otherwise on such survey.

**8.5 Limited Common Elements.** Each Unit may have, to the extent applicable and subject to the provisions of this Declaration, as Limited Common Elements appurtenant thereto:

**8.5.1 Lanais.** Any lanai (and all improvements thereto) as to which direct and exclusive access shall be afforded to any particular Unit or Units to the exclusion of others shall be a Limited Common Element of such Unit(s). The boundaries of same shall be (i) lower: the upper unfinished surface of the slab of the lanai, (ii) upper: the lower unfinished surface of any overhanging slab, (iii) perimetrical: the exterior surface of any adjoining Common Element wall or, where there is no wall on a first floor lanai, the edge of the concrete slab facing the lanai and (iv) other perimetrical: any sliding glass door(s) or fixed glass panel(s) abutting the lanai.

**8.5.2 Garages.** Each Unit is hereby assigned the exclusive right to use the garage adjacent to the Unit, same being a Limited Common Element thereof. The boundaries of a garage Limited Common Element shall be determined in the same manner as those of a Unit, provided that the upper boundary shall be the unfinished lower surface of the roof or slab located over the Unit so that any overhead storage area (and the ceiling structure) shall be a part of the Limited Common Elements.

Each Unit is also hereby assigned the exclusive right to use the driveway immediately adjacent to the aforesaid garage, same to be a Limited Common Element of the Unit As well.

Amended and Restated Declaration of Condominium  
(Page 12 of 45)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

**8.6 Conveyance of a Unit.** A conveyance of a Unit shall automatically include all Limited Common Elements appurtenant to that Unit unless otherwise specified in the instrument of such conveyance.

**8.7 Miscellaneous Areas, Equipment.** Any fixtures or equipment (e.g., an air conditioning unit located adjacent to the Unit and related lines and equipment) serving a Unit or Units exclusively and any area upon/within which such fixtures or equipment are located shall be Limited Common Elements of such Unit(s).

**9. MAINTENANCE, ALTERATION AND IMPROVEMENTS.** Responsibility for the maintenance of the Condominium Property, and restrictions upon the alteration and improvement thereof, shall be as follows:

**9.1 Association Maintenance, Repair and Replacement Obligation.** The maintenance, repair and replacement of all Common Elements (except those Limited Common Elements for which this Declaration delegates responsibility to the Unit Owner) and Association Property shall be performed by the Association, and the cost is a Common Expense, except as may otherwise be specifically noted with respect to Limited Common Elements. Maintenance, repair and replacement of outside stair railings to second floor Units is the responsibility of the Association.

**9.1.1 General Exterior Maintenance.** The Association's maintenance, repair and replacement responsibility shall include, but not be limited to, exterior painting, roofing, maintenance of parking facilities (except as otherwise provided herein to the contrary), and general exterior maintenance, but shall not include maintenance, repair and replacement of railings, screens and screen enclosures, nor any alteration or addition to the Condominium Property made by a Unit Owner or his predecessors in title, nor any portions of the Condominium Property exposed to the elements for which this Declaration delegates responsibility to the Unit Owner.

**9.1.2 Plumbing and Electrical.** The Association's maintenance, repair and replacement responsibility includes, except as may be specifically otherwise provided to the contrary, without limitation, all electrical conduits and installations located from (but not including) the circuit breaker outward; electrical conduits and installations located within or outside a Unit for the furnishing of utilities to another Unit, more than one Unit, or the Common Elements; plumbing fixtures and installations located within or outside a Unit for the furnishing of utilities to another Unit, more than one Unit, or the Common Elements. The Association's maintenance, repair and replacement responsibility does not include electrical fixtures, switches or receptacles, plumbing fixtures, or other electrical, plumbing or mechanical installations located within the Unit and serving only that Unit.

**9.1.3 Incidental Damage.** If, in connection with the discharge of its maintenance, repair or replacement responsibilities, the Association must remove, disassemble, or destroy portions of the Condominium Property which the Unit Owner is required to maintain,

Amended and Restated Declaration of Condominium  
(Page 13 of 45)

repair, or replace, the Association shall be responsible for reinstallation or replacement of that item, including cabinetry, drywall and moldings, to its unfinished state, and excluding floor coverings, wall coverings, ceiling coverings, paint, wallpaper, paneling, and other finishes, provided that the Association's obligations are limited to the replacement of items that were part of the Condominium Property as originally installed by the Developer, or replacements thereof of like kind and quality, and except in cases of Casualty repair, or repair of damage caused by a covered cause of loss under the Association's applicable insurance policy, which shall be governed by Article 13 of this Declaration. Repair or replacement of all upgrades or additions, even if made by a predecessor in title, shall be the responsibility of the Unit Owner, specifically including but not limited to hurricane shutters which the Association must remove in connection with the maintenance of the Building, although the Association may have shutter reinstallation work performed by its contractor, and the Unit Owner will be responsible for reimbursement to the Association as a Charge.

**9.2 Unit Owner Maintenance, Repair and Replacement Obligation.** Each Unit Owner is responsible, at his own expense, for all maintenance, repair, and replacement of his own Unit and those Limited Common Elements serving his Unit, if so provided herein, whether ordinary or extraordinary including, without limitation:

**9.2.1 Windows.** The Unit Owner shall maintain, repair and replace the window installations originally installed by the Developer or subsequent replacement thereof. Same includes the window frame and encasement, the plate glass, and all caulking thereof. The Unit Owner shall be responsible for interior window locking and opening mechanisms, the windowsill and glass breakage. The Association shall be responsible for exterior caulking around the window frames.

**9.2.2 Screens, Screen Frames, and Railings.** The Unit Owner shall maintain, repair and replace all window screens, screen doors or lanai screens, including hardware and framing, and including lanai railings. The second floor, outside stair railings are the responsibility of the Association.

**9.2.3 Drywall.** The Unit Owner shall maintain, repair and replace all drywall within the Unit, the finishes thereof (including trim), and the structural framing related thereto, including studs and insulation, except that the Association shall maintain, repair and replace drywall on the interior side of the exterior boundary walls, and the drywall on the ceiling of the Units, if any.

**9.2.4 Electrical.** The Unit Owner shall maintain, repair and replace all electrical fixtures/facilities located within the Unit, which service only the individual Unit plus all electrical fixtures, apparatus or installations from and including the circuit breaker inward, which service only that Unit.

Amended and Restated Declaration of Condominium  
(Page 14 of 45)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707



**9.2.5 Sliding Glass Doors.** The Unit Owner shall maintain, repair and replace sliding glass doors and the structural components thereof (including frames and fixed panels), including trim and caulking.

**9.2.6 Unit Front Entry Doors.** The Unit Owner shall maintain the interior of the Unit front entry door and the Association shall maintain the exterior of said door, and be responsible for the repair and replacement of said door (excluding locks and hardware, which shall be the Unit Owner's responsibility).

**9.2.7 Other Doors.** The Unit Owner shall maintain, repair and replace all other doors and the framing and structural components thereof (including trim, caulking, locks and hardware) within or servicing the Unit.

**9.2.8 Hurricane Shutters.** The Unit Owner shall maintain, repair and replace hurricane shutters and the structural components thereof.

**9.2.9 Plumbing and Mechanical.** The Unit Owner shall maintain, repair and replace the electrical, mechanical and plumbing fixtures and outlets (including connections) within a Unit and serving only that Unit including sinks, toilets, tubs, showers, shower pans, and all related fixtures and installations.

**9.2.10 Appliances.** The Unit Owner shall maintain, repair and replace appliances.

**9.2.11 Heating and Air Conditioning Equipment; Ductwork.** The Unit Owner shall maintain, repair and replace all portions of the heating and air conditioning equipment (including compressors, air handlers, ductwork, freon lines and discharge lines), dryer vents to the point of termination (even if exterior to the Unit), air conditioner discharge lines to the point of termination or connection to another discharge (even if exterior to the Unit).

**9.2.12 Floor Coverings.** The Unit Owner shall maintain, repair and replace carpeting and other floor covering (including lanai areas).

**9.2.13 Hardware and Locks.** The Unit Owner shall maintain, repair and replace door and window hardware and locks.

**9.2.14 Other Facilities and Fixtures.** The Unit Owner shall maintain, repair and replace all other facilities or fixtures located or contained entirely within a Unit which serve only that Unit.

**9.2.15 Plumbing (Incoming).** The Unit Owner shall maintain, repair and replace all incoming plumbing from (and including) the shut-off valve (at hot water) inward.

**9.2.16 Plumbing (Outgoing).** The Unit Owner shall maintain, repair and replace outbound plumbing until the point of exit from the Unit boundary. Provided, however, that the

Amended and Restated Declaration of Condominium  
(Page 15 of 45)

Unit Owner is responsible for the remediation of clogged pipes or drains, where the source of blockage or obstruction originates from the Unit, even if the area where the blockage or obstruction is located is outside of the Unit boundary.

**9.2.17 Garages.** The Unit Owner shall be responsible for the maintenance, repair and replacement of garage doors (and all affiliated hardware and mechanisms) and garage door openers (and affiliated controls and electronics).

Any of the above-described areas that are to be maintained, repaired or replaced by the Unit Owner, or by the Association at the expense of the benefiting Unit(s), if located outside of the boundaries of the Unit, are declared Limited Common Elements. Responsibility for maintenance, repair and replacement of Condominium Property may not coincide with obligation for insurance of Condominium Property, nor its repair after Casualty, or damage from covered cause of loss under the Association's applicable insurance policy, which are governed by Article 12 and Article 13 hereof, respectively.

**9.3 Unit Owner Obligations In Connection with Maintenance, Repair and Replacement.** In connection with his maintenance, repair and replacement obligations, the Unit Owner shall have the responsibility to obtain the prior written approval of the Association, through the Board of Directors, before performing any maintenance, repair or replacement which requires: changes or alterations to the physical appearance of the Condominium Property visible from any exterior vantage; excavation; or access to a Building roof.

Nothing shall preclude the Association from acting as the Owner's agent and obtaining the services of contractors to perform Unit Owner maintenance responsibilities in the event of an emergency, or in non-emergency situations, provided that in non-emergency situations, the Association and the Owner so agree, or absent such agreement when such work is deemed necessary, as determined by the Board to facilitate projects involving the Association's maintenance of the Condominium Property. In all such cases the Unit Owner shall be deemed to consent to reimbursement of expenses incurred, secured by such rights as exist for collecting Common Expenses under these Condominium Documents through a Lien for Charges. Unit Owners shall at all times be responsible to ensure, whether or not Association approval is required for work being done within the Unit, that all contractors and other persons performing services for the Unit Owner are properly licensed and insured, including required Worker's Compensation insurance, and that the Condominium Property is kept free from liens. The Unit Owner shall hold the Association harmless from any claim of any nature arising out of failure to comply with these requirements.

**9.4 Lanais.** The Unit Owner who owns or has the right to the exclusive use of a lanai shall be responsible for the maintenance, repair and replacement of: lanai floor coverings (the Board may prohibit certain types of floor coverings or require the removal of existing coverings when necessary for the structural preservation of the Building); storm shutters and other enclosures; fixed and/or sliding glass doors and affiliated framing and hardware thereof; the wiring, electrical outlet(s) and fixture(s) on or servicing the lanai; ceiling fans; and the

Amended and Restated Declaration of Condominium  
(Page 16 of 45)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

replacement of light bulbs. The Association shall be responsible for structural maintenance, repair and replacement of lanai floors, and ceilings, and also the Building walls enclosed by the lanais.

**9.5 Unit Floor Coverings.** All Units above the first living floor shall always have the floors covered with wall-to-wall carpeting, except in kitchens, bathrooms, lanais, foyers, and utility or laundry rooms, except as provided below. Owners of Units above the first living floor who wish to install or replace hard floor surfaces (tile, marble, wood, etc.) in any area of the Unit are required to also install an approved sound-deadening material. The Board has the authority to adopt specifications for minimum sound proofing material that will be approved.

**9.6 Modifications or Alterations by Unit Owners.** No Owner may make or permit the making of any modifications or alterations to any portion of his Unit visible from the exterior, or in any manner change the appearance of any portion of the Common Elements, or undertake any structural work or undertake any structural modification or alteration, without first obtaining the written consent of the Board of Directors, which consent shall be denied if the Board determines that the proposed modifications or alterations would adversely affect, or in any manner be detrimental to, the Condominium in part or whole. "Structural" modifications or alterations include, but are not limited to: relocation of existing electrical, plumbing, ductwork, air conditioning or heating installations; relocation of existing fixtures or appliances such as toilets, sinks, tubs, showers, dishwashers, refrigerators, or ranges; the removal or modification of any partition, door, window or screen; raising ceilings; or relocating kitchen or bathroom cabinetry. For purposes of this provision, the term "structural" work shall also include the addition, removal, or relocation of any duct work, plumbing line or fixture, any electrical line or fixture, or the removal, modification or creation of any interior partition. Replacement of cabinetry, appliances and fixtures, with substantially equivalent installations, in the same location, shall not be deemed "structural" and shall not require approval of the Association, unless a building or other permit is required. Further, "structural" modifications or alterations shall include any and all work that requires a building permit, an electrical permit, a plumbing permit, a mechanical permit, or similar permit from the appropriate governmental agency, whether or not mentioned above.

The Board may, in appropriate circumstances, require sealed plans from an Architect or Professional Engineer licensed to practice in Florida as a condition of reviewing any requested structural modification, alteration or addition to the Condominium Property. The Board, in reaching its decision, may take into account uniformity of appearance, compatibility with architecture in Wedgewood at Lexington Condominiums and the Lexington Community, the quality of the proposed alteration, objections of neighboring residents, and such other criteria as the Board may reasonably adopt in reaching its decision. If the Board determines to permit any modification or alteration which is visible from the exterior of the premises, from any vantage, said modification or alteration must also be approved by the Unit Owners in the manner provided in Article 9.8 of this Declaration, regardless of the cost or expense of such modification or alteration. If any Unit Owner requests approval of any structural modification or alteration, the

Amended and Restated Declaration of Condominium  
(Page 17 of 45)

Association may permit such modification or alteration if same would not materially affect or interfere with the utility services constituting Common Elements, if any, located therein, the structural integrity of the Building or create a nuisance or disturbance to neighboring Units.

Approval by the Association shall not constitute approval of the Community Association, which may be separately required by the Community Covenants. Once the Unit Owner has obtained the Board's consent, such consent must be forwarded to the Community Association, together with the requested addition, alterations and improvement and any additional information, for review by the Architectural Review Committee as provided in the Community Covenants. The proposed additions, alterations and improvements by the Unit Owners shall be made in compliance with all laws, rules, ordinances and regulations of all governmental authorities having jurisdiction, and with any conditions imposed by the Association with respect to design, structural integrity, aesthetic appeal, construction details, lien protection or otherwise. A Unit Owner making or causing to be made any such additions, alterations or improvements agrees, and shall be deemed to have agreed, for such Owner, and his heirs, personal representatives, successors and assigns, as appropriate, to hold the Association and its Board of Directors, the Community Association and members of the Architectural Review Committee and all other Unit Owners harmless from and to indemnify them for any liability or damage to the Condominium Property and expenses arising therefrom, and shall be solely responsible for the maintenance, repair and insurance thereof from and after that date of installation or construction thereof as may be required by the Association.

**9.7 Additional Unit Owner Responsibility for Modifications or Alterations.** If a Unit Owner (or his predecessors in title) makes, or has made any modifications or alterations to the interior or exterior of the Unit, Common Elements, or Limited Common Elements, the Unit Owner (and his heirs, successors in title and assigns) shall be financially responsible for the insurance, maintenance, care, preservation, reconstruction, repair or replacement of the modification or alteration and shall execute such documents as the Association may promulgate, if any, accepting said financial responsibility. Any modification or alteration to the Condominium Property made by a Unit Owner may be required to be removed in connection with the Association's maintenance of the Condominium Property. In such cases, the Unit Owner who installed the modification or alteration (and/or their successors in title) shall be obligated to reimburse the Association for any costs affiliated with removal and/or re-installation of the item, with said obligation being secured by a right of Lien for Charges of equal dignity to the Common Expense lien created by this Declaration, or alternatively, said Owner may be required to remove and reinstall said modification or alteration, if so determined by the Board of Directors. Further, the Association, its contractors and agents, shall not be liable for any damage to the item arising out of its removal and/or reinstallation, unless occasioned by the gross negligence or willful misconduct of the Association or its contractor or agent, although the Association may provide for stricter liability standards in contracts with contractors.

**9.8 Material Alterations by Association. Material Alterations by Association.** There shall be no material alterations or substantial additions to the Common Elements or real

Amended and Restated Declaration of Condominium  
(Page 18 of 45)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

property which is Association Property by the Association, except as authorized by the Board of Directors. Provided, however, that if any such alteration or addition to real property which is Association Property requires the expenditure of more than ten percent (10%) of the Association's total budget for the fiscal year in which the work is authorized, including reserves, the Board shall obtain approval of a two-thirds (2/3) of Voting Interests present (in person or by proxy) and voting at an Association meeting at which a quorum has been obtained, or by written agreement of two-thirds (2/3) of the entire Voting Interests of the Association. Material alterations or substantial additions to the Common Elements of individual Condominiums shall be authorized as follows. The Board of Directors may authorize any alteration or addition which does not exceed ten percent (10%) of the total budget for the Condominium for which the alteration or addition is proposed. Any material alteration of or substantial addition to Common Elements of a Condominium exceeding that amount shall be approved by two-thirds (2/3) of the Voting Interests of the Condominium present (in person or by proxy) and voting at a meeting of the Association at which a Class Quorum has been obtained. Necessary maintenance of the Common Elements, or Association Property regardless of the level of expenditure, is the responsibility of the Board of Directors. Cellular antennae and similar apparatus and apparatus to provide communication or internet services as provided in Article 1.12, may be placed on the Condominium Property as authorized by the Board.

**9.9 Enforcement of Maintenance.** If, after reasonable notice, the Owner of a Unit fails to maintain the Unit or other portions of the Condominium Property as required by this Declaration, the Association shall have, without waiver of other remedies, the right to enter the Owner's Unit or Common Element (including Limited Common Elements) and perform or cause performance of the necessary work, and/or institute legal proceedings at law or in equity to enforce compliance, and/or to take any and all other lawful actions to remedy such violation, in which event the Unit Owner shall be charged for the costs of such activities (including attorney's fees incurred by the Association) by the Association which shall be secured by a Lien for Charges.

**9.10 Damage Caused by Conditions of the Condominium Property.** Each Unit Owner shall be liable to the Association and/or other Unit Owners for the expenses of any maintenance, repair or replacement of the Condominium Property, made necessary by his intentional act or negligence, or by that of any member of his Family or his or their Occupants, Guests, Tenants or Invitees. If any condition, defect or malfunction existing within a Unit or Common Elements which the Unit Owner is obligated to insure, maintain, repair, or replace if caused by the Owner's (or his Family member's, Occupant's, Guest's, Tenant's or Invitee's) acts, negligence, or failure to comply with the Condominium Documents or applicable law, shall cause damage to the Common Elements, Association Property, or to other Units, the Owner of the offending Unit shall be liable to the person or entity responsible for repairing the damaged areas for all costs of repair or replacement not paid by insurance (including the deductible) and without waiver of any insurer's subrogation rights, provided that such responsibility shall be conditioned on the neighboring Unit(s) being adequately insured based on local standards and conditions. Further, any claim of a Unit Owner against the Association or another Unit Owner

Amended and Restated Declaration of Condominium  
(Page 19 of 45)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

relative to damage to the Condominium Property, to the extent the Association or other Unit Owner might otherwise be liable pursuant to the Condominium Documents or applicable law, shall be predicated upon the Unit Owner making the claim being adequately insured based on local standards and conditions, whether or not individual Unit Owner insurance is mandated by the Act. Should any Unit Owner fail to maintain such insurance, any claim will be reduced to the extent such Unit Owner's insurance, if obtained pursuant to the above-described standards, would have provided coverage or compensation for the loss and without waiving any other remedy of the Association regarding Unit Owner insurance requirements. The requirement that the individual Unit Owner obtain insurance shall not be construed to confer any additional liability or responsibility on the Association or other Unit Owners (without limitation, the Association shall not be obligated to obtain proof of Unit Owner insurance), but is intended to require Unit Owners and the Association to respectively insure risks that are customarily experienced in condominiums located in Florida's coastal communities, condominiums in general, including but not limited to damages occasioned by windstorms, hurricanes, tornadoes, floods, rainstorms, bursting pipes, water seepage and leakage, and mold and mildew, regardless of whether such insurance is legally required. If one or more of the Units involved is not occupied at the time a damage incident is discovered (regardless of the cause), the Association may enter the Unit(s) without prior notice to the Owner(s) and take reasonable action to mitigate damage or prevent its spread, at the Unit Owner's expense. The Association may, but is not obligated to, repair the damage without the prior consent of the Owner, in the event of an emergency, and the Owner shall be responsible for reimbursement of the Association, with the cost being secured by a Lien for Charges. Unit Owners are required to shut off all water valves when the Unit will be unoccupied on an overnight basis, and failure to do so will create a presumption of negligence.

Unit Owners are also required to ensure that electricity, and if separately metered, water and sewer, are always available to service the Unit. If Unit Owner fails to maintain Utility Services to Unit, the Association shall have, without waiver of other remedies, the right to enter into the Owner's Unit and Limited Common Element and take any and all lawful actions to make the utilities available to service the Unit, in which event the Unit Owner shall be charged for such activities (including attorneys' fees incurred by the Association) by the Association which shall be secured by a Lien for Charges.

**9.11 Combination of Units.** Units may not be combined in to a single living space.

**9.12 Hurricane Protection.** The Board of Directors shall adopt hurricane shutter specifications for the Condominium which shall include color, style, and other factors deemed relevant by the Board. All specifications adopted by the Board shall comply with the applicable building code. The Board may adopt the Master Association Hurricane Shutter Specifications as those applicable to the Association.

**10. ASSESSMENTS AND CHARGES.** Assessments against Owners shall be made by the Board of Directors of the Association, in the manner provided in the Bylaws and as follows, and

Amended and Restated Declaration of Condominium  
(Page 20 of 45)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

shall be borne by the Unit Owners on the basis set forth in Article 6 and elsewhere in these Condominium Documents.

**10.1 Liability for Assessments and Charges.** A Unit Owner, regardless of how title is acquired, including a purchaser at a judicial sale, shall be liable for all Assessments and Charges coming due while he/she is the Unit Owner. Except as provided in Article 10.5, any person or entity which acquires title to a Unit shall be jointly and severally liable with their predecessor in title for all unpaid Assessments and Charges against the predecessor for his/her share of the Charges and Assessments, including interest, late fees, attorney's fees and other costs and expenses of collection incurred by the Association up to the time of the transfer, without prejudice to any right the transferee may have to recover from the transferor the amounts paid by the transferee. The liability for Assessments or Charges may not be avoided by waiver of the use or enjoyment of any Common Elements or by the abandonment of the Unit for which the Assessments or Charges are made.

**10.2 Default in Payment of Assessments for Common Expenses or Charges.** Assessments and installments thereof not paid within ten (10) days from the date when they are due shall incur a late fee and bear interest in an amount as determined by the Board of Directors which, unless otherwise specified, shall be the maximum allowed by law. The Board may accelerate unpaid Assessments in the manner prescribed by law. The Association has a lien on each Condominium Parcel for any unpaid Assessments on such parcel, with interest, late fees and for reasonable attorney's fees, as well as costs and expenses of collection incurred by the Association incident to the collection of the Assessment or enforcement of the lien. If prohibited by the Act, no lien may be filed by the Association against a Condominium Unit until thirty (30) days after the date on which a notice of intent to file a lien has been delivered to the Owner pursuant to Section 718.121(4) of the Act. The Association may also accelerate all Assessments or Charges which are accrued, but not yet due, in the manner provided by law. The Association's lien is in effect until all sums secured by it have been fully paid or until barred by law. A claim of lien shall be signed and acknowledged by an Officer or agent of the Association. Upon recording, the Association's claim of lien shall relate back to the date of the filing of the original Declaration of Condominium. Upon payment in full, the Condominium Parcel is entitled to a satisfaction of the lien. The Association may bring an action in its name to foreclose a lien for Assessments or Charges in the manner that a mortgage of real property is foreclosed and may also bring an action to recover a money judgment for the unpaid Assessments or Charges without waiving any claim of lien.

**10.3 Notice of Intention to Foreclose Lien.** So long as required by law, no foreclosure judgment may be entered until at least thirty (30) days after the Association gives written notice to the Unit Owner of its intention to foreclose its lien to collect the unpaid Assessments or Charges. If this notice is not given at least thirty (30) days before the foreclosure action is filed, and if the unpaid Assessments or Charges, including those which have been accelerated (if applicable) and those coming due after the claim of lien is recorded, are paid before the entry of a final judgment or foreclosure, the Association shall not recover attorney's

Amended and Restated Declaration of Condominium  
(Page 21 of 45)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

fees or costs. The notice must be given by delivery of a copy of it to the Unit Owner or by certified mail, return receipt requested, addressed to the Unit Owner. If after diligent search and inquiry the Association cannot find the Unit Owner or a mailing address at which the Unit Owner will receive the notice, the court may proceed with the foreclosure action and may award attorney's fees and costs as permitted by law. The notice requirements of this provision are satisfied if the Unit Owner records a Notice of Contest of Lien as provided in the Act.

**10.4 Attachment of Rental Income When Unit is Delinquent.** Notwithstanding any other remedy available to the Association under this Declaration, the Bylaws, or applicable law, the Association shall have the following options when payment of Assessments or Charges are in default (more than ten days in arrears). The Association may, without order of the Court, direct rental income (by written notice to the Tenant with copy to Unit Owner) from Units in default to be paid directly to the Association until all outstanding Assessments, Charges, other monetary obligations, interest, late fees, costs, collection expenses, attorney's fees and receiver's fees, if applicable, are paid in full. As an alternative, the Association may apply to a Court of competent jurisdiction, either in connection with a foreclosure suit, a personal suit, or otherwise, to have rental proceeds paid on account of a Unit in default paid directly to the Association, the court registry, or a receiver, as the Court may direct. The Association may choose any of these courses of action, or other remedies as may be prescribed by law or elsewhere in the Condominium Documents, as the Board deems appropriate, without same constituting a waiver or election of remedies.

**10.5 First Mortgagee.** The priority of the Association's lien and the obligation for payment of past due Assessments or other sums due in relation to first mortgagees who obtain title as a result of foreclosure or deed in lieu of foreclosure, shall be determined by the Act.

**10.6 Certificate of Unpaid Assessments or Charges.** Any Unit Owner has the right to require from the Association a certificate showing the amount of unpaid Assessments or Charges against him/her with respect to his/her Unit. The Association, its agents, and counsel shall be entitled to charge a fee for preparing such information, in amounts established by the Board, or in a management agreement between the Association and a Community Association Management Firm, or based on reasonable and customary fees charged by legal counsel.

**10.7 Lien for Charges.** There is created by this Declaration a common law and contractual lien to secure payment for any service which the Association provides for an individual Unit Owner or expenses which the Association incurs in regard to a Unit Owner and which is not otherwise secured by the statutory lien for Common Expenses. By way of example, but not limitation, a Lien for Charges exists to secure repayment to the Association when it must remove or reinstall Unit Owner alterations or items of Unit Owner insurance, maintenance, repair or replacement responsibility in connection with the Association's discharge of its Common Element maintenance responsibilities, or address emergency situations, such as water extraction from a Unit. The Lien for Charges shall be of equal priority to, shall accrue interest and late fees, and shall be foreclosed in the same manner as the Common Expense lien, including the right to recover attorney's fees, costs and expenses of collection.

Amended and Restated Declaration of Condominium  
(Page 22 of 45)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707



**10.8 Other Remedies.** The Board of Directors shall have the authority to impose such other remedies or sanctions permitted by the Act pertaining to non-payment of monetary obligations to the Association. Without limitation, same include suspension of use rights in Common Elements and Association Property; suspension of voting rights; suspension of the right to serve on the Board; the attachment of rental income; denial of lease approval requests; and acceleration.

**11. ADMINISTRATION AND MANAGEMENT OF CONDOMINIUM.** The administration and management of the Condominium shall be by the Association, which shall have by and through its Officers and Directors, such powers, authority and responsibilities as are vested in the Officers and Directors of a corporation not-for-profit under the laws of the State of Florida, including but not limited to those set forth more specifically elsewhere in the Condominium Documents. The Association shall have authority to enter into management and other agreements concerning the matters of common interest through its Officers. The management of the Association and election of the Members to the Board of Directors shall be as set forth in the Bylaws. Without limiting the foregoing, the Association shall have the following rights and powers:

**11.1 Access.** The irrevocable right of access to each Unit and its appurtenant Limited Common Elements during reasonable hours as may be necessary for the maintenance, repair or replacement of any Common Elements or of any portion of a Unit to be maintained by the Association pursuant to this Declaration, or as necessary to prevent damage to the Common Elements or to any other Unit or Units, or to determine compliance with the terms and provisions of this Declaration, the exhibits annexed hereto, and the Rules and Regulations adopted pursuant to such documents, as the same may be amended from time to time. A pass key must be provided by the Unit Owner to the Association for each Unit entry door, and as may be applicable air conditioning or utility room or closet, and storage unit. The Association may utilize a master key system. When a Unit Owner must maintain, repair or replace portions of the Condominium Property as provided herein, and which requires access to another Unit for said purpose, the Unit Owner shall have reasonable right of access which shall be administered through the Association. The Unit Owner upon whose behalf access has been obtained shall be obligated for the expense of repairing any damage to the Condominium Property.

**11.2 Assessments and Charges.** The power to make and collect regular and special Assessments and other Charges against Unit Owners and to lease, maintain, repair, and replace the Common Elements and Association Property.

**11.3 Delegation.** The power to enter into contracts with others, for valuable consideration, for maintenance and management of the Condominium Property and Association Property and in connection therewith, or to its Officers and agents, to delegate the powers and rights herein contained, including, without limitation, the making and collecting of Assessments and other Charges against Unit Owners, and perfecting liens for non-payment thereof.

Amended and Restated Declaration of Condominium  
(Page 23 of 45)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

**11.4 Regulations.** The power to adopt and amend Rules and Regulations covering the details of the operation of the Association and use of the Condominium Property and Association Property.

**11.5 Acquisition or Transfer of Real Property; Leasing Common Elements and Association Property.** The power to acquire real property and transfer real property owned by the Association or otherwise convey and mortgage real property for the use and benefit of its Members with the same approval of two-thirds (2/3rds) of the Voting Interests of the Association present (in person or by proxy) and voting at a duly noted meeting of the Association where a quorum is present. No Unit Owner approval shall be required to acquire, purchase, or mortgage a Unit in connection with foreclosure of a lien or deed in lieu of foreclosure, nor to dispose of such Unit. No Unit Owner approval shall be required to accept title to properties in connection with resolving title defects or effectuating the intent of the original Condominium Documents. By way of example, but not limitation, the Board of Directors may authorize acceptance of title to the recreational facilities serving the Condominiums without need for approval of the Unit Owners. Leasing of Units, Common Elements or Association Property may be approved by the Board of Directors, as well as the lease fees, use fees, and other fees permitted by the Act or the Condominium Documents.

**11.6 Membership Agreements.** The power to enter into agreements to acquire leaseholds, memberships, and other possessory or use interests in lands or facilities such as country clubs, golf courses, marinas, and other recreational facilities with the approval of two-thirds (2/3rds) of the Voting Interests of the Association present (in person or by proxy) and voting at a duly noted meeting of the Association where a quorum is present.

**11.7 Fees for Use of Common Elements; Other Fees and Deposits.** The power to set fees, pursuant to Section 718.111(4) of the Act, the Board of Directors shall have the authority to set use fees for private use of Common Elements or Association Property, as well as the regulations and policies pertaining to such use. The Board of Directors may also establish other fees and deposits determined necessary by the Board. Without limitation, same include: clubhouse/meeting room deposits, use fees and/or clean-up fees; fees for the issuance of parking passes or decals; fees for architectural/engineer review of renovation/alteration plans; contractor damage deposits; and internet service, facsimile service and other services using Association equipment. Nothing in this Declaration shall be construed as obligating the Association to provide any of the aforementioned services.

**11.8 Lease of Association Property or Common Elements.** The power to lease Association Property or Common Elements, as authorized by the Board of Directors, including, but not limited to, the lease of Building roof areas and other Common Elements for antennas or other telecommunications and similar equipment. No use fee may be charged against a Unit Owner for use of the Common Elements or Association Property except fees set by the Board pertaining to an Owner having exclusive use of the Common Elements or Association Property, or as agreed by the Association and the party leasing Association Property or Common Elements, pursuant to an oral or written Lease agreement, or fees authorized by this Declaration.

Amended and Restated Declaration of Condominium  
(Page 24 of 45)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

**11.9 Limitation Upon Liability of Association.** Notwithstanding the duty to maintain, repair, replace, insure or reconstruct parts of the Condominium Property, the Association is not liable to Unit Owners or any other person for injury or damage, other than for the cost of maintenance and repair of items for which the Association is otherwise responsible, caused by any latent or unknown condition of the Condominium Property. Further, the Association shall not be liable for any such injury or damage caused by defects in design or workmanship or any other reason connected with any alterations or improvements done by or on behalf of any Unit Owners, regardless of whether or not same shall have been approved by the Association pursuant to the provisions hereof.

Notwithstanding anything contained herein or in the Condominium Documents or any other document governing or binding the Association, the Association shall not be liable or responsible for, or in any manner be a guarantor or insurer of, the health, safety or welfare of any Owner, occupant or user of any portion of the Condominium Property, including, without limitation, residents and their Families, Guests, Tenants, Invitees or for any property of any such persons. Without limiting the generality of the foregoing:

**11.9.1** It is the express intent of the Condominium Documents that the various provisions thereof which are enforceable by the Association, and which govern or regulate the use of the Condominium Property, have been written, and are to be interpreted and enforced, for the sole purpose of enhancing and maintaining the enjoyment of the Condominium Property and the value thereof; and

**11.9.2** The Association is not empowered, and has not been created, to act as an entity which enforces or ensures the compliance with the laws of the United States, State of Florida, Lee County, and/or any other jurisdiction or the prevention of tortious or criminal activities; and

**11.9.3** Any provisions of the Condominium Documents setting forth the uses of Assessments which relate to health, safety and or welfare shall be interpreted and applied only as limitations on the uses of Assessment funds and not as creating a duty of the Association to protect or further the health, safety or welfare of any person(s), even if Assessment funds are chosen to be used for any such reason.

Each Unit Owner and each other person having an interest in or lien upon, or making any use of, any portion of the Condominium Property shall be bound by this provision and shall be deemed to have automatically waived any and all rights, claims, demands and causes of action against the Association arising from or connected with any matter for which the liability of the Association has been disclaimed in this provision.

As used in this section, "Association" shall include within its meaning all of the Association's Directors, Officers, Committee Members and other persons the Association may be required to indemnify, to the extent and limit of such indemnity, and without waiving, reducing or otherwise modifying coverage obligations or subrogation rights of any insurer.

Amended and Restated Declaration of Condominium  
(Page 25 of 45)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

**11.10 Disclaimer, Waiver, and Release of Claims Regarding Mold and Mildew.** Each Unit Owner acknowledges that the Condominium is located in a hot, humid climate, which is conducive to the growth of mold and/or mildew. The Board of Directors shall have the authority to adopt reasonable Rules and Regulations regarding maximum or minimum temperatures for Units and/or recommend that the air conditioning to the Units be set within certain temperature and/or humidity ranges and may require Owners to take such further actions as the Board deems advisable to control humidity and mold and/or mildew growth.

The Association shall not be responsible for the prevention of mold and/or mildew or any damages, including, but not limited to any special or consequential damages, property damages, personal injury, loss of income, emotional distress, death, loss of use, loss of income diminution or loss of value of the Unit, economic damages, and adverse health effects relating to, arising from or caused by mold and/or mildew accumulation regardless of the cause of said mold/or mildew.

Each Unit Owner and each other person having an interest in or lien upon, or making any use of, any portion of the Condominium Property shall be bound by this provision and shall be deemed to have automatically waived any and all claims, obligations, demands, damages, causes of action, liabilities losses and expenses, whether now known or hereafter known, foreseen or unforeseen, that such person has, or may have in the future, in law or in equity against the Association, its Officers, Directors, and Committee Members, or any person or entity the Association is obligated to indemnify (and without waiving, reducing or otherwise modifying coverage obligations or subrogation rights of any insurer) arising out of, relating to, or in any way connected with indoor air quality, moisture, or the growth, release, discharge, dispersal or presence of mold and/or mildew or any chemical or toxin secreted therefrom.

**11.11 Restraint Upon Assignment of Shares in Assets.** The share of a Unit Owner in the funds and assets of the Association cannot be assigned, hypothecated, or transferred in any manner except as an appurtenance to his/her Unit.

**12. INSURANCE.** The insurance which shall be carried upon the Condominium Property, including the Units, Common Elements, and Association Property shall be as follows:

**12.1 Authority to Purchase Insurance.** All insurance policies shall be purchased by the Association for the benefit of the Association and the Unit Owners and their mortgagees as their respective interests may appear.

**12.2 Coverage.**

**12.2.1 Property Insurance.** Except as otherwise provided herein, the Association shall obtain and maintain fire, wind, general property and extended coverage insurance with a responsible insurance company upon all of the Insurable Improvements of the entire Condominium, including Association Property, the Common Elements (including Limited Common Elements), the Units, and the personal property of the Association, for the replacement

Amended and Restated Declaration of Condominium  
(Page 26 of 45)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

value thereof, including coverage for changes in building codes, if reasonably available and determined commercially practicable by the Board, and less a commercially reasonable deductible as determined by the Board, provided the Board may exclude landscaping and exterior improvements not customarily insured by condominium associations in the locality, and foundation and excavation costs, in its discretion. The Association shall determine the replacement value of the Insurable Improvements through independent appraisal, at least every 36 months, so long as required by the Act. The Board shall establish deductibles, at a duly noticed meeting of the Board, and shall give notice of such meeting, and determine the deductibles, as required by the Act, so long as required by the Act. Notwithstanding the foregoing requirement, the Association, through its Board of Directors, will have fulfilled its duty to obtain insurance coverage if it obtains and maintains such insurance coverage as may be reasonably available from time to time given market and economic conditions, provided such coverage shall always meet the minimum level of adequate coverage required by Section 718.111(11) of the Act. The original policy of insurance shall be held by the Association, and mortgagees shall be furnished, upon request, mortgage endorsements covering their respective interests. The word "Building" or "Insurable Improvement" in every property insurance policy issued to protect a Condominium building does not include: personal property in the Unit or Limited Common Elements; Unit floor, wall, or ceiling coverings; Unit or lanai electrical fixtures; appliances; water heaters; water filters; built-in cabinets or countertops; window treatments, including curtains, drapes, blinds, hardware and similar window treatment components; and replacements of any of the foregoing, which are located within the boundaries of a Unit and serve only one Unit. Whenever the Act is amended to shift insurance responsibility for insurance of components from the Association to the Unit Owner, or vice-versa, this Declaration shall be deemed amended accordingly, so as to coincide with the Act. The Unit Owners shall also be responsible to insure all alterations, modifications or additions made to the Unit, Limited Common Elements, or Common Elements by said Unit Owner, or his predecessor in interest or title.

**12.2.2 Flood.** The Association shall use its best efforts to obtain and maintain adequate flood insurance, for replacement value, less a commercially reasonable deductible as determined by the Board, and less foundation and excavation costs if determined by the Board. The Association will have discharged its responsibility to use its "best efforts" to obtain "adequate" flood insurance if it is able to purchase flood insurance through the National Flood Insurance Program (NFIP), or through any similar federally-sponsored or related program, or through private carriers with similar coverage, for premium rates that are generally commensurate with flood insurance premium rates for condominiums in the local area.

**12.2.3 Liability Insurance.** The Association shall obtain and maintain public liability insurance covering all of the Common Elements and Association Property and insuring the Association and the Unit Owners as their interest may appear in such amount as the Board of Directors may deem appropriate. The Board of Directors shall have authority to compromise and settle all claims against the Association or upon insurance policies held by the Association. The Unit Owners shall have no personal liability upon such claims, except as may be otherwise

Amended and Restated Declaration of Condominium  
(Page 27 of 45)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

provided by law, and nothing herein contained shall in any way be construed as imposing upon the Association a duty to assess Unit Owners for the purpose of raising sufficient funds to discharge any liability in excess of insurance coverage.

**12.2.4 Fidelity Bond.** The Association shall obtain and maintain insurance or fidelity bonding of all persons who control or disburse funds of the Association. The insurance policy or fidelity bond must cover the maximum funds that will be in the custody of the Association or its management agent at any one time. As used in this paragraph, the term "persons who control or disburse funds of the association" includes, but is not limited to, those individuals authorized to sign checks on behalf of the Association, and the President, Secretary, and Treasurer of the Association.

**12.2.5 Worker's Compensation.** Such worker's compensation coverage as may be required by law, or deemed advisable by the Board.

**12.2.6 Other Insurance.** Such other insurance as the Board of Directors may from time to time deem to be necessary, including but not limited to Errors and Omissions Officers and Directors Liability insurance coverage and insurance for the benefit of its employees.

**12.3 Deductible and Other Insurance Features.** The Board of Directors shall establish the amount of the deductible under the insurance policies, and other features (including but not limited to exclusions), as it deems desirable and financially expedient, in the exercise of its business judgment, and in the method provided by the Act. The deductible and other features shall be consistent with industry standards and prevailing practice for communities of similar size and age, and having similar construction and facilities in the locale where the Condominium Property is situated.

Where appropriate and obtainable, each of the foregoing policies shall waive the insurer's right to: (i) subrogation against the Association and against the Unit Owners individually and as a group, (ii) to pay only a fraction of any loss in the event of coinsurance or if other insurance carriers have issued coverage upon the same risk, and (iii) avoid liability for a loss that is caused by an act of the Board of Directors of the Association, a member of the Board of Directors of the Association, a Committee of the Board of Directors or members of any such Committee, one or more Unit Owners or as a result of contractual undertakings (including duties performed in connection with the Association's obligations to the Community Association as set forth in the Community Covenants). Additionally, each policy shall provide that any insurance trust agreement will be recognized, that the insurance provided shall not be prejudiced by any act or omission of the individual Unit Owners that are not under the control of the Association, and that the policy shall be primary, even if a Unit Owner has other insurance that covers the same loss.

**12.4 Premiums.** Premiums upon insurance policies purchased by the Association shall be paid by the Association as a Common Expense of the Condominium or Common Expense of the Association, as applicable.

Amended and Restated Declaration of Condominium  
(Page 28 of 45)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

**12.5 Insurance Shares or Proceeds.** Insurance proceeds of policies purchased by the Association covering property losses shall be paid to the Association, and all policies and endorsements thereon shall be deposited with the Association. The duty of the Association shall be to receive such proceeds as are paid and to hold and disburse the same for the purposes stated herein and for the benefit of the Unit Owners and their mortgagees in the following shares:

**12.5.1 Common Elements; Proceeds On Account Of Damage To Common Elements.** An undivided share for each Unit Owner, such share being the same as the undivided share in the Common Expenses of the Condominium appurtenant to the Unit.

**12.5.2 Unit; Proceeds On Account Of Damage To Units Shall Be Held In The Following Undivided Shares.**

**12.5.2.1 Surplus.** It shall be presumed that the first monies disbursed in payment of costs of reconstruction and repair shall be from insurance proceeds. If there is a balance in a construction fund after payment of all costs relating to the reconstruction and repair for which the fund is established, such balance shall be distributed in the manner elsewhere stated.

**12.5.2.2 When The Condominium Building Is To Be Restored.** For the Owners of damaged Units in proportion to the costs of repairing the damage suffered by each Unit Owner, which cost shall be determined by the Association.

**12.5.2.3 When The Condominium Building Is Not To Be Restored.** An undivided share for each Unit Owner, such share being the same as the undivided share in the Common Expenses of the Condominium appurtenant to the Unit.

**12.5.2.4 Common Elements and Units.** When both Common Elements and those portions of the Unit insured by the Association are damaged by a common occurrence, the proceeds of insurance shall be allocated between damage to Common Elements, Limited Common Elements, and Units as the Board of Directors shall determine. It shall be presumed that when there are insurance proceeds received on account of a common Casualty or covered cause of loss under the Association's applicable insurance policy, but insufficient proceeds for Casualty or covered cause of loss repair (including but not limited to shortfalls occasioned by the existence of a deductible), that such shortfalls shall first be applied to Common Elements damage, and then to damage to Units and Limited Common Elements, it being the intent of this provision that when there is a common Casualty loss or covered cause of loss under the Association's applicable insurance policy causing significant damage to the premises, the shortfalls occasioned by deductibles shall be first apportioned to all Unit Owners in proportion to their share of the Common Elements and not applied first to Unit damage.

**12.5.3 Mortgages.** In the event a mortgage endorsement has been issued as to a Unit, the share of that Unit Owner shall be held in trust for the mortgagee and the Unit Owner as their interests may appear; provided, however, that no mortgagee shall have any right to

Amended and Restated Declaration of Condominium  
(Page 29 of 45)

determine or participate in the determination as to whether or not any damaged property shall be reconstructed or repaired, and no mortgagee shall have any right to apply or have applied to the reduction of a mortgage debt any insurance proceeds.

**12.6 Distribution of Proceeds.** Proceeds of insurance policies received by the Association shall be distributed in the following manner:

**12.6.1 Reconstruction or Repair.** If the damage for which the proceeds are paid is to be repaired or reconstructed, the proceeds shall be paid to defray the cost thereof as elsewhere provided. Any proceeds remaining after defraying such costs shall be distributed to the Unit Owners, or, at the option of the Board, may be deposited in the reserve fund kept on behalf of the Condominium.

**12.6.2 Failure to Reconstruct or Repair.** If it is determined in the manner elsewhere provided that the damage for which the proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be distributed in accordance with the Plan of Termination approved pursuant to Article 18.

**12.7 Association as Agent.** The Association is irrevocably appointed agent for each Unit Owner and for each Owner of a mortgage or other lien upon any Unit and for each Owner of any other interest in the Condominium Property or any property in which the Association owns an interest, to adjust all claims arising under insurance policies by the Association, and to execute and deliver releases upon the payment of such claim.

**13. RECONSTRUCTION AFTER CASUALTY.** If any part of the Condominium Property shall be damaged by Casualty or covered cause of loss under the Association's applicable insurance policy, whether or not it shall be reconstructed or repaired shall be determined in the following manner:

**13.1 Common Elements.** If the damaged improvement is any of the Common Elements, the damaged Common Element shall be reconstructed or repaired, unless the Condominium is to be terminated as provided elsewhere herein.

**13.2 The Building.**

**13.2.1 Lesser Damage.** If the damage renders less than 50% of the Units in the Condominium uninhabitable, as determined by the Board of Directors or governmental agencies of jurisdiction, the damaged property shall be reconstructed or repaired.

**13.2.2 Major Damage.** If the damage renders more than 50% of the Units in the Condominium uninhabitable, as determined by the Board of Directors or governmental agencies of jurisdiction, the damaged property will be reconstructed or repaired, unless 75% of the entire Voting Interests in the Condominium agree in writing that such reconstruction or repair shall not take place. The decision whether or not to reconstruct or repair shall be made within one

Amended and Restated Declaration of Condominium  
(Page 30 of 45)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707



hundred eighty (180) days after the Casualty or covered cause of loss under the Association's applicable insurance policy, provided however that the Board of Directors shall have the authority to extend this period for decision-making, not to exceed three (3) years, to deal with exigencies in communication with Unit Owners caused by natural disasters or other significant casualties, or to deal with delays in obtaining information regarding reconstruction costs or insurance proceeds available for reconstruction.

**13.2.3 Plans and Specifications.** Any reconstruction or repair must be substantially in accordance with the plans and specifications for the original Building, as set forth in the plans and specifications for the Building, or if not, then according to plans and specifications approved by the Board of Directors, regardless of whether it is a material alteration or substantial addition as described in Article 9.8 and no vote of the Unit Owners shall be required.

**13.2.4 Definition of "Uninhabitable".** For purposes of this Declaration, "uninhabitable" shall mean that the Board of Directors has concluded that the Condominium Property which the Association is required to insure cannot be restored to the condition (or a better condition) in which it existed prior to the Casualty or covered cause of loss under the Association's applicable insurance policy through available insurance proceeds, plus a special assessment against each Unit Owner not to exceed 10% of the average fair market value of the Units, as determined by the Board. This calculation shall not include costs affiliated with those items the Unit Owner is obligated to repair or replace, at the Unit Owner's expense. A governmental agency's declaration or order that the Condominium Property may not be occupied for a defined period of time due to safety concerns shall not conclusively establish that Units are uninhabitable, provided that the Units can be made safe for occupancy pursuant to the standards set forth above. In the event of a dispute as to whether or not Units are "habitable", a resolution enacted by the Board shall be binding on all parties, unless wholly arbitrary or contrary to law.

**13.3 Responsibility.** All reconstruction work after a Casualty or covered cause of loss under the Association's applicable insurance policy for damaged items that the Association insures shall be undertaken by the Association, except that a Unit Owner may undertake reconstruction work on portions of the Unit with the prior written consent of the Board of Administration. However, such work, and the disbursement of insurance proceeds, may be conditioned upon the approval of the repair methods, the qualifications of the proposed contractor, the contract that is used for that purpose, and reasonable verification of appropriate steps to ensure that the work is done and that the contractor is paid for the performance of said work. Unit Owners shall be responsible for reconstructing those items that the Unit Owners are required to insure. All required governmental permits and approvals must be obtained prior to commencing reconstruction. Assessments for the cost of the work shall be set forth in Article 13.5 below. If an Owner fails to repair and reconstruct those items that the Unit Owner is responsible for under this Declaration, the Association shall have, without waiver of other remedies, the right to proceed in accordance with Article 9.9, in which event the Unit Owner shall be charged for the costs of such activities (including attorney's fees incurred by the

Amended and Restated Declaration of Condominium  
(Page 31 of 45)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

Association) by the Association which shall be secured by such rights as exist for collecting Common Expenses under these Condominium Documents i.e., a Lien for Charges.

**13.4 Estimates of Costs.** After a determination is made to rebuild or repair damage to property for which the Association or Unit Owner has the responsibility of reconstruction and repair, the Association or Unit Owner shall obtain promptly reliable and detailed estimates of the cost to rebuild or repair.

**13.5 Assessments.** The cost of reconstruction after Casualty for those portions of the Condominium Property required to be insured by the Association shall be considered a Common Expense of the Condominium, pursuant to Section 718.111(11)(j) of the Act. However, any cost of repair, reconstruction or replacement of portions of the Condominium Property that is not caused by a Casualty or covered cause of loss under the Association's applicable insurance policy, as determined by the Board of Directors, shall be repaired, and said costs allocated pursuant to the general maintenance, repair, and replacement provisions of this Declaration.

**13.6 Damage Caused By Wear and Tear of the Condominium Property.** Damage to the Condominium Property that is not caused by a Casualty as defined in Article 1.9 or covered cause of loss under the Association's applicable insurance policy, shall be repaired or replaced in accordance with the provisions of Article 9 and shall not be subject to this Article 13. To the extent legally required, it is the intention of this Article 13.6 to "opt out" of the provisions of Section 718.111(11)(j) of the Act as pertains to damage not covered by Casualty.

**13.7 Termination of Condominium if Not Reconstructed.** If the Owners vote not to reconstruct the Condominium by vote described in Article 13.2.2 hereof, the Condominium shall be terminated in accordance with the procedures set forth in Article 18 hereof.

**13.8 Additional Board Authority.** In addition to Board authority granted by law and the Condominium Documents, the Board shall have the following power and authority in connection with emergency conditions:

**13.8.1** To determine after a Casualty whether the Units can be safely occupied, which decision shall not be conclusive as to the determination of habitability in Article 13.2. Such decision shall be based upon the advice of emergency management officials or a licensed professional.

**13.8.2** To declare any portion of the Condominium Property or Association Property unavailable for occupation by Owners, Family members, Tenants, or Guests after a Casualty, including during the rebuilding process. Such decision by the Board shall be based upon the advice of emergency management officials or a licensed professional (such as an engineer) and can be made only if necessary to protect the health, safety, or welfare of the Association, Owners, Family members, Tenants, or Guests.

Amended and Restated Declaration of Condominium  
(Page 32 of 45)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL. 33966  
TELEPHONE (239) 433-7707

**13.8.3** To mitigate damage and take action to prevent the spread of fungus (including but not limited to mold and mildew) by tearing out wet drywall and carpet (even if the Unit Owner is obligated to insure and/or replace those items) and to remove personal property from the Unit and dispose of damaged property or store such property onsite or at an offsite location, with Owners responsible for reimbursing the Association for items for which the Owner is responsible but which may be necessary to prevent further damage. The Association shall bear no liability for such actions, if taken in good faith.

**13.8.4** To contract on behalf of Unit Owners, with said Owners responsible to reimburse the Association, for items for which the Owner is responsible but which may be necessary to prevent further damage. Without limitation, this includes debris removal, dry-out of Units and replacement of damaged air conditioners when necessary to provide climate control in the Units. The Unit Owner shall be responsible to reimburse the Association within ten (10) days of the Association's invoice. The Association's right to payment shall be secured by a Common Expense Lien as provided in the Act and actions to collect such sums shall entitle the Association to recover interest, late fees, attorney's fees, and other costs and expenses of collection.

**13.8.5** To implement a disaster plan prior to, during or after an impending disaster including, but not limited to, shutting down elevators, electricity, security systems, and air conditioners.

**13.8.6** To adopt, by Board action, emergency assessments with such notice deemed practicable by the Board.

**13.8.7** To adopt emergency Rules and Regulations governing the use and occupancy of the Units, Common Elements, Limited Common Elements, and Association property, with notice given only to those Directors with whom it is practicable to communicate.

**13.8.8** To enter into agreements with local counties and municipalities to assist counties and municipalities with debris removal.

**13.8.9** To exercise all emergency powers set forth in the Act.

**14. USE RESTRICTIONS.** Use of the property submitted for condominium ownership shall be in accordance with the following use restrictions and reservations:

**14.1 Occupancy of Units; Single Family Residence.** A Condominium Unit shall be used only as a Single Family residence. As used in the Condominium Documents, "Single Family" means one natural person, a group of two or more natural persons who customarily reside together as a Single Family housekeeping Unit, each of whom is related to each of the others by blood, marriage (or domestic partnership) or adoption, or not more than two persons not so related, who customarily reside together as a single housekeeping Unit. No more than two (2) persons per bedroom and one (1) person per den may permanently occupy a Unit, unless

Amended and Restated Declaration of Condominium  
(Page 33 of 45)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

otherwise approved by the Board of Directors. For purposes of these Condominium Documents, "permanently occupy" means to sleep in the Unit for more than thirty (30) nights during a calendar year. No Unit may be divided or subdivided into a smaller Unit nor any portion sold or otherwise transferred. No person may occupy a Unit as a Unit Owner, Tenant, or Family member thereof (i.e., occupy the Unit on an overnight basis for more than thirty (30) days in a calendar year) unless said person's occupancy has been specifically approved by the Association, through the Board of Directors. Any person who occupies a Unit for more than thirty (30) days in a calendar year shall not be considered a Guest. Units may not be used for commercial or business purposes. Unit Owners (and their Family members and Tenants) may use Units for "home office" or "telecommuting" purposes, provided that such uses do not involve customers or clients coming onto the Condominium Property, the posting of any signage in the Condominium, the storage of equipment, products, or materials in the Condominium, nor more than two regular deliveries per day of correspondence or similar items from customary express delivery services.

**14.2 Nuisance.** The Condominium Property shall not be used for any immoral, improper or unlawful purpose and no use or behavior shall be allowed which will create a public or private nuisance, nor which shall unreasonably interfere with the quiet possession or enjoyment of the Condominium Property, nor which becomes a source of annoyance to the Condominium residents, or which will increase insurance rates. All property shall be kept in a neat and orderly manner. The Common Elements shall be used for the purpose of furnishing services and facilities as herein provided for the welfare and enjoyment of such residents. The Condominium Property shall be used in accordance with all federal, state, and local laws and ordinances.

**14.3 Garages.** Garages shall be used only for the storage of the Unit Owner's or Tenant's primary vehicle, the storage of a golf cart (which shall be kept only in the garage) and the storage of other property of the Owner thereof.

**14.4 Children.** Children shall be permitted to reside in Units, subject to the provisions of Article 14.1.

**14.5 Pets.** Each Unit may maintain two (2) domestic dogs or cats in total (two dogs, two cats, or one cat and one dog). No pet shall be kept, bred or maintained for any commercial purpose, shall not become a nuisance or annoyance to neighbors. All pets must be registered with the Association. No reptiles, "exotic" pets or wildlife shall be kept in or on the Condominium Property (including Units), as no animal, other than dogs, cats, one bird, or fish are permitted to be kept on the Condominium Property. Unit Owners must pick-up all solid wastes of their pets and dispose of such wastes appropriately. All pets (including cats) must be kept on a leash or otherwise manually restrained at all times when outside the Unit and shall not be permitted on outdoor recreational areas (e.g., pool decks). No pets may be kept in or on lanais when the Owner is not in the Unit. Without limiting the generality of Article 20 hereof, a violation of the provisions of this paragraph shall entitle the Association to all rights and remedies, including, but not limited to, the right to fine Unit Owners (as provided in any applicable rules and regulations) and/or to require any pet to be permanently removed from the

Amended and Restated Declaration of Condominium  
(Page 34 of 45)

Condominium Property. This Article shall not prohibit the keeping of fish in aquariums or up to one (1) caged household-type bird in a Unit, provided that the bird is not kept on Limited Common Elements and does not become a nuisance or annoyance to neighbors.

**14.6 Alterations.** Without limiting the generality of Article 9 hereof, and subject to the proviso contain therein as to hurricane shutters, no Unit Owner shall cause or allow improvements or changes to any Unit, Limited Common Elements appurtenant thereto or Common Elements, including, but not limited to, painting or other decorating of any nature (other than to the interior of the Unit), installing any electrical wiring, television antenna, machinery, or air conditioning units or in any manner changing the appearance of any portion of the Building, without obtaining the prior written consent of the Association, in the manner specified in Article 9 hereof.

**14.7 Use of Common Elements.** The Common Elements shall be used only for furnishing of the services and facilities for which they are reasonably suited and which are incident to the use and occupancy of Units.

**14.8 No Improper Uses.** No improper, offensive, hazardous or unlawful use shall be made of the Condominium Property or any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereover shall be observed. Violations of laws, orders, rules, regulations or requirements of any governmental agency having jurisdiction thereover, relating to any portion of the Condominium Property, shall be corrected by, and at the sole expense of, the party obligated to maintain or repair such portion of the Condominium Property, elsewhere herein set forth. Notwithstanding the foregoing and any provisions of this Declaration, the Articles of Incorporation or By-Laws, the Association shall not be liable to any person(s) for its failure to enforce the provisions of this Article 14.8.

**14.9 Hurricane Protection.** No type of hurricane protection may be installed in or around the Units other than hurricane shutters meeting the specifications (including as to location) adopted by the Board of Directors as required by the Act.

**14.10 Exterior Improvements; Landscaping.** Without limited the generality of other Articles of this Declaration, but subject to any provision of this Declaration specifically permitting same, no Unit Owner shall cause anything to be affixed or attached to, hung, displayed or placed on the exterior walls, doors, lanais or windows of the Buildings (including, but not limited to, awnings, signs, storm shutters, screens, window tinting, furniture, fixtures and equipment), nor to plant or grow any type of shrubbery, flower, tree, vine, grass or other plant life outside his Unit, without the prior written consent of the Association.

**14.11 Commercial/Recreational Vehicle and Trailers.** Except as permitted below, no trucks, other commercial vehicles, campers, mobile homes, recreational vehicles, motorcycles or boat or other trailers shall be kept on the Condominium Property. For purposes of the foregoing, "commercial vehicles" shall mean those not designed or used for customary personal/family purposes. The absence of commercial-type lettering or graphics on a vehicle shall not be

Amended and Restated Declaration of Condominium  
(Page 35 of 45)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

dispositive as to whether the same is a commercial vehicle. The foregoing shall not prohibit, however, (i) the parking of otherwise prohibited vehicles on the Condominium Property in the course of providing services to the Condominium Property, the Occupants thereof or the Association, (ii) unmarked pick-up trucks of less than a three-quarter (3/4) ton capacity or (iii) vans with windows which contain seating for at least four (4) persons, provided that such vans and trucks shall not bear commercial-type lettering or graphics. A non-commercial vehicle may, however, be kept if (i) it is the Unit Owner's or Occupant's primary vehicle and (ii) it is kept in a garage. All vehicles kept on the Condominium Property shall be operational and in good condition. In the event of doubt or dispute as to whether a vehicle is prohibited by this Section, the good-faith determination of the Board of Directors shall be binding and conclusive. Golf carts shall be permitted, subject to regulations by the Association.

All persons are hereby advised to consult with the Association and the Community Association (which may have its own vehicle restrictions) prior to bringing any vehicle upon the Condominium Property.

**14.12 Relief by Association.** The Association shall have the power (but not the obligation) to grant relief in particular circumstances from the provisions of specific restrictions contained in this Article 14 for good cause shown.

**14.13 Changes in Permitted Uses.** No amendments to this Article 14, any other provision of this Declaration governing the use of Units or the Common Elements or to any rules and regulations of the Association shall operate to prohibit the keeping of a pet, parking of a vehicle or leasing or occupancy of a Unit where the same was (i) permitted prior to the effectiveness of the amendment, (ii) being conducted in reliance on such permissibility and (iii) is continuing with the same pet, vehicle, lessee or occupant as existed prior to the effectiveness of the amendment. Likewise, no improvement made to or about any Unit (e.g., the installation of hurricane shutters) which was permitted at the time of its making shall be required to be removed by virtue of a change in the permissibility of such types of improvements.

**14.14 Additional Restrictions.** Additional use restrictions are contained in the Rules and Regulations, which may be amended from time to time by the Board of Directors. Amendments to the Rules and Regulations may, but need not be recorded in the Public Records. Additional use restrictions are also contained elsewhere in the Condominium Documents.

**15. LEASING.** The lease of a Unit is defined as occupancy of the Unit by any person other than the Unit Owner, whether pursuant to verbal or written agreement, where said occupancy by the non-owner involves consideration (the payment of money, the exchange of goods or services, or any other exchange of value). The term "leasing" and "renting" shall be used interchangeably for the purpose of this Declaration. The term "Tenant" and "Lessee" shall likewise be used interchangeably. All leases must be in writing. Should a Unit Owner wish to lease his Unit, he shall comply with the approval requirements of the Community Association. No individual rooms may be rented and no transient tenants may be accommodated. "Rent-sharing" and subleasing are prohibited. All leases shall be for a minimum period of thirty (30) days. Leases may be extended or

Amended and Restated Declaration of Condominium  
(Page 36 of 45)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

renewed, subject to Board approval. This section shall apply to all Unit Owners, regardless of when the Unit was purchased or title acquired.

**15.1** When checking in with the Community Association Administration, the Lessee must sign a statement that they are aware that in the event the Owner is delinquent, the Association shall have the authority to direct that all rental income related to the Unit be paid to the Association until all past due and current obligations of the Association have been paid in full, and that they have been provided with and will comply with the Rules and Regulations of the Association and the Community Association.

**16. MAINTENANCE OF COMMUNITY INTERESTS.** In order to maintain a community of congenial Unit Owners who are financially responsible, and thus protect the value of the Units, the use and transfer of Units by any Owner shall be subject to the following provisions as long as the Condominium exists upon the land, which provisions each Unit Owner covenants to observe:

**16.1 Forms of Ownership:**

**16.1.1 Ownership by Individuals.** A Unit may be owned by one natural person who has qualified and been approved as elsewhere provided herein.

**16.1.2 Co-Ownership.** Co-ownership of Units may be permitted. If the co-owners are other than husband and wife or Domestic Partners, the Board shall condition its approval upon the designation of one approved natural person as "Primary Occupant." The use of the Unit by other persons shall be as if the Primary Occupant was the only actual Owner. Any changes in the Primary Occupant shall be treated as a transfer of ownership by sale or gift subject to the provisions of the Condominium Documents. No more than one change in Primary Occupant will be approved in any calendar year. No time share estates may be created. "Unit Sharing" by multiple families and "Fractional Ownership" are prohibited.

**16.1.3 Ownership by Corporations, Partnerships, Limited Liability Companies, Trusts, or Other Artificial Entities.** A Unit may be owned in trust, or by a corporation, partnership, limited liability company, or other entity which is not a natural person, if approved in the manner provided elsewhere herein. The intent of this provision is to allow flexibility in estate, financial, or tax planning, and not to create circumstances in which the Unit may be used as a short-term or transient accommodations for several entities, individuals or families as a timeshare, a shared Unit, fractional ownership, or used as Guest accommodations for employees, customers, or Guests of Units owned by business entities, religious, or charitable organizations, and the like. The approval of a partnership, trustee, corporation, limited liability company, or other entity as a Unit Owner shall be conditioned upon designation by the Owner of one natural person to be the "Primary Occupant." The use of the Unit by other persons shall be as if the Primary Occupant were the only actual Unit Owner. The Primary Occupant shall be the person entitled to vote on behalf of the Unit, and exercise rights of membership. Any change in this Primary Occupant shall be treated as a transfer of ownership by sale or gift subject to the

Amended and Restated Declaration of Condominium  
(Page 37 of 45)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

provisions of the Condominium Documents. No more than one change in designation of Primary Occupant will be approved in any twelve (12) month period.

**16.1.4 Life Estate.** A Unit may be subject to a life estate, either by operation of law or by a voluntary conveyance approved as provided below. In that event, the life tenant shall be the only Member from such Unit, and occupancy of the Unit shall be as if the life tenant were the only Owner. Upon termination of the life estate, the holders of the remainder interest shall have no occupancy right unless separately approved by the Association. The life tenant shall be liable for all Assessments and Charges against the Unit. Any vote, consent, or approval required by the Condominium Documents or law may be given by the life tenant alone, and the vote, consent or approval of the holders of the remainder interest shall not be required. If there is more than one life tenant, they shall be treated as co-owners for purposes of determining voting and occupancy rights.

**16.2** A copy of the deed or other instrument of conveyance must be provided to the Association within ten (10) days of the date such instrument was recorded.

**17. METHOD OF AMENDMENT OF DECLARATION.** Except as elsewhere provided otherwise, this Declaration may be amended in the following manner:

**17.1 Proposal of Amendments.** An amendment may be proposed by the President of the Association, a majority of the Directors, or by twenty-five percent (25%) of the entire Voting Interests.

**17.2 Proposed Amendment Format.** Proposals to amend the existing Declaration of Condominium shall contain the full text of the article to be amended. New words shall be underlined and words to be deleted shall be ~~lined through~~ with hyphens. If the proposed change is so extensive that this procedure would hinder rather than assist understanding, a notation must be inserted immediately preceding the proposed amendment saying, "SUBSTANTIAL REWORDING OF DECLARATION OF CONDOMINIUM. SEE ARTICLE NUMBER FOR PRESENT TEXT."

**17.3 Notice.** The subject matter of proposed amendments shall be included in the notice of any meeting at which a proposed amendment is to be considered or in connection with documentation for action without a meeting.

**17.4 Adoption of Amendments.** A resolution for the adoption of a proposed amendment may be adopted by a vote of two-thirds (2/3<sup>rds</sup>) of the Voting Interests of the Association present (in person or by proxy) and voting at a duly noticed meeting at which a quorum is present, or by the written agreement of two-thirds (2/3<sup>rds</sup>) of the entire Voting Interests. Amendments correcting errors, omissions or scrivener's errors may be executed by the Officers of the Association, upon Board approval, without need for Association membership vote.

Amended and Restated Declaration of Condominium  
(Page 38 of 45)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707



**17.5 Effective Date.** An amendment when adopted shall become effective after being recorded in the Lee County Public Records according to law.

**17.6 Automatic Amendment.** Whenever the Act, Chapter 617, Florida Statutes, or other applicable statutes or administrative regulations, as amended from time to time, are amended to impose procedural requirements less stringent than set forth in this Declaration, the Board may operate the Association pursuant to the less stringent requirements without the need to change this Declaration. The Board of Directors without a vote of the Owners, may also adopt by majority vote, amendments to this Declaration as the Board deems necessary to comply with such operational changes as may be enacted by future amendments to Chapters 607, 617, and the Act, or such other statutes or administrative regulations as required for the operation of the Association, all as amended from time to time.

**17.7 Proviso.** No amendments to Article 14 or any other provision of this Declaration governing the use of Units or the Common Elements or to any rules and regulations of the Association shall operate to prohibit the keeping of a pet, parking of a vehicle or leasing or occupancy of a Unit where the same was (i) permitted prior to the effectiveness of the amendment, (ii) being conducted in reliance on such permissibility and (iii) is continuing with the same pet, vehicle, lessee or occupant as existed prior to the effectiveness of the amendment. Likewise, no improvement made to or about any Unit (e.g., the installation of hurricane shutters) which was permitted at the time of its making shall be required to be removed by virtue of a change in the permissibility of such types of improvements. No amendment shall change the configuration of any Unit or the share in the Common Elements appurtenant to it, or increase the Owner's proportionate share of the Common Expenses, unless the record Owner of the Unit concerned and all record Owners of the mortgages on such apartment shall join in the execution of the amendment, and all other Unit Owners approve the amendment.

## **18. TERMINATION.**

**18.1** The Condominium may be terminated under any one of the following alternatives:

**18.1.1 Termination Because of Economic Waste or Impossibility.** Notwithstanding anything to the contrary in this Declaration, the condominium form of ownership may be terminated by a plan of termination approved by the percentage of Voting Interests necessary to amend the Declaration when:

- the total estimated cost of repairs necessary to restore the improvements to their former condition or bring them into compliance with applicable laws or regulations exceeds the combined fair market value of all Units in the Condominium after completion of the repair; or
- it becomes impossible to operate or reconstruct the Condominium in its prior physical configuration because of land use laws or regulations.

Amended and Restated Declaration of Condominium  
(Page 39 of 45)

It is the intent of this provision to incorporate Section 718.117(2) of the Act.

**18.1.2 Optional Termination.** Except as provided in Article 18.1.1, the condominium form of ownership may be terminated pursuant to a plan of termination approved by at least eighty percent (80%) of the total Voting Interests of the Condominium if not more than ten percent (10%) of the total Voting Interests of the Condominium have rejected the plan of termination by negative vote or by providing written objections thereto. It is the intent of this provision to incorporate the provisions of Section 718.117(3) of the Act.

**18.1.3 Very Substantial Damage.** If the Condominium suffers major damage as defined in Article 13, which shall mean that more than one-half the Units in the Condominium are rendered uninhabitable as determined in the sole discretion of the Board of Directors, the Condominium may be terminated if seventy-five percent (75%) of the total Voting Interests in the Condominium vote to approve a plan of termination.

**18.1.4 Mortgage Lienholders.** Notwithstanding any provision to the contrary in this Declaration or Chapter 718, approval of a plan of termination by the holder of a recorded mortgage lien affecting a Condominium Parcel is not required unless the plan of termination would result in less than the full satisfaction of the mortgage lien affecting the Condominium Parcel. If such approval is required and not given, a holder of a recorded mortgage lien who objects to a plan of termination may contest the plan as provided in Section 718.117(16) of the Act.

**18.2 Procedures for Termination and Sale.** The termination of the Condominium via either of the methods set forth in 18.1.1 through 18.1.3 herein shall be as set forth in Section 718.117(4) – (20) of the Act.

**18.3 Amendment.** This Article 18 may be amended in the same manner in which this Declaration may be amended generally, as set forth in Article 17.

## **19. CONDEMNATION.**

**19.1 Awards.** The taking of all or any part of the Condominium Property by condemnation or eminent domain shall be deemed to be a Casualty to the portion taken, and the awards for that taking shall be deemed to be proceeds from insurance on account of the Casualty. Even though the awards may be payable to Unit Owners, the Unit Owners shall deposit the awards with the Association, and if any fail to do so, a special assessment shall be made against a defaulting Unit Owner in the amount of this award, or the amount of the award shall be set off against any sums payable to that Owner.

**19.2 Determination Whether to Continue Condominium.** Whether the Condominium will be continued after condemnation will be decided in the same manner as repair after Casualty as set forth in Article 13 hereof.

Amended and Restated Declaration of Condominium  
(Page 40 of 45)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

**19.3 Distribution of Funds.** If the Condominium is terminated after condemnation, the proceeds of all awards and special assessments will be owned and distributed in the manner provided for insurance proceeds when the Condominium is terminated after a Casualty. If the Condominium is not terminated after condemnation, the size of the Condominium may be reduced. The Owners of condemned Units, if any, will share in awards and special assessments as provided below.

**19.4 Association as Agent.** The Association is hereby irrevocably appointed as each Unit Owner's attorney-in-fact for purposes of negotiating or litigating with the condemning authority for the purpose of realizing just compensation for the taking.

**19.5 Units Reduced but Habitable.** If the taking reduces the size of a Unit and the remaining portion of the Unit can be made habitable, the awards for the taking of a portion of that Unit shall be used for the following purposes in the order stated, and the following changes shall be effected in the Condominium.

**19.5.1 Restoration of Unit.** The Unit shall be made habitable. If the cost of the restoration exceeds the amount of the award, the additional funds required shall be assessed against the Owner of the Unit.

**19.5.2 Distribution of Surplus.** The balance of the award, if any, shall be distributed to the Owner of the Unit and to each mortgagee of the Unit, the remittance being made payable jointly to the Owner and mortgagees.

**19.5.3 Adjustment of Shares in Common Elements.** If the floor area of a Unit is reduced by the taking, the number representing the share in the Common Elements appurtenant to the Unit shall be reduced in the proportion by which the floor area of the Unit is reduced by the taking, and then the shares of all Unit Owners in the Common Elements shall be restated as percentages of the total of the numbers representing their original shares as reduced by the taking.

**19.6 Units Not Habitable.** If the taking of any entire Unit or so reduces the size of the Unit that it cannot be made habitable, the award for the taking of the Unit shall be used for the following purposes in the order stated, and the following changes shall be effected in the Condominium:

**19.6.1 Payment of Award.** The condemnation award immediately prior to the taking shall be paid to the Owner of the Unit and to each mortgagee of the Unit, the remittance being made payable jointly to the Owner and mortgagee(s).

**19.6.2 Addition to Common Elements.** If possible and practical, the remaining portion of the Unit shall become a part of the Common Elements and shall be placed in condition for use by all Unit Owners in the manner approved by the Board of Directors.

Amended and Restated Declaration of Condominium  
(Page 41 of 45)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

**19.6.3 Assessments.** If the amount of the award for the taking is not sufficient to pay the fair market value of the condemned Unit to the Unit Owner and to recondition the remaining portion of the Unit, the amount required for those purposes shall be raised by special assessment against all of the Unit Owners who will continue as Owners of any Unit after the changes in the Condominium effected by the taking. The Assessments shall be made in proportion to the shares of those Owners in the Common Expenses after the changes effected by the taking.

**19.7 Taking of Common Elements.** Awards for the taking of Common Elements shall be used to make the remaining portion of the Common Elements usable in the manner approved by the Board of Directors. The balance of such awards, if any, may be returned to the Unit Owners or used by the Association as the Board may determine.

**19.8 Amendment of Declaration.** The changes in Units, in the Common Elements and in the ownership of the Common Elements that are necessitated by condemnation shall be evidenced by an amendment of the Declaration of Condominium that need be approved only by a majority of all Directors of the Board.

## **20. COMPLIANCE AND DEFAULT.**

**20.1 Duty to Comply; Right to Sue.** Each Unit Owner, his Family, Tenants, Guests, Invitees and all Unit Occupants and the Association shall be governed by and shall comply with the provisions of the Condominium Act and the Condominium Documents. Actions for damages or for injunctive relief, or both, for failure to comply may be brought by the Association or by a Unit Owner against:

**20.1.1** The Association;

**20.1.2** A Unit Owner; or

**20.1.3** Anyone who occupies a Unit as a Unit Owner, Family member, Tenant, Occupant or Guest. Unit Owners shall be jointly and severally liable for violations of the Condominium Documents by their Family members, Tenants, Guests, Invitees and Unit Occupants.

**20.2 Attorney's Fees.** In any legal proceeding arising out of an alleged failure of a Unit Owner, Family member, Tenant, Guest, Invitee Unit Occupant or the Association to comply with the requirements of the Condominium Act or the Condominium Documents, as they may be amended from time to time, the prevailing party shall be entitled to recover the costs and expenses of the proceeding and a reasonable attorney's fee before trial, at trial and on appeal.

**20.3 No Election of Remedies.** All rights, remedies and privileges granted to the Association or Unit Owners under any terms, provisions, covenants, or conditions of the Condominium Documents shall be deemed to be cumulative, and the exercise of any one or more

Amended and Restated Declaration of Condominium  
(Page 42 of 45)

shall not be deemed to constitute an election of remedies, nor shall it preclude the party from exercising such other additional rights, remedies, or privileges as may be granted by the Condominium Documents, or at law or in equity.

**20.4 Waiver of Application of Condominium Documents.** The Association shall have the right to waive the application of one or more of the covenants or restrictions of the Condominium Documents, or to permit a deviation from said covenants or restrictions, as to any Unit where, in the discretion of the Board, hardship circumstances exist which justify such waiver or deviation. In the event of any such waiver or permitted deviation, or in the event the Association fails to enforce violation of said covenants or restrictions, such actions or inactions shall not be deemed to prohibit nor restrict the right of the Association, or any other person having the right to enforce said covenants or restrictions, from insisting upon strict compliance with respect to all other Units, nor shall any such actions be deemed a waiver of any of the covenants or restrictions contained in the Condominium Documents as same may be applied in the future.

**20.5 Notice of Lien or Suit.**

**20.5.1 Notice of Lien.** A Unit Owner shall give to the Association written notice of every lien upon his Unit other than for permitted first mortgages, taxes, and special assessments, within five (5) days after the Unit Owner receives actual notice of the attachment thereof.

**20.5.2 Notice of Suit.** A Unit Owner shall give notice, in writing, to the Association of every suit or other proceeding which may affect the title to his Unit, or impose liability on the Association, such notice to be given five (5) days after the Unit Owner receives actual knowledge thereof.

**20.5.3 Failure to Comply.** Failure of an Owner to comply with this Article 20.5 will not affect the validity of any judicial suit; however, the failure may render the Owner liable to any party injured by such failure.

**21. THE COMMUNITY ASSOCIATION.** Lexington Community Association, Inc. (same being defined herein as the "Community Association") has been created to administer the Community Covenants and, generally, to operate, administer, regulate the use of, and maintain and repair the "Common Areas" of all types under the Community Covenants. In addition to the Unit Owners, Owners of other residential units (and possibly other parties) will be members of the Community Association and, as such, shall have the right of access to and use of the Common Areas. The following provisions have been included herein, and shall be interpreted and enforced, in order to further the purposes of the Community Association and the Community Covenants:

**21.1 Maintenance.** The Community Association shall, per the Community Covenants, maintain the following portions of, or installations with, the Common Elements: grass and

Amended and Restated Declaration of Condominium  
(Page 43 of 45)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

landscaping, pavement (including painting thereon), curbs and parking bumpers (if any), the common irrigation system, street lights and directional and identifying signage.

**21.2 Assessments and Collections.** Assessments levied by the Community Association shall be the responsibility of the Unit Owners individually and not Common Expenses hereunder. However, the Association may enter into an agreement with the Community Association whereunder the Association may collect the Assessments of the Community Association for Unit Owners, or vice versa.

**21.3 Amendments.** Notwithstanding anything contained in this Declaration or the Articles of Incorporation, Bylaws or rules and regulations of the Association to the contrary, no amendment to any of said documents shall be effective as against the Community Association if same alters, impairs or prohibits the rights of the Community Association or its Members unless the Community Association consents thereto.

**21.4 Non-Discrimination.** Neither the provisions of this Declaration nor those of the Articles of Incorporation, Bylaws or rules and regulations of the Association shall be interpreted or enforced in a manner which discriminates against the Community Association or its members (particularly, but without limitation, its members who are not Unit Owners) or Members of the Association entitled to use any portion of the Common Elements.

## **22. MISCELLANEOUS PROVISIONS.**

**22.1 Covenants Running with the Land.** The covenants and restrictions as herein contained, or forming a part of the Condominium Documents, shall be deemed to run with the land and shall run perpetually unless terminated or amended as provided herein.

**22.2 Savings Clause.** If any provision of the Condominium Documents hereto, as the same now exist or as may be later amended or any portion thereof, shall be held invalid by any Court, or other governmental agency with proper authority to so hold, the validity of the remainder of said Condominium Documents shall remain in full force and effect.

**22.3 Heirs, Successors and Assigns.** These Condominium Documents shall be binding upon the heirs, nominees, successors, administrators, executors and assigns of all Unit Owners.

**22.4 Notices.** All notices shall be given as provided in the Bylaws. Anything contained to the contrary notwithstanding, the Association shall not be responsible to any mortgagee or lienor of any Unit hereunder, and may assume the Unit is free of any such mortgages or liens, unless written notice of the existence of such mortgage or lien is received by the Association.

**22.5 Compliance with Fair Housing Laws.** There shall be no limitation upon sale, lease, or occupancy of any Unit based upon race, creed, color, sex, religion, national origin,

Amended and Restated Declaration of Condominium  
(Page 44 of 45)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

handicap, or familial status. The Association may make reasonable accommodations, including reasonable waiver of the covenants and restrictions of the Condominium Documents, when necessary to afford handicapped individuals the opportunity to enjoy the Condominium premises, or to comply with other legal requirements.

**22.6 Conflicts.** In the event of a conflict between any provision of the Condominium Documents and the Condominium Act, the Condominium Act shall control, except in cases where the Act permits the Condominium Documents to regulate the subject, in which case the Condominium Documents will control. In the event of a conflict between this Declaration and the other Condominium Documents, same shall be governed as provided in the Bylaws.

**22.7 Interpretation.** The Board of Directors shall be responsible for interpreting the provisions of the Condominium Documents. The Board's interpretations shall be binding upon all parties unless wholly unreasonable. A written opinion rendered by Association's legal counsel that an interpretation adopted by the Board is not wholly unreasonable shall conclusively establish the interpretation is valid.

**22.8 Captions and Headings.** The headings and captions used in the Condominium Documents are solely for convenience sake and shall not be considered a limitation of any nature in interpreting the Condominium Documents.

**22.9 Waiver.** No provisions contained in the Condominium Documents shall be deemed to have been waived because of any failure to enforce the same, irrespective of the number of violations or breaches, which may occur.

**22.10 Plurality; Gender.** Wherever the context so permits, the singular shall include the plural, the plural shall include the singular, and the use of any gender shall be deemed to include all or no genders.

ACTIVE: 4022264\_6

Amended and Restated Declaration of Condominium  
(Page 45 of 45)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

DECEMBER 4, 1995  
JOB NO. 1114

EXHIBIT 1

LEGAL DESCRIPTION  
WEDGEWOOD AT LEXINGTON, A CONDOMINIUM NO. 1  
SECTION 4 AND 9, TOWNSHIP 46 SOUTH, RANGE 24 EAST

FOUR PARCELS OF LAND SITUATED IN SECTION 4 AND 9, TOWNSHIP 46 SOUTH, RANGE 24 EAST, LEE COUNTY FLORIDA, SAID PARCELS BEING PART OF THE LANDS PLATTED AS "LEXINGTON COUNTRY CLUB" IN LEE COUNTY FLORIDA, AND BEING MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS;

PARCEL 1: ALL OF TRACT 13 AS DESIGNATED IN THE PLAT OF LEXINGTON COUNTRY CLUB

PARCEL 2: ALL OF TRACT 14 AS DESIGNATED IN THE PLAT OF LEXINGTON COUNTRY CLUB

PARCEL 3: PART OF TRACT 17 BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;  
BEGINNING AT A POINT MARKING AN ORIGINAL CORNER ON A LINE BETWEEN TRACT 17 OF LEXINGTON COUNTRY CLUB OF WHICH THIS IS A PART AND TRACT 18, THENCE WITH SAID TRACT LINE;

NORTH 29d 55'09" EAST 151.28 FEET TO A POINT ON THE SOUTH RIGHT OF WAY LINE OF BAYBERRY BEND (35' WIDE), THENCE;

SOUTH 54d 27'44" EAST 122.90 FEET ALONG SAID RIGHT OF WAY, THENCE;

RUN 143.45 FEET ALONG SAID RIGHT OF WAY AND A TANGENT CURVE TO THE RIGHT, HAVING A RADIUS OF 222.50 FEET AND A DELTA ANGLE OF 36d56'25", TO A POINT, THENCE ;

RUN 18.56 FEET ALONG SAID RIGHT OF WAY AND A TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 2330.75 FEET AND A DELTA ANGLE OF 02d27'22", TO A POINT, THENCE LEAVING SAID ROAD RIGHT OF WAY AND RUNNING THRU TRACT 17;

SOUTH 68d 05'12" WEST 140.38 FEET TO A POINT ON THE OUTSIDE LINE OF TRACT 17, THENCE;

NORTH 14d 06'57" WEST 36.53 FEET ALONG SAID TRACT LINE TO A POINT, THENCE;

NORTH 54d 27'44" WEST 153.22 FEET TO THE BEGINNING.

AND CONTAINING A COMPUTED AREA OF 0.798 ACRES OF LAND MORE OR LESS.

PARCEL 4: PART OF TRACT 18 BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;  
BEGINNING AT A POINT IN THE ORIGINAL LINE OF TRACT 18 OF LEXINGTON COUNTRY CLUB OF WHICH THIS IS A PART, THENCE WITH SAID LINE THE FOLLOWING FOUR (4) COURSES AND DISTANCES;;

SOUTH 50d 12'34" EAST 132.31 FEET THENCE;

SOUTH 48d 51'14" EAST 58.65 FEET THENCE;

SOUTH 31d 39'46" EAST 140.29 FEET THENCE;

SOUTH 12d 38'10" EAST 27.42 FEET THENCE LEAVING ORIGINAL TRACT LINE AND RUNNING THRU SAID TRACT 18;

SOUTH 68d 05'12" WEST 143.86 FEET TO A POINT ON THE ORIGINAL LINE OF TRACT 18 AND ALSO ON THE NORTH RIGHT OF WAY LINE OF BAYBERRY BEND ROAD RIGHT OF WAY (35 FEET WIDE), THENCE;

RUN 15.87 FEET ALONG SAID RIGHT OF WAY AND A TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 2365.75 FEET AND A DELTA ANGLE OF 00d23'03", TO A POINT, THENCE CONTINUE;

RUN 166.02 FEET ALONG SAID RIGHT OF WAY AND A TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 257.50 FEET AND A DELTA ANGLE OF 36d56'25", TO A POINT, THENCE CONTINUE;

OR2668 PG2220





NORTH 54d 27'44" WEST 110.86 FEET ALONG SAID RIGHT OF WAY TO A POINT, THENCE LEAVING ROAD RIGHT OF WAY AND THRU TRACT 18;;

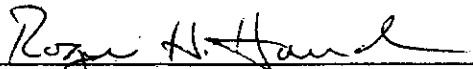
NORTH 37d 12'10" EAST 116.91 FEET TO A POINT, THENCE;

NORTH 56d 48'11" EAST 33.62 FEET TO THE BEGINNING.

AND CONTAINING A COMPUTED AREA OF 1.078 ACRES OF LAND MORE OR LESS.

(SEE ATTACHED "BOUNDARY SKETCH")

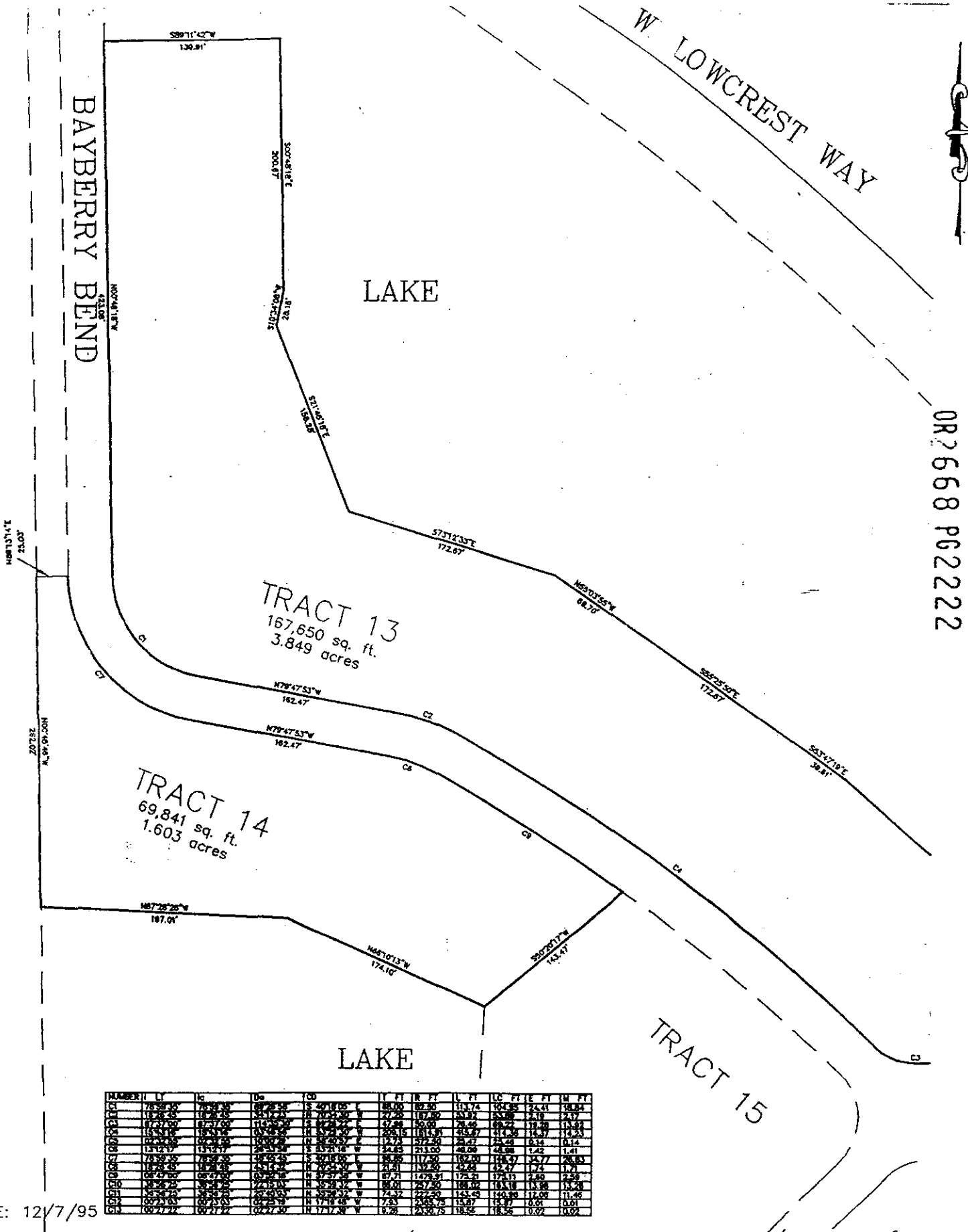
I hereby certify that this BOUNDARY DESCRIPTION was made under my supervision in accordance with the minimum technical standards set forth by the Florida Board of Professional Land Surveyors in Chapter 61G17, F.A.C. pursuant to section 472.027 Florida Statutes.  
*(Not valid unless embossed with surveyors seal)*

  
\_\_\_\_\_  
ROGER H. HARRAH STATE OF FLORIDA LS#5294

DATE: 12-10-95

COMMUNITY ENGINEERING SERVICES, INC.  
9200 BONITA BEACH ROAD, SUITE 209  
BONITA SPRINGS, FLORIDA 33923

OR2668 PG2221



OR 2668 PG 2222

NUMBER	LT	IC	DO	CO	T	F	R	FT	L	FL	LC	FILE	FT	M	FT
001	167,650	167,650	167,650	167,650	167,650	167,650	167,650	167,650	167,650	167,650	167,650	167,650	167,650	167,650	167,650
002	69,841	69,841	69,841	69,841	69,841	69,841	69,841	69,841	69,841	69,841	69,841	69,841	69,841	69,841	69,841
003	167,650	167,650	167,650	167,650	167,650	167,650	167,650	167,650	167,650	167,650	167,650	167,650	167,650	167,650	167,650
004	69,841	69,841	69,841	69,841	69,841	69,841	69,841	69,841	69,841	69,841	69,841	69,841	69,841	69,841	69,841
005	167,650	167,650	167,650	167,650	167,650	167,650	167,650	167,650	167,650	167,650	167,650	167,650	167,650	167,650	167,650
006	69,841	69,841	69,841	69,841	69,841	69,841	69,841	69,841	69,841	69,841	69,841	69,841	69,841	69,841	69,841
007	167,650	167,650	167,650	167,650	167,650	167,650	167,650	167,650	167,650	167,650	167,650	167,650	167,650	167,650	167,650
008	69,841	69,841	69,841	69,841	69,841	69,841	69,841	69,841	69,841	69,841	69,841	69,841	69,841	69,841	69,841
009	167,650	167,650	167,650	167,650	167,650	167,650	167,650	167,650	167,650	167,650	167,650	167,650	167,650	167,650	167,650
010	69,841	69,841	69,841	69,841	69,841	69,841	69,841	69,841	69,841	69,841	69,841	69,841	69,841	69,841	69,841
011	167,650	167,650	167,650	167,650	167,650	167,650	167,650	167,650	167,650	167,650	167,650	167,650	167,650	167,650	167,650
012	69,841	69,841	69,841	69,841	69,841	69,841	69,841	69,841	69,841	69,841	69,841	69,841	69,841	69,841	69,841
013	167,650	167,650	167,650	167,650	167,650	167,650	167,650	167,650	167,650	167,650	167,650	167,650	167,650	167,650	167,650
014	69,841	69,841	69,841	69,841	69,841	69,841	69,841	69,841	69,841	69,841	69,841	69,841	69,841	69,841	69,841

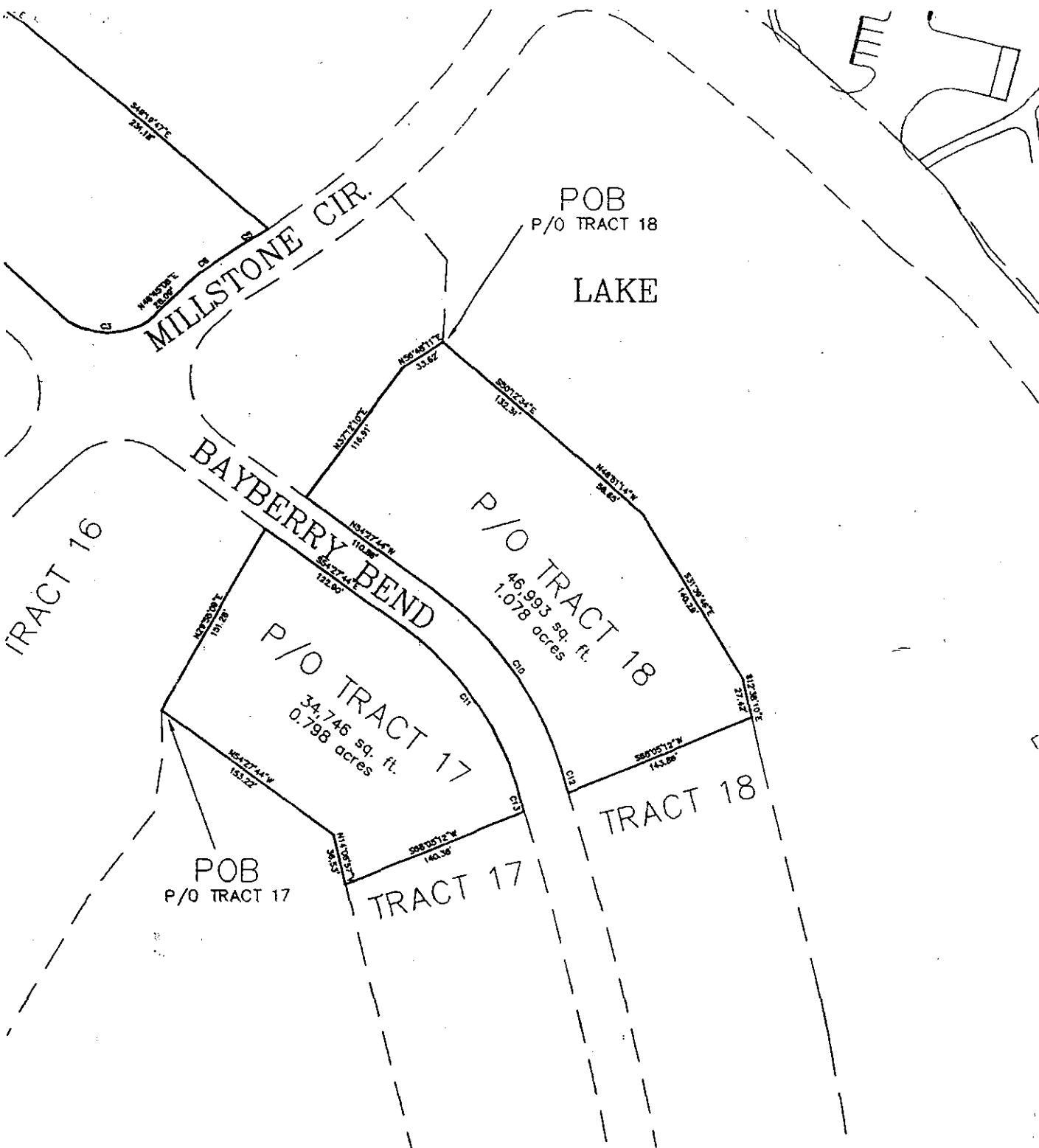
DATE: 12/7/95



**COMMUNITY ENGINEERING SERVICES, INC.**  
 Civil Engineering • Planning • Project Management  
 9200 Bonita Beach Road Suite 209  
 Bonita Springs, Florida 33923  
 Telephone (813) 495-0009 Fax (813) 495-7934

**BOUNDARY SKETCH OF DESCRIPTION**  
 FOR  
**WEDGEWOOD AT LEXINGTON CONDOMINIUM No. 1**  
 ALL OF TRACTS 13 & 14 AND PART OF TRACTS 17 & 18 OF LEXINGTON COUNTRY CLUB  
 A PLAT IN SECTIONS 4, 9, & 10 TWP 46S RGE 24E LEE COUNTY, FLORIDA

SHEET 1 of 2



OR2668 P62223

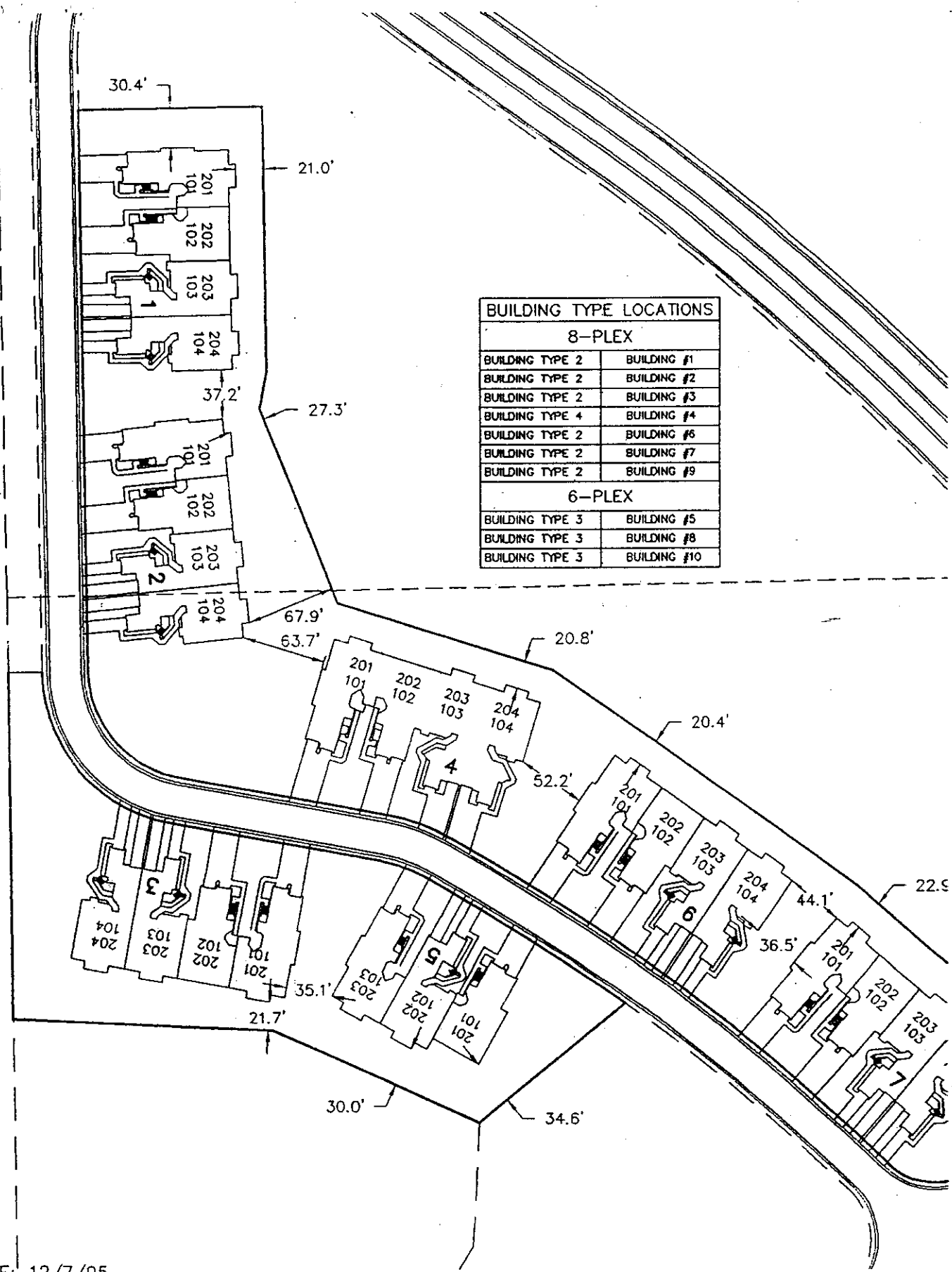
NUMBER	LT	IN	CD	LT	IN	CD	LT	IN	CD	LT	IN	CD	LT	IN	CD
C1	76°59'35"	76°59'35"	S 89°26'38"	68.00	S 22°30'	113.74	106.80	24.41	18.84						
C2	18°28'25"	18°28'25"	S 22°30'	27.30	107°50'	33.32	103.68	2.18	23.17						
C3	17°23'19"	17°23'19"	N 11°02'52"	30.98	100°00'	73.43	88.22	11.59	13.22						
C4	102°23'30"	102°23'30"	S 89°26'38"	103.15	104°41'	81.43	84.28	13.59	13.22						
C5	131°21'17"	131°21'17"	S 22°30'	24.46	107°50'	49.49	48.84	1.42	1.41						
C6	78°59'35"	78°59'35"	S 89°26'38"	68.00	117°50'	107.00	148.27	24.77	28.83						
C7	18°28'25"	18°28'25"	S 22°30'	27.30	100°00'	73.43	88.22	11.59	13.22						
C8	102°23'30"	102°23'30"	S 89°26'38"	103.15	104°41'	81.43	84.28	13.59	13.22						
C9	131°21'17"	131°21'17"	S 22°30'	24.46	107°50'	49.49	48.84	1.42	1.41						
C10	76°59'35"	76°59'35"	S 89°26'38"	68.00	117°50'	107.00	148.27	24.77	28.83						
C11	18°28'25"	18°28'25"	S 22°30'	27.30	100°00'	73.43	88.22	11.59	13.22						
C12	102°23'30"	102°23'30"	S 89°26'38"	103.15	104°41'	81.43	84.28	13.59	13.22						
C13	131°21'17"	131°21'17"	S 22°30'	24.46	107°50'	49.49	48.84	1.42	1.41						

DATE: 12/7/95

**CES** COMMUNITY ENGINEERING SERVICES, INC.  
 Civil Engineering • Planning • Project Management  
 9200 Bonita Beach Road Suite 209  
 Bonita Springs, Florida 33923  
 Telephone (813) 495-0009 Fax (813) 495-7934

**BOUNDARY SKETCH OF DESCRIPTION**  
 FOR  
**WEDGEWOOD AT LEXINGTON CONDOMINIUM No. 1**  
 ALL OF TRACTS 13 & 14 AND PART OF TRACTS 17 & 18 OF LEXINGTON COUNTRY CLUB  
 A PLAT IN SECTIONS 4, 9, & 10 TWP 46S RGE 24E LEE COUNTY, FLORIDA

SHEET 2 of 2



BUILDING TYPE LOCATIONS	
8-PLEX	
BUILDING TYPE 2	BUILDING #1
BUILDING TYPE 2	BUILDING #2
BUILDING TYPE 2	BUILDING #3
BUILDING TYPE 4	BUILDING #4
BUILDING TYPE 2	BUILDING #6
BUILDING TYPE 2	BUILDING #7
BUILDING TYPE 2	BUILDING #9
6-PLEX	
BUILDING TYPE 3	BUILDING #5
BUILDING TYPE 3	BUILDING #8
BUILDING TYPE 3	BUILDING #10

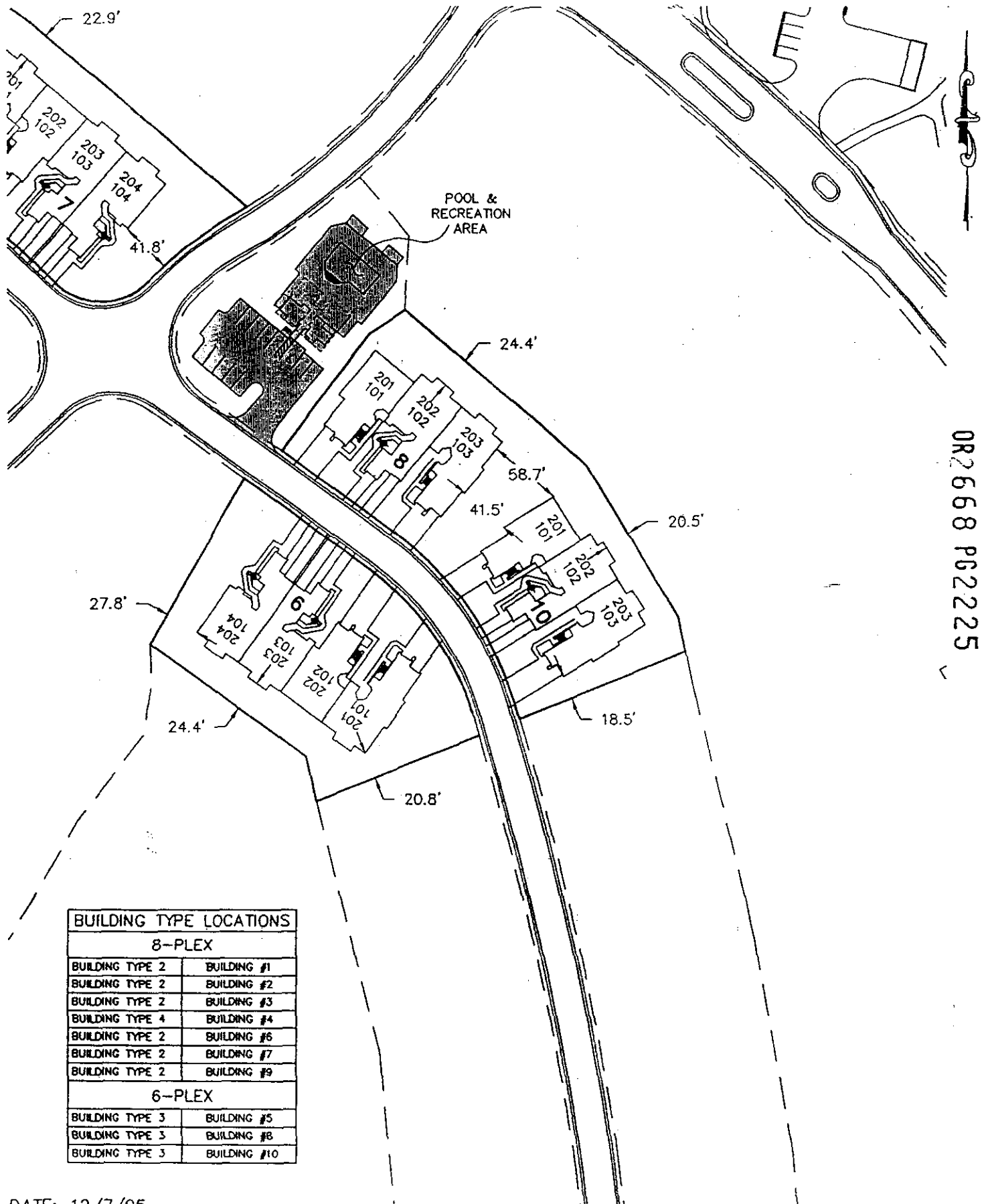
DR 2668 PG 2214

DATE: 12/7/95



**COMMUNITY ENGINEERING SERVICES, INC.**  
 Civil Engineering • Planning • Project Management  
 9200 Bonito Beach Road Suite 209  
 Bonita Springs, Florida 33923  
 Telephone (813) 495-0009 Fax (813) 495-7934

**WEDGEWOOD AT LEXINGTON,  
 A CONDOMINIUM No. 1**  
**PROPOSED SITE PLAN TRACTS 13 & 14** SHEET 1 of 2



DR2668 PG2225

BUILDING TYPE LOCATIONS	
8-PLEX	
BUILDING TYPE 2	BUILDING #1
BUILDING TYPE 2	BUILDING #2
BUILDING TYPE 2	BUILDING #3
BUILDING TYPE 4	BUILDING #4
BUILDING TYPE 2	BUILDING #6
BUILDING TYPE 2	BUILDING #7
BUILDING TYPE 2	BUILDING #9
6-PLEX	
BUILDING TYPE 3	BUILDING #5
BUILDING TYPE 3	BUILDING #8
BUILDING TYPE 3	BUILDING #10

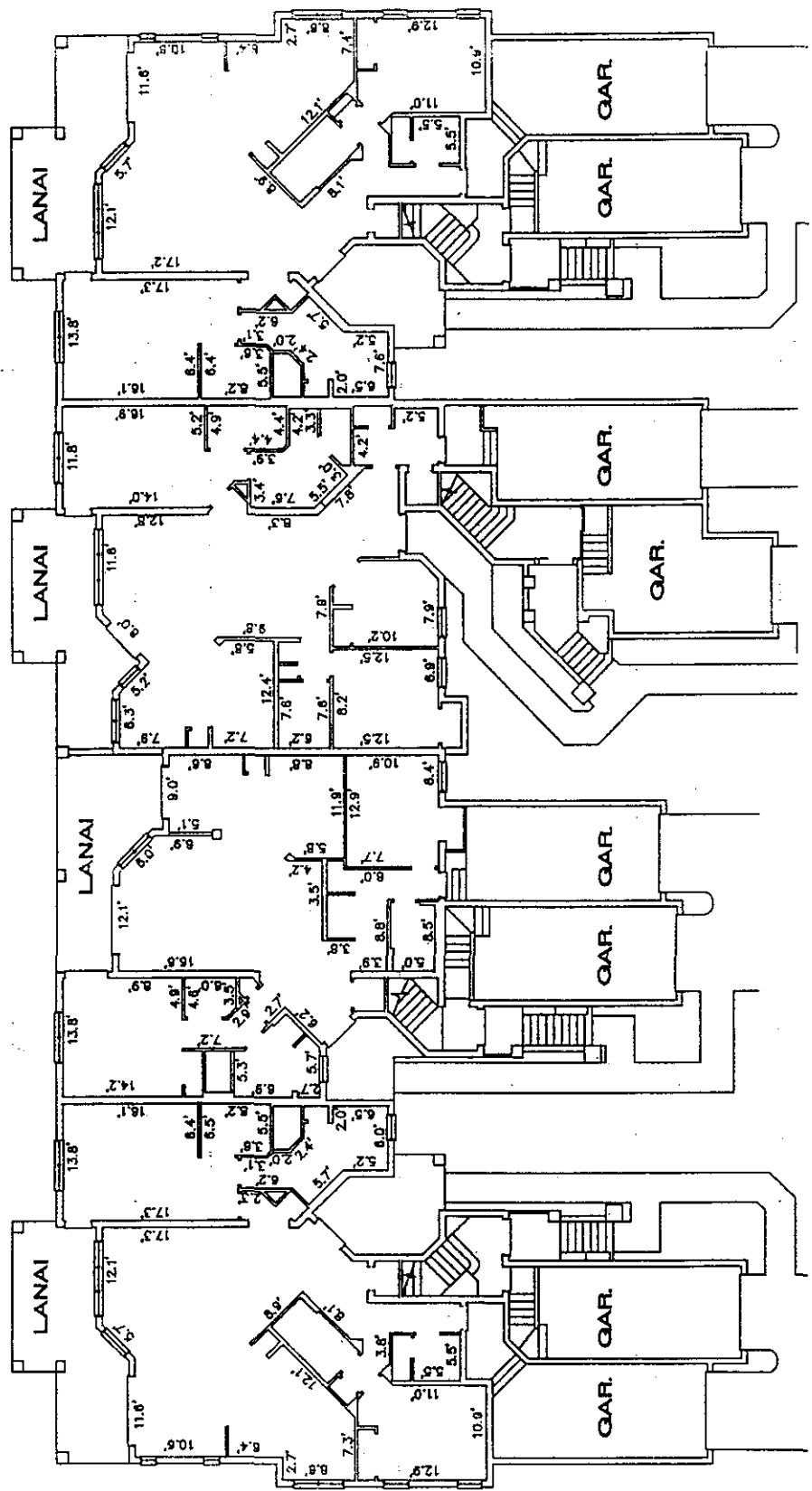
DATE: 12/7/95

**CES** COMMUNITY ENGINEERING SERVICES, INC.  
 Civil Engineering - Planning - Project Management  
 9200 Bonita Beach Road Suite 209  
 Bonita Springs, Florida 33923  
 Telephone (813) 495-0009 Fax (813) 495-7934

**WEDGEWOOD AT LEXINGTON,**  
 A CONDOMINIUM No. 1  
 PROPOSED SITE PLAN  
 PART OF TRACTS 17 & 18

SHEET 2 of 2

EXHIBIT 2



BUILDING TYPE ONE - FIRST FLOOR PLAN

"LANAIS, GARAGES AND DRIVEWAYS ARE LIMITED COMMON ELEMENTS."

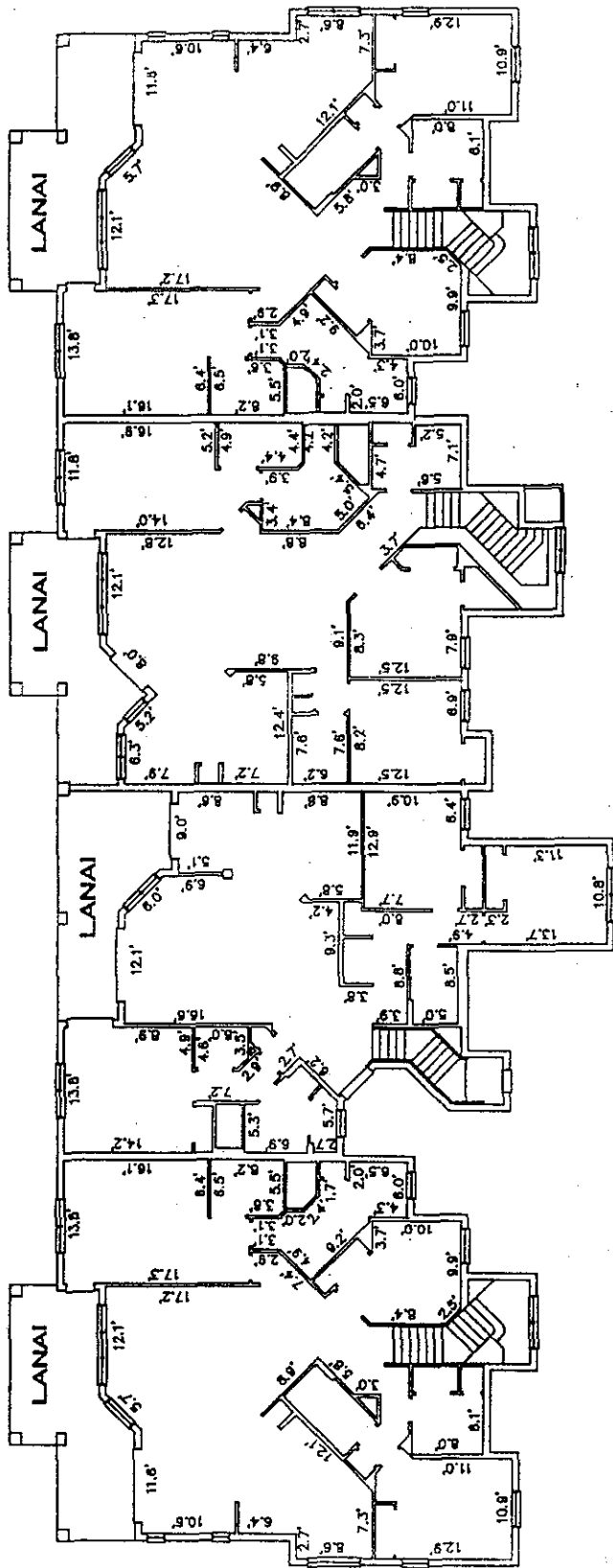
COMMUNITY ENGINEERING SERVICES, INC.  
 Civil Engineering • Planning • Project Management  
 9200 Benito Beach Road, Suite 209  
 Benito Springs, Florida 33923  
 Telephone (813) 495-0068 Fax (813) 495-7934



WEDGEWOOD AT LEXINGTON  
 A CONDOMINIUM No. 1

92272d 899280  
 SHEET 1 of 8

DATE: 12/7/95



BUILDING TYPE ONE - SECOND FLOOR PLAN

"LANAIS, GARAGES AND DRIVEWAYS ARE LIMITED COMMON ELEMENTS."

OR2668 PG2227  
SHEET 2 of 9

WEDGEWOOD AT LEXINGTON,  
A CONDOMINIUM No. 1

COMMUNITY ENGINEERING SERVICES, INC.  
Civil Engineering • Planning • Project Management  
9200 Bonita Beach Road Suite 209  
Bonita Springs, Florida 33923  
Telephone (813) 495-0009 Fax (813) 495-7834

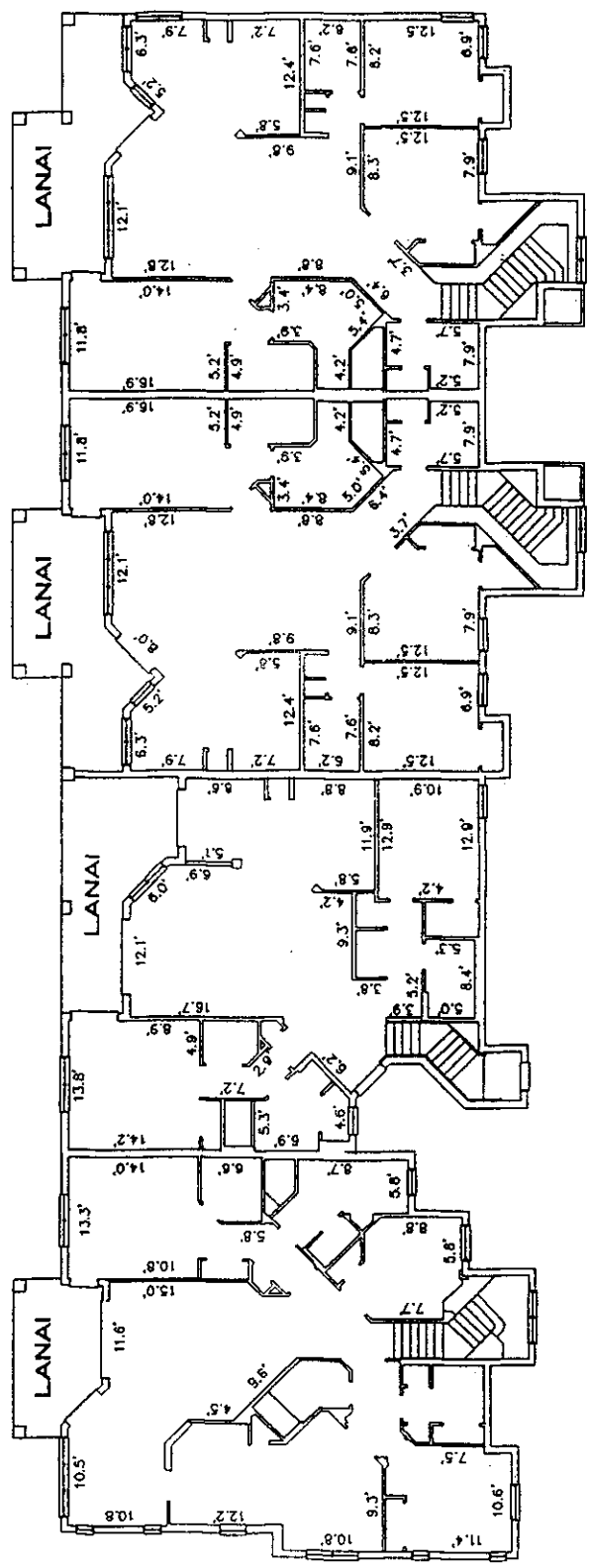


DATE: 12/7/95





EXHIBIT 2



BUILDING TYPE TWO - SECOND FLOOR PLAN

"LANAIS, GARAGES AND DRIVEWAYS ARE LIMITED COMMON ELEMENTS."



COMMUNITY ENGINEERING SERVICES, INC.  
Civil Engineering • Planning • Project Management  
9200 Banker Beach Road, Suite 200  
Belle Glade, Florida 33423  
Telephone (407) 493-0809 Fax (407) 493-7034

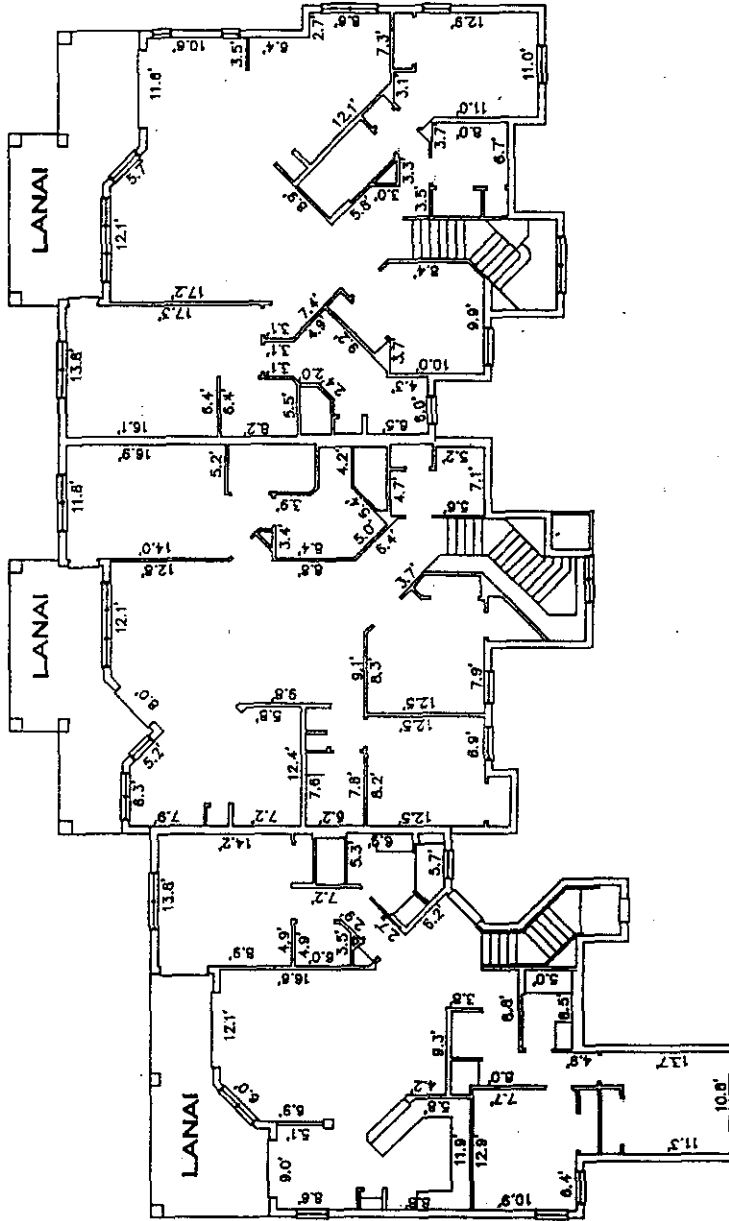
WEDGEWOOD AT LEXINGTON  
A CONDOMINIUM No. 1

08/26/96  
SP62229

DATE: 01/16/96



EXHIBIT 2



BUILDING TYPE THREE - SECOND FLOOR PLAN

"LANAIS, GARAGES AND DRIVEWAYS ARE LIMITED COMMON ELEMENTS."

Exhibit "A"  
Page 12 of 19

COMMUNITY ENGINEERING SERVICES, INC.  
Civil Engineering • Planning • Project Management



9200 Bonita Beach Road, Suite 209  
Bonita Beach, Florida 33423  
Telephone (813) 495-0078 Fax (813) 495-7934

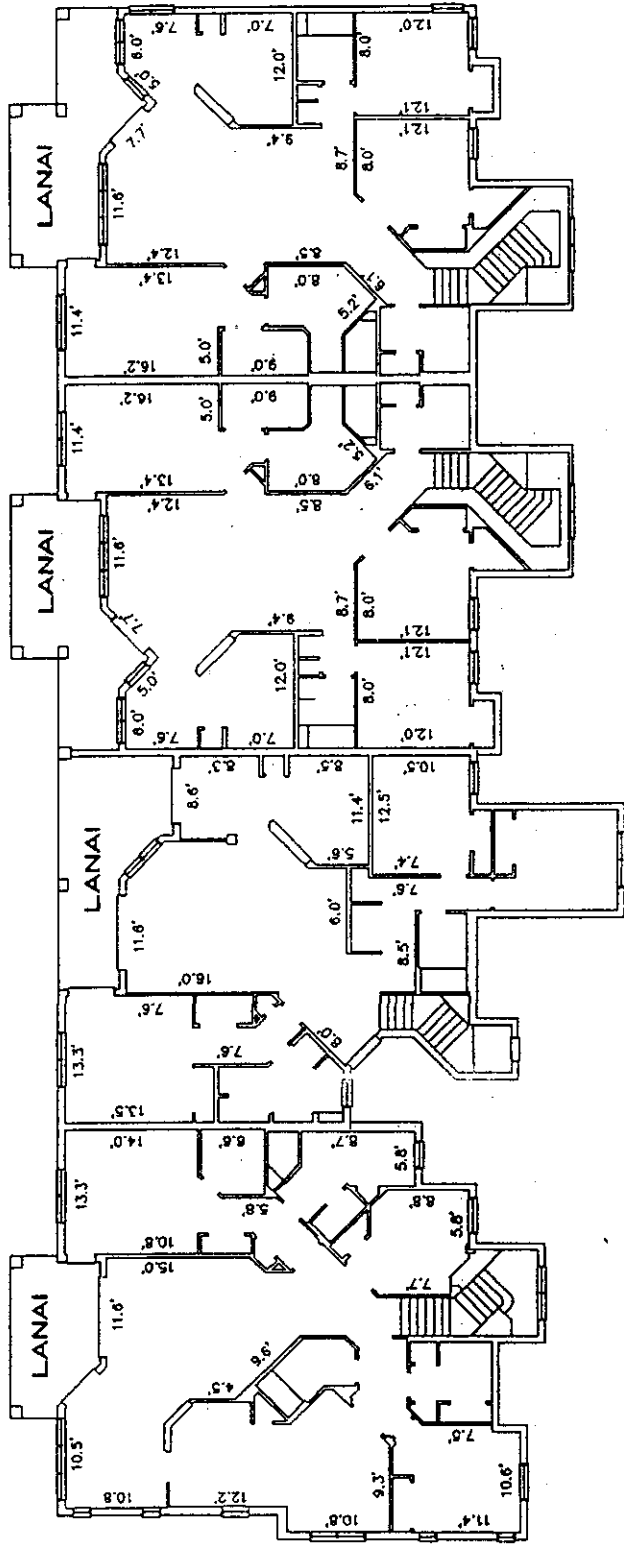
WEDGEWOOD AT LEXINGTON  
A CONDOMINIUM No. 1

DR 2668 PG 2231  
SHEET 6 of 8

DATE: 12/7/95



EXHIBIT 2



BUILDING TYPE FOUR -SECOND FLOOR PLAN

"LANAIS, GARAGES AND DRIVEWAYS ARE LIMITED COMMON ELEMENTS."

Exhibit "A"  
Page 14 of 19

COMMUNITY ENGINEERING SERVICES, INC.  
Civil Engineering • Planning • Project Management

9200 Bonita Beach Road Suite 209  
Bonita Springs, Florida 33923  
Telephone (813) 495-0009 Fax (813) 495-7934

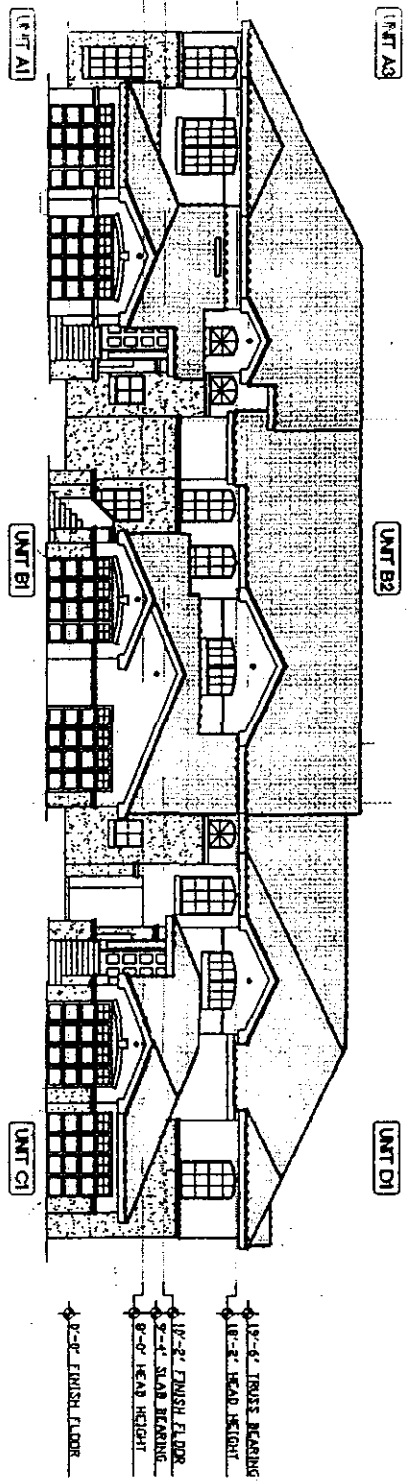


DATE: 12/7/95

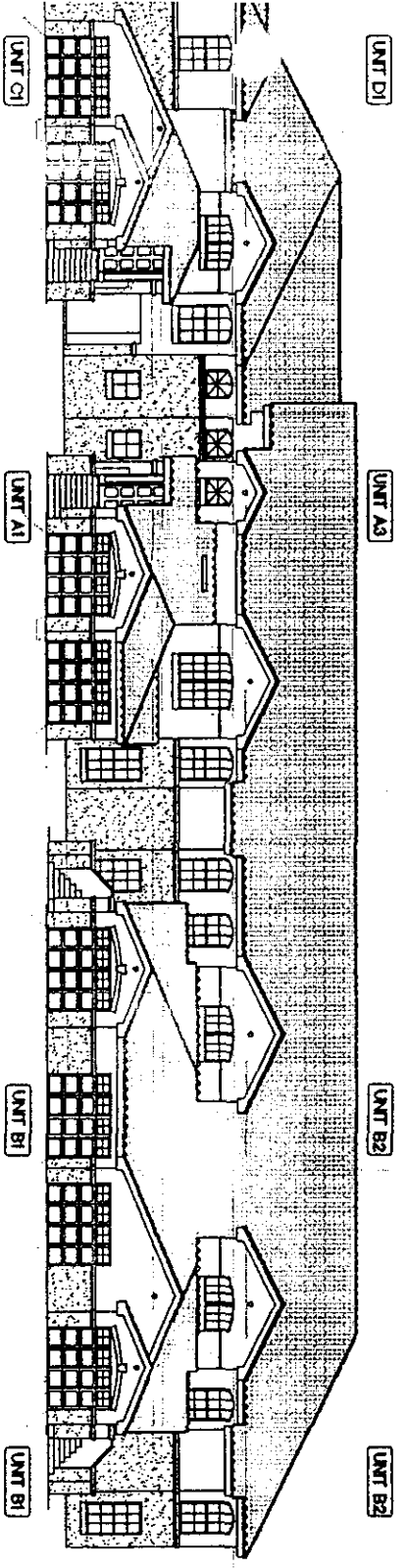
WEDGEWOOD AT LEXINGTON  
A CONDOMINIUM No. 1

DR2668 PG2233  
SHEET 8 of 8

OR2668 PG2234



BUILDING TYPE THREE - FRONT ELEVATION  
THIS ELEVATION APPLIES TO  
WEDGEWOOD BUILDINGS 5, 8 AND 10



BUILDING TYPE FOUR - FRONT ELEVATION  
THIS ELEVATION APPLIES TO BUILDING 4

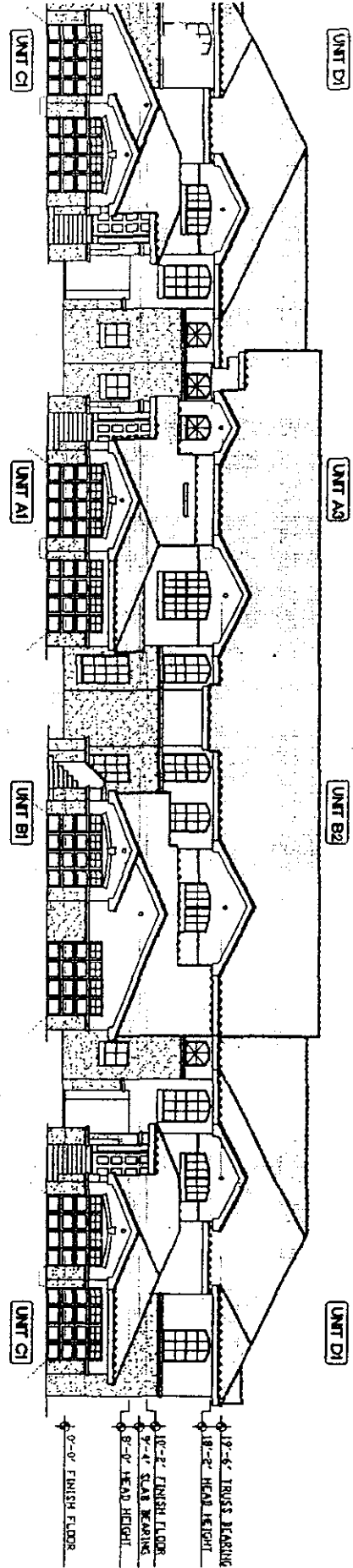
12'-6" TRUSS BEARING  
 10'-0" HEAD HEIGHT  
 10'-0" FINISH FLOOR  
 9'-4" SLAB BEARING  
 8'-0" HEAD HEIGHT  
 0'-0" FINISH FLOOR

12'-6" TRUSS BEARING  
 10'-0" HEAD HEIGHT  
 10'-0" FINISH FLOOR  
 9'-4" SLAB BEARING  
 8'-0" HEAD HEIGHT  
 0'-0" FINISH FLOOR

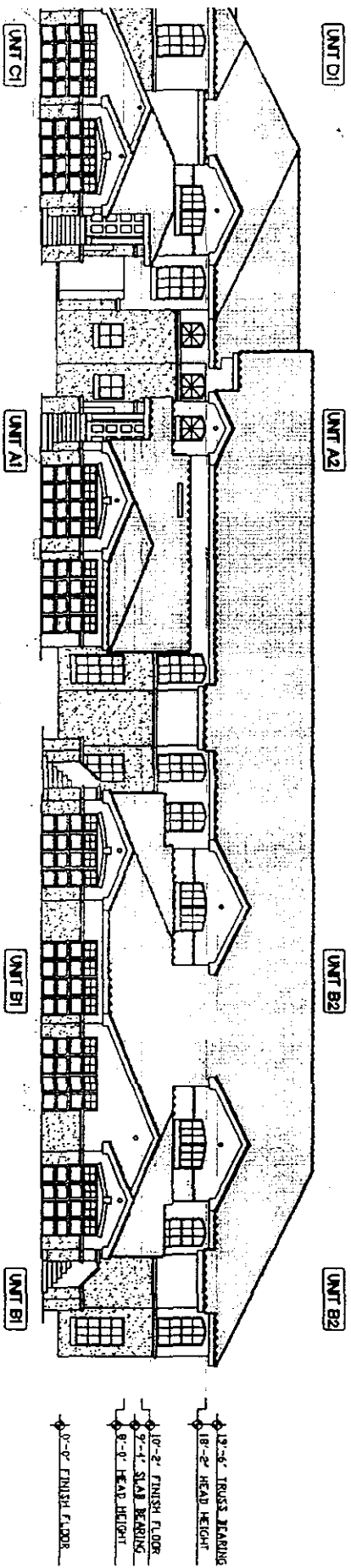
DATE: 12/7/95

**CES** COMMUNITY ENGINEERING SERVICES, INC.  
 CME Engineering • Planning • Project Management  
 9200 Bonita Beach Road Suite 209  
 Bonita Springs, Florida 33923  
 Telephone (813) 495-0009 Fax (813) 495-7934

WEDGEWOOD AT LEXINGTON,  
 A CONDOMINIUM No. 1  
 BUILDING ELEVATIONS  
 SHEET 2 of 2



BUILDING TYPE ONE - FRONT ELEVATION  
THIS ELEVATION APPLIES TO  
WEDGEWOOD BUILDINGS 1,3,6,7, AND 9



BUILDING TYPE TWO - FRONT ELEVATION  
THIS ELEVATION CAN ALSO APPLY TO  
WEDGEWOOD BUILDINGS 1,2,5,7 AND 9

DATE: 12/7/95



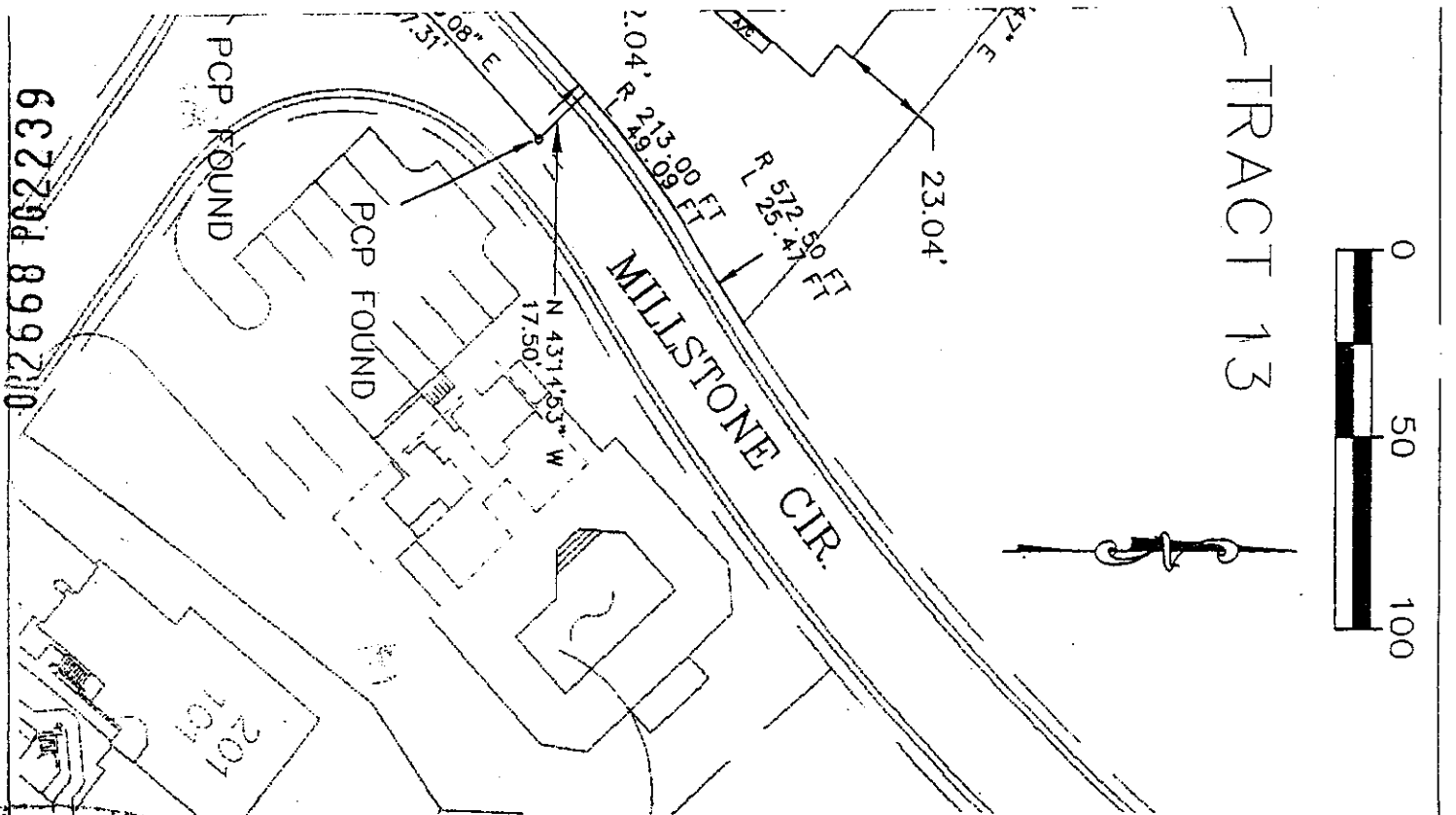
COMMUNITY ENGINEERING SERVICES, INC.  
Civil Engineering • Planning • Project Management  
9200 Bonita Beach Road Suite 209  
Bonita Springs, Florida 33923  
Telephone (813) 495-0009 Fax (813) 495-7934

WEDGEWOOD AT LEXINGTON,  
A CONDOMINIUM No. 1

ELEVATIONS

SHEET 1 of 2

Exhibit "A"  
Page 16 of 19



# IMPROVEMENT SURVEY

FOR BUILDING 7

WEDGEWOOD AT LEXINGTON  
A CONDOMINIUM NO. 1

BUILDING TYPE 2  
SITUATED AT

9270 BAYBERRY BEND  
LEXINGTON COUNTRY CLUB  
PLAT BOOK 56, PAGES 59 THRU 68  
SCALE 1"=50'

### SURVEYOR'S CERTIFICATE

I hereby certify that this SURVEY is a true and correct representation of a recent survey made under my direction in accordance with the minimum technical standards set forth by the Florida Board of Professional Land Surveyors, Chapter 4910, F.A.C. pursuant to section 491.01(1), Florida Statutes. (Certificate valid only if print name signed and signed.)

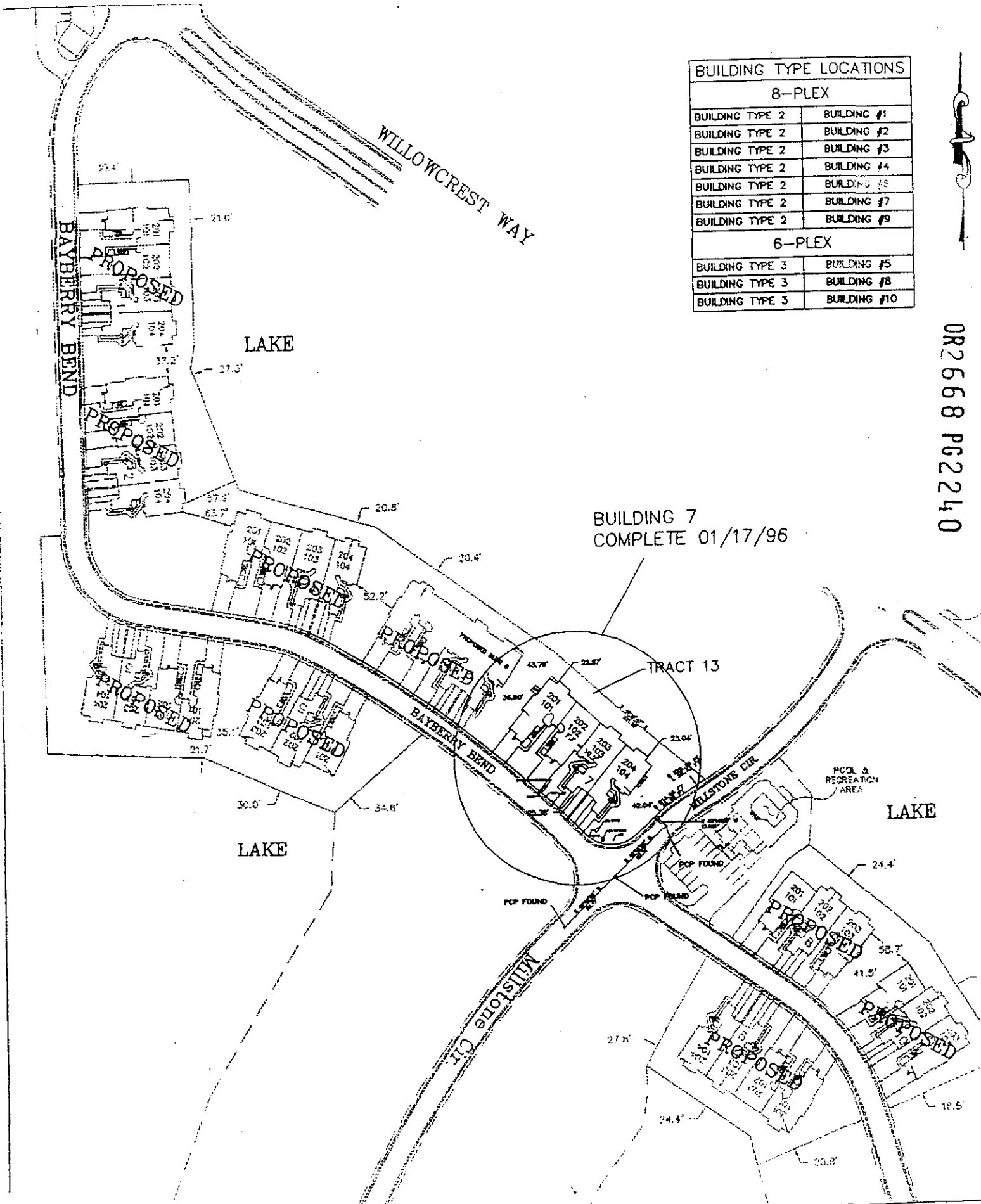
*Robert H. Tupper*  
ROBERT H. TUPPER  
STATE OF FLORIDA, LICENSE  
DATE: 01-17-12



COMMUNITY ENGINEERING SERVICES, INC.  
Civil, Mechanical, Plumbing, Project Management

5700 Bunkle Beach Road, Suite 206  
Punta Springs, Florida 32023  
Telephone (813) 485-0000 Fax (813) 485-7





BUILDING TYPE LOCATIONS	
8-PLEX	
BUILDING TYPE 2	BUILDING #1
BUILDING TYPE 2	BUILDING #2
BUILDING TYPE 2	BUILDING #3
BUILDING TYPE 2	BUILDING #4
BUILDING TYPE 2	BUILDING #5
BUILDING TYPE 2	BUILDING #7
BUILDING TYPE 2	BUILDING #9
6-PLEX	
BUILDING TYPE 3	BUILDING #5
BUILDING TYPE 3	BUILDING #8
BUILDING TYPE 3	BUILDING #10

OR2668 PG2240

DATE: 01/17/96

COMMUNITY ENGINEERING SERV  
Civil Engineering • Planning • Project Mgmt

Exhibit "A"  
Page 18 of 19

DD AT LEXINGTON,  
DOMINIUM No. 1

9200 Bonito Beach Road Suite 209  
P.O. Box 16023

SITE PLAN TRACTS 13 & 14

SHEET 1 of 2

**WEDGEWOOD AT LEXINGTON CONDOMINIUM NO. 1**

The following Survey Certificates of Substantial Completion are incorporated by reference:

<b>Building Number(s)</b>	<b>Recording Information</b>	<b>Recording Date</b>
Building 1	O.R. Book 2677, Pages 2236 – 2240 of the Public Records of Lee County, Florida	February 16, 1996
Building 5	O.R. Book 2708, Page 200 – 202 of the Public Records of Lee County, Florida	May 21, 1996
Building 2	O.R. Book 2713, Page 1561 – 1563 of the Public Records of Lee County, Florida	June 6, 1996
Building 4	O.R. Book 2734, Page 1106 – 1108 of the Public Records of Lee County, Florida	August 8, 1996
Building 6	O.R. Book 3065, Page 2056 – 2058 of the Public Records of Lee County, Florida	January 20, 1999
Buildings 3, 8, 9 and 10	O.R. Book 3162, Page 2324 – 2337 of the Public Records of Lee County, Florida	August 31, 1999

INSTR # 2013000045555, Doc Type D, Pages 4, Recorded 02/26/2013 at 11:42 AM, Linda Doggett, Lee County Clerk of Circuit Court, Rec. Fee \$35.50 Deputy Clerk WMILLER

This instrument was prepared by:  
Steven P. Kushner, Esq.  
Becker & Poliakoff, P.A.  
12140 Carissa Commerce Court, Suite 200  
Fort Myers, Florida 33966

**QUIT CLAIM DEED**

**THIS INDENTURE**, made this 7 day of Feb, 2013, between Worthington Communities, Inc., a dissolved Florida corporation, whose address is c/o John Gnagey, 12801 Renaissance Way, Ft. Myers, Florida 33912 ("Grantor"), and Wedgewood At Lexington Condominium Association, Inc., a Florida not for profit corporation, whose address is 16257 Willowcrest Way, Ft. Myers, Florida 33908, ("Grantee").

**WITNESSETH**, that the said Grantor, for and in consideration of the sum of TEN (\$10.00) DOLLARS, in hand paid by the said Grantee, the receipt whereof is hereby acknowledged, has remised, released and quitclaimed, and by these presents does remise, release and quitclaim unto the said Grantee all the right, title, interest, claim and demand, which the said Grantor has in and to the following described land, situate lying and being in the County of Lee, State of Florida, to wit:

See attached Exhibit "A" and Exhibit "B" for sketches and legal descriptions.

This is a conveyance of two (2) recreational areas to the Grantee, by the Declarant under: the Declaration of Condominium for Wedgewood at Lexington Condominium No. 1, recorded at O.R. Book 2668, Page 2173 as amended at O.R. Book 3162, Pages 2324; all in the Public Records of Lee County, Florida. This instrument is being executed and delivered in furtherance of winding up business of the Grantor pursuant to Section 607.1405(1), Florida Statutes.

**TO HAVE AND TO HOLD** the same, together with all and singular the appurtenances thereunto belonging or in anywise appertaining, and all the estate, right, title, interest, and claim whatsoever of the Grantor, either in law or equity, to the only proper use, benefit and behoof of the said Grantee.

**IN WITNESS WHEREOF**, the said Grantor, hereunto sets its hand and seal as of the day and year first above written.

Signed, Sealed and Delivered  
in the Presence of:

**WORTHINGTON COMMUNITIES, INC.**  
a dissolved Florida corporation

Rebecca Newberry  
Witness signature

By: [Signature]  
John Gnagey, Vice President

REBECCA NEWBERRY  
(Type/Print Name of Witness)

Irene Sasse  
Witness signature

Irene SASSE  
(Type/Print Name of Witness)

STATE OF FLORIDA

COUNTY OF LEE

The foregoing instrument was acknowledged before me this 7 day of Feb, 2013, by John Gnagey, Vice President of Worthington Communities, Inc., a dissolved Florida corporation, on behalf of the Corporation. He is personally known to me  or has produced \_\_\_\_\_ as identification.

My Commission Expires:

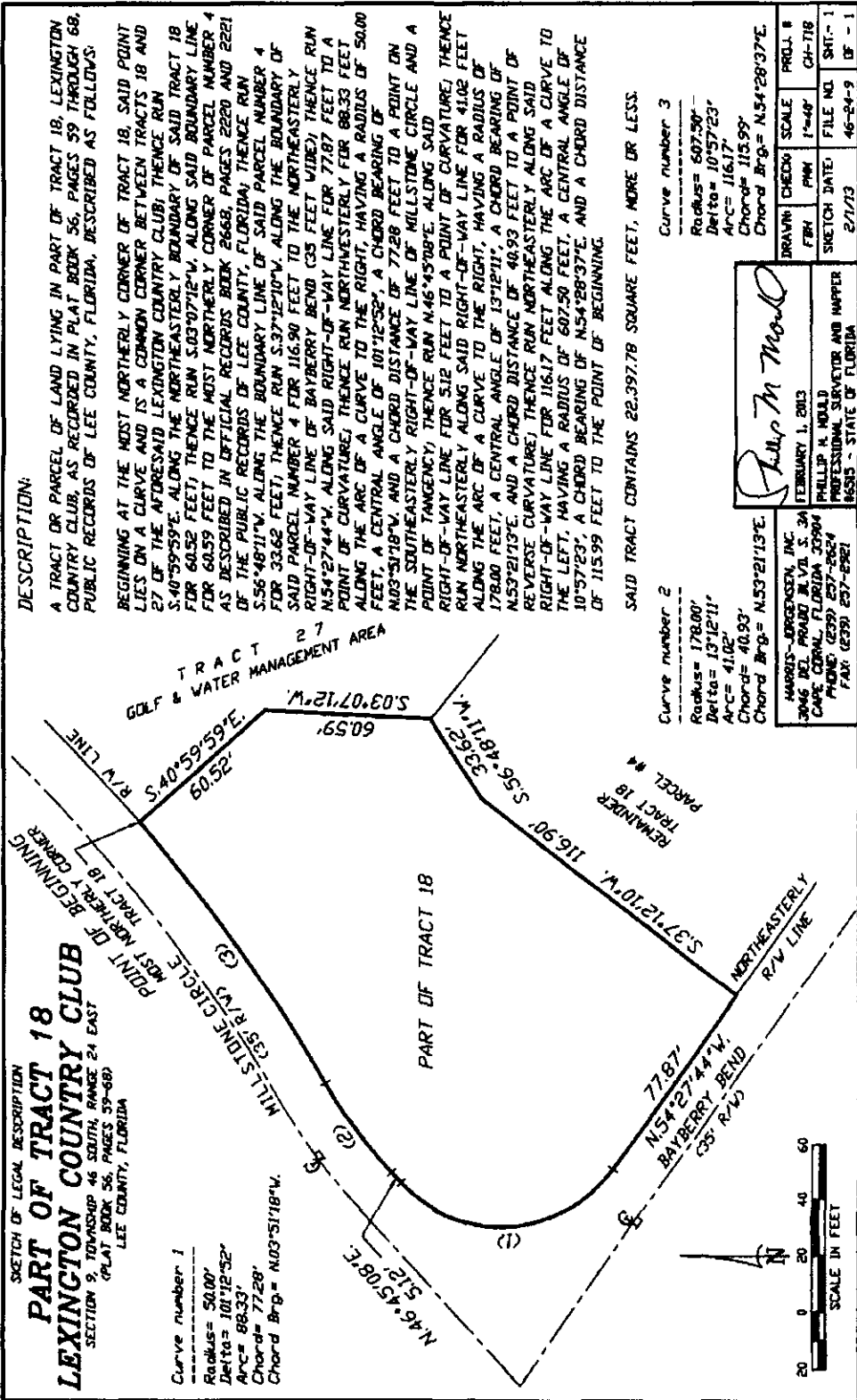
Notary Public

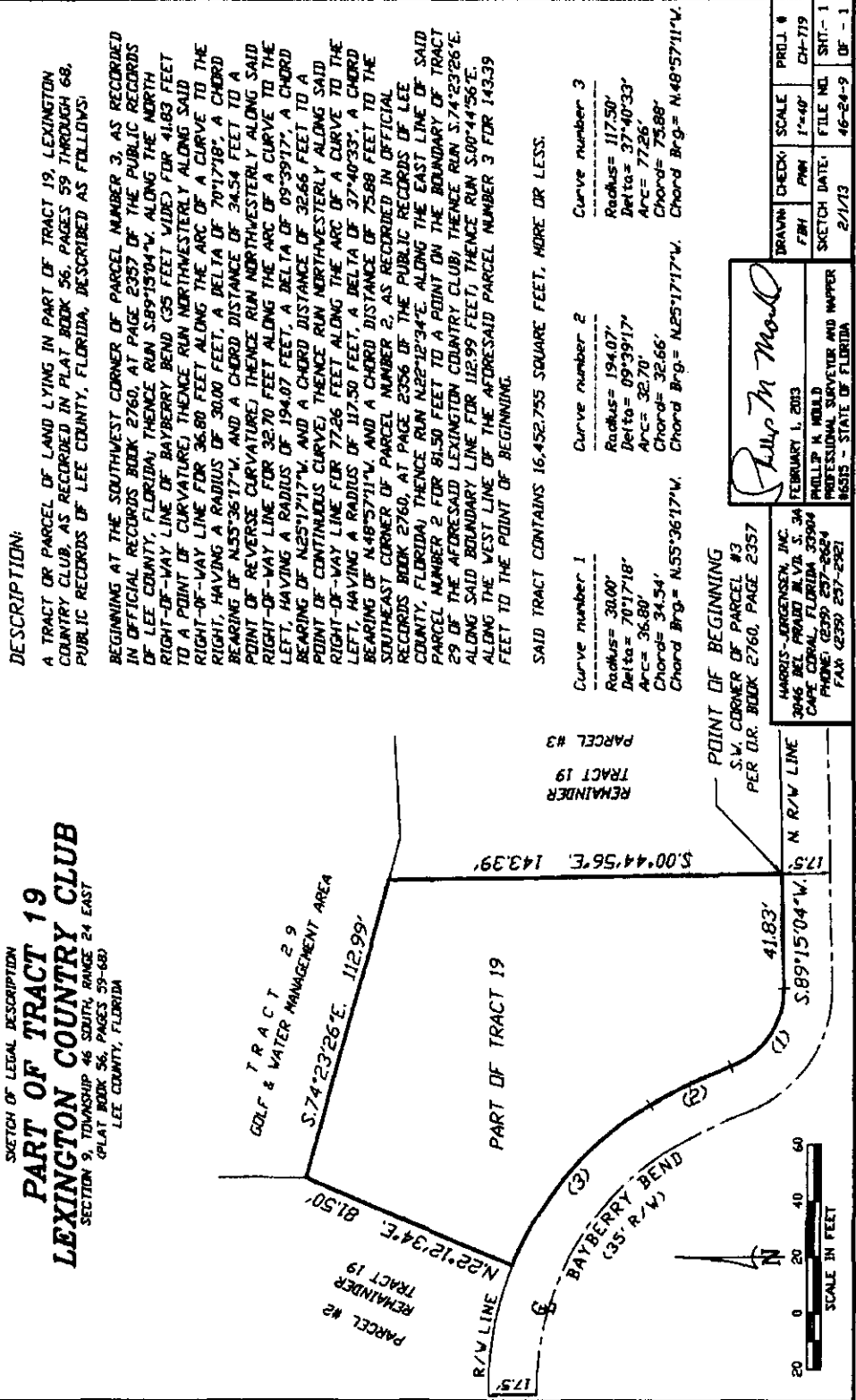
Name: Irene Sasse

Commission No. Nov 9, 2016 EE 830876

ACTIVE: 4469336\_1







INSTR # 2013000045556, Doc Type D, Pages 4, Recorded 02/26/2013 at 11:42 AM, Linda Doggett, Lee County Clerk of Circuit Court, Rec. Fee \$35.50 Deputy Clerk WMILLER

This instrument was prepared by:  
Steven P. Kushner, Esq.  
Becker & Poliakoff, P.A.  
12140 Carissa Commerce Court, Suite 200  
Fort Myers, Florida 33966

**QUIT CLAIM DEED**

**THIS INDENTURE**, made this 15 day of February, 2013, between Lexington Community Association, Inc., a Florida not for profit corporation, whose address is 16257 Willowcrest Way, Ft. Myers, FL 33908, ("Grantor"), and Wedgewood At Lexington Condominium Association, Inc., a Florida not for profit corporation, whose address is 16257 Willowcrest Way, Ft. Myers, Florida 33908, ("Grantee").

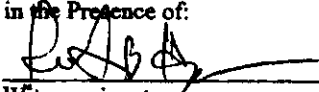

**WITNESSETH**, that the said Grantor, for and in consideration of the sum of TEN (\$10.00) DOLLARS, in hand paid by the said Grantee, the receipt whereof is hereby acknowledged, has remised, released and quitclaimed, and by these presents does remise, release and quitclaim unto the said Grantee all the right, title, interest, claim and demand, which the said Grantor has in and to the following described land, situate lying and being in the County of Lee, State of Florida, to wit:

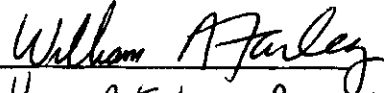
See attached Exhibit "A" and Exhibit "B" for sketches and legal description.

This is a conveyance to clarify ownership of two (2) recreational areas as between the Grantor master association and the Grantee subassociation.

**TO HAVE AND TO HOLD** the same, together with all and singular the appurtenances thereunto belonging or in anywise appertaining, and all the estate, right, title, interest, and claim whatsoever of the Grantor, either in law or equity, to the only proper use, benefit and behoof of the said Grantee.

**IN WITNESS WHEREOF**, the said Grantor, hereunto sets its hand and seal as of the day and year first above written.

Signed, Sealed and Delivered  
in the Presence of:  
  
\_\_\_\_\_  
Witness signature  
Robert Hyves  
(Type/Print Name of Witness)  
  
\_\_\_\_\_  
Witness signature  
C.A. LATIMER  
(Type/Print Name of Witness)

**LEXINGTON COMMUNITY ASSOCIATION, INC.**  
a Florida not for profit corporation  
By:   
William A. Farley President  
(Name) (Title)

STATE OF FLORIDA

COUNTY OF LEE

The foregoing instrument was acknowledged before me this 15 day of Feb, 2013, by W.FARLEY, President of Lexington Community Association, Inc., a Florida non profit corporation, on behalf of the Corporation. He/she is personally known to me [] or has produced

\_\_\_\_\_ as identification.

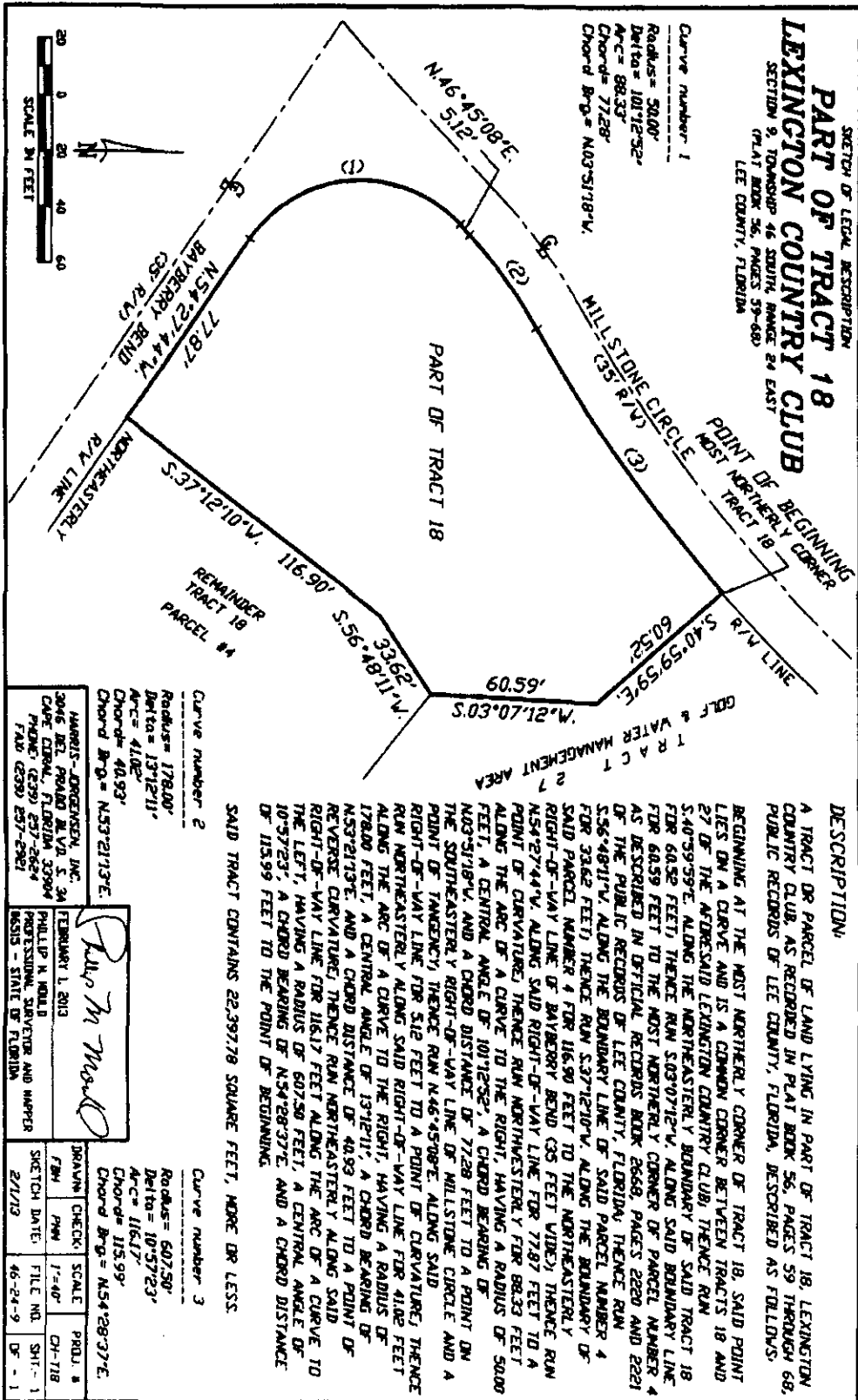
Leslie F. King  
Notary Public  
Name: Leslie F. King  
Commission No. 5-1-15

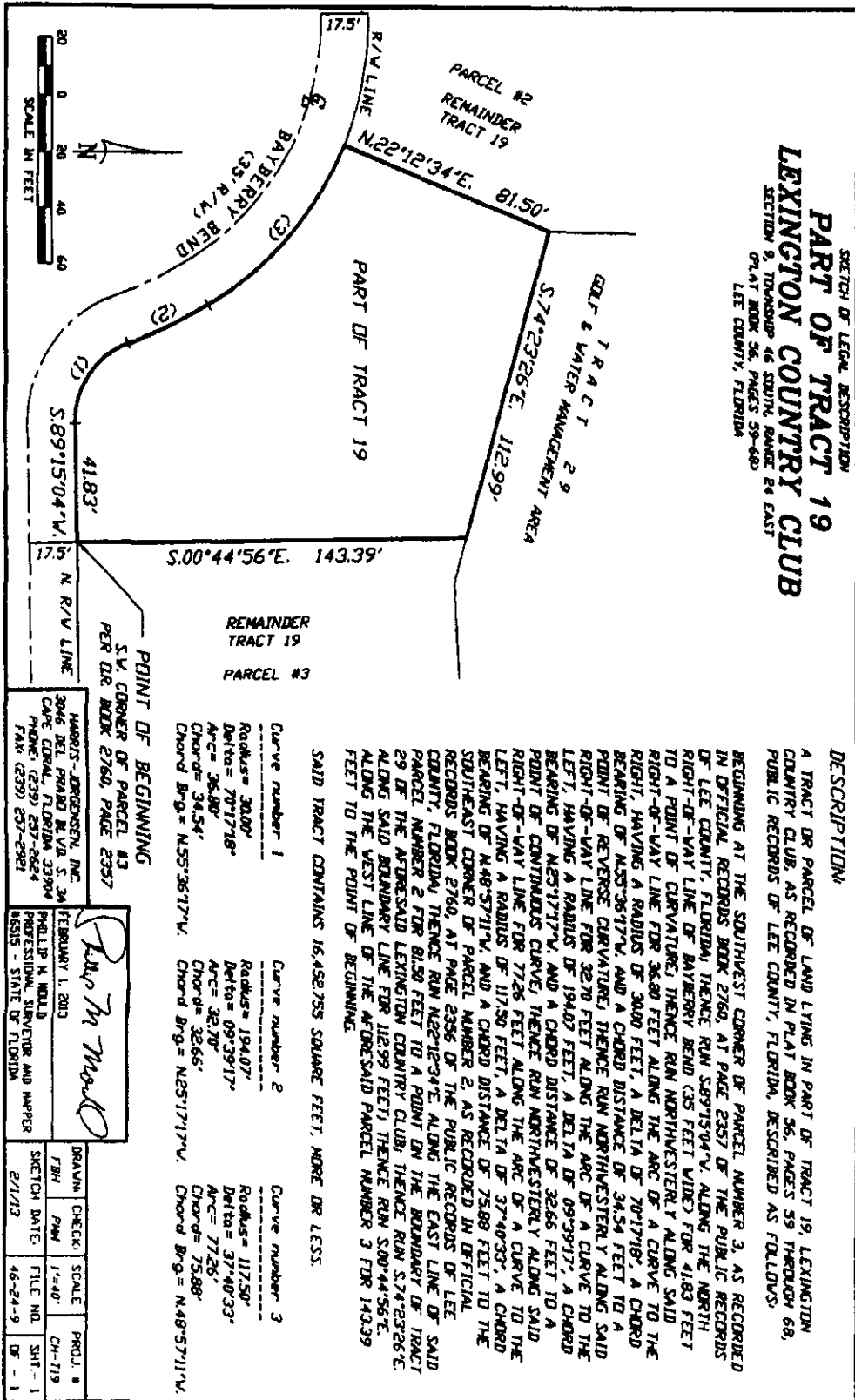
My Commission Expires:



ACTIVE: 4469534\_T







**AMENDED AND RESTATED  
ARTICLES OF INCORPORATION  
OF**

**WEDGEWOOD AT LEXINGTON CONDOMINIUM ASSOCIATION, INC.**

These are the Amended and Restated Articles of Incorporation for the Wedgewood of Lexington Condominium Association, Inc. originally filed with the Florida Department of State the 18<sup>th</sup> day of January 1996, under Charter Number N96000000315. Matters of only historical interest have been omitted. Amendments included have been added pursuant to Chapter 617, Florida Statutes (2012).

**1. NAME.** The name of the corporation is WEDGEWOOD AT LEXINGTON CONDOMINIUM ASSOCIATION, INC. For convenience, the corporation shall be referred to in this instrument as the “Association”, the Declarations of Condominium as “Declarations”, these Articles of Incorporation as the “Articles”, and the Bylaws of the Association as the “Bylaws”.

**2. PURPOSE.** The purpose for which the Association is organized is to manage, operate and maintain three (3) condominiums known as Wedgewood at Lexington Condominium No. 1, Wedgewood at Lexington Condominium No. 2 and Wedgewood at Lexington Condominium No. 3, and certain Association Property, including recreational facilities. Said Condominiums shall be operated on a not-for-profit basis for the mutual use, benefit, enjoyment and advantage of the individual residents of said Condominiums; to make such improvements, additions and alterations to said Condominiums as may be necessary or desirable from time to time as authorized by the respective Declarations of said Condominiums and the Bylaws of the Association; to purchase and own real or personal property; and to conduct and transact all business necessary and proper in the management, operation and maintenance of said Condominiums; all as agents of the Owners of the Condominium Parcels of the said Condominiums.

**3. DEFINITIONS.** The terms used in these Articles shall have the same definitions and meaning as those set forth in the Declarations and the Act, unless herein provided to the contrary, or unless the context otherwise requires.

**4. POWERS.** The powers of the Association shall include the following:

**4.1 General.** The Association shall have all of the common-law and statutory powers of a corporation not for profit under the Laws of Florida that are not in conflict with the provisions of the Declarations, these Articles or of the Act.

Exhibit “B” to the Amended and Restated Declaration of Condominium  
(Amended and Restated Articles of Incorporation)

Page 1 of 6

**4.2 Enumeration.** The Association shall have all the powers set forth in the Act, except as limited by the Declarations, these Articles, and the Bylaws (all as amended from time to time), and all of the powers reasonably necessary to operate the Condominiums, including but not limited to the following:

**4.2.1** To make and collect Assessments and other Charges against Members as Unit Owners, and to use the proceeds thereof in the exercise of its powers and duties.

**4.2.2** To buy, own, operate, lease, sell, and trade both real and personal property as may be necessary or convenient in the administration of the Condominiums or Association Property.

**4.2.3** To maintain, repair, replace, reconstruct, add to, and operate the Condominium Property, Association Property and any other property acquired or leased by the Association.

**4.2.4** To purchase insurance upon the Condominium Property and insurance for the protection of the Association, its Officers, Directors, Committee Members, and Members as Unit Owners.

**4.2.5** To make and amend reasonable Rules and Regulations for the maintenance, conservation and use of the Condominium Property and for the recreation, comfort, and welfare of the Unit Owners, and the administration of the Association.

**4.2.6** To approve or disapprove the leasing, transfer, mortgaging, ownership, and possession of Units as may be provided by the Declarations.

**4.2.7** To enforce by legal means the provisions of the Act, other applicable laws, the Declarations, these Articles, the Bylaws, the Rules and Regulations, and the policies of the Association.

**4.2.8** To contract for the management of the Condominiums and the Association and any facilities used by the Unit Owners, and to delegate to the party with whom such contract has been entered into all of the powers and duties of the Association except those which require specific approval of the Board of Directors or the membership of the Association.

**4.2.9** To employ personnel to perform the services required for proper operation of the Condominiums and the Association.

**4.2.10** To make contracts and incur liabilities, borrow money at such rates of interest as the Board may determine, issue its notes, bonds, and other obligations, and secure any of its obligations by mortgage and pledge of all or any of its property, franchises, or income, including but not limited to Assessments.

Exhibit "B" to the Amended and Restated Declaration of Condominium  
(Amended and Restated Articles of Incorporation)

Page 2 of 6

**4.3 Condominium Property.** All funds and the titles of all properties acquired by the Association and their proceeds shall be held for the benefit and use of the Members in accordance with the provisions of each Declaration, these Articles and the Bylaws.

**4.4 Distribution of Income: Dissolution.** The Association shall make no distribution of income to its Members, Directors or Officers, and upon dissolution, all assets of the Association shall be transferred only to another non-profit corporation or a public agency or as otherwise authorized by the Florida not for Profit Corporation Statute.

**4.5 Limitation.** The powers of the Association shall be subject to and shall be exercised in accordance with the provisions hereof and of each Declaration, the Bylaws and the Act, provided that in the event of conflict, the provisions of the Act shall control over those of a Declaration and the Bylaws.

**5. MEMBERS.** The Members of the Association shall consist of all of the record Owners of Units in the Condominiums, and after termination of the Condominium or Condominiums shall consist of those who were Members at the time of the termination and their successors and assigns.

**5.1 Assignment.** The share of a Member in the funds and assets of the Association cannot be assigned, hypothecated, pledged or transferred in any manner except as an appurtenance to the Unit for which that share is held.

**5.2 Voting.** On all matters upon which the membership shall be entitled to vote, there shall be only one vote for each Unit, which vote shall be exercised or cast in the manner provided by the Bylaws. Any person or entity owning more than one Unit shall be entitled to one vote for each Unit owned. Those Members whose voting rights are suspended pursuant to the terms of the Condominium Documents and/or Florida Law shall not be entitled to cast the vote assigned to the Unit for which the suspension was levied during the period of suspension and such Voting Interests shall be subtracted from the required number of votes when calculating any required vote or quorum for the period during which such suspension exists.

**5.3 Meetings.** The Bylaws shall provide for an annual meeting of Members, and may make provision for regular and special meetings of Members other than the annual meeting.

**6. TERM OF EXISTENCE.** The Association shall have perpetual existence.

**7. OFFICERS.** The affairs of the Association shall be administered by the Officers designated in the Bylaws. The Officers shall be elected by the Board of Directors of the Association at its first meeting following the annual meeting of the Members of the Association and shall serve at the pleasure of the Board of Directors. The Bylaws may provide for the removal from office of Officers, for filling vacancies, and for the duties of the Officers.

Exhibit "B" to the Amended and Restated Declaration of Condominium  
(Amended and Restated Articles of Incorporation)

Page 3 of 6

**8. DIRECTORS.**

**8.1 Number and Qualification.** The property, business and affairs of the Association shall be managed by a Board consisting of the number of Directors determined by the Bylaws, but which shall consist of not less than three (3) Directors.

**8.2 Duties and Powers.** All of the duties and powers of the Association existing under the Act, the Declarations, these Articles, the Bylaws and the Rules and Regulations (all as amended from time to time) shall be exercised exclusively by the Board of Directors, subject only to approval by Members when such approval is specifically required.

**8.3 Election; Removal.** Directors of the Association shall be elected at the annual meeting of the Members in the manner determined by the Bylaws. Directors may be removed and vacancies on the Board of Directors shall be filled in the manner provided by the Bylaws.

**9. BYLAWS.** The Bylaws of this Corporation may be altered, amended, or repealed in the manner provided in the Bylaws.

**10. AMENDMENTS.** These Articles may be amended in the following manner:

**10.1 Proposal of Amendments.** An amendment may be proposed by the President of the Association, a majority of the Directors, or by twenty-five percent (25%) of the entire Voting Interests.

**10.2 Proposed Amendment Format.** Proposals to amend existing Articles of Incorporation shall contain the full text of the Article to be amended. New words shall be underlined and words to be deleted shall be ~~lined through~~ with hyphens. If the proposed change is so extensive that this procedure would hinder rather than assist understanding, a notation must be inserted immediately preceding the proposed amendment saying, "SUBSTANTIAL REWORDING OF ARTICLE. SEE ARTICLE NUMBER \_\_\_ FOR PRESENT TEXT."

**10.3 Notice.** Written notice setting forth the proposed amendment or a summary of the changes shall be included in the notice of any meeting at which a proposed amendment is to be considered or in connection with documentation for action without a meeting.

**10.4 Adoption of Amendments.** A resolution for the adoption of a proposed amendment may be adopted by a vote of two-thirds ( $2/3^{\text{rds}}$ ) of the Voting Interests of the Association present (in person or by proxy) and voting at a duly noticed meeting at which a quorum is present, or by the written agreement of two-thirds ( $2/3^{\text{rds}}$ ) of the entire Voting Interests. Amendments correcting errors, omissions or scrivener's errors may be executed by the Officers of the Association, upon Board approval, without need for Association membership vote.

Exhibit "B" to the Amended and Restated Declaration of Condominium  
(Amended and Restated Articles of Incorporation)

Page 4 of 6

**10.5 Effective Date.** An amendment when adopted shall become effective after being recorded in the Lee County Public Records according to law and filed with the Secretary of State according to law.

**10.6 Automatic Amendment.** These Articles shall be deemed amended, if necessary, so as to make the same consistent with the provisions of the Declarations of Condominium. Whenever the Act, Chapter 617, Florida Statutes, or other applicable statutes or administrative regulations, as amended from time to time, are amended to impose procedural requirements less stringent than set forth in these Articles, the Board may operate the Association pursuant to the less stringent requirements without the need to change these Articles. The Board of Directors without a vote of the Members, may also adopt by majority vote, amendments to these Articles of Incorporation as the Board deems necessary to comply with such operational changes as may be enacted by future amendments to Chapters 607, 617, and the Act, or such other statutes or administrative regulations as required for the operation of the Association, all as amended from time to time.

**10.7 Proviso.** Provided, however, that no amendment shall change the configuration of any Unit or the share in the Common Elements appurtenant to it, or increase the Owner's proportionate share of the Common Expenses, unless the record Owner of the Unit concerned and all record Owners of the mortgages on such apartment shall join in the execution of the amendment, and all other Unit Owners approve the amendment. No amendment shall make any changes in the qualifications for membership, nor in the voting rights or property rights of members, nor make any changes in Sections 4.3, 4.4 or 4.5 of Article 4, entitled "Powers", without the approval in writing of all members and the joinder of all record owners of mortgages upon Units.

## 11. INDEMNIFICATION.

**11.1 Indemnity.** The Association shall indemnify any Officer, Director, or Committee Member who was or is a party or is threatened to be made a party to any threatened, pending, or contemplated action, suit or proceeding, whether civil, criminal, administrative, or investigative, by reason of the fact that he is or was a Director, Officer, or Committee Member of the Association, against expenses (including attorney's fees and appellate attorney's fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit, or proceeding, unless (i) a court of competent jurisdiction finally determines, after all appeals have been exhausted or not pursued by the proposed indemnitee, that he did not act in good faith or in a manner he reasonably believed to be in or not opposed to the best interest of the Association, and, with respect to any criminal action or proceeding, that he had reasonable cause to believe his conduct was unlawful, and (ii) such court also determines specifically that indemnification should be denied. The termination of any action, suit, or proceeding by judgment, order, settlement, conviction, or upon a plea of *nolo contendere* or its equivalent shall not, of itself, create a presumption that the person failed to act in good faith and in a manner which he reasonably believed to be in or not opposed to the best

Exhibit "B" to the Amended and Restated Declaration of Condominium  
(Amended and Restated Articles of Incorporation)

Page 5 of 6

interest of the Association, and with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful. It is the intent of the membership of the Association, by the adoption of this provision, to provide the most comprehensive indemnification possible to their Officers, Directors, and Committee Members as permitted by Florida law.

**11.2 Defense.** To the extent that a Director, Officer, or Committee Member of the Association has been successful on the merits or otherwise in defense of any action, suit, or proceeding referred to in Section 11.1 above, or in defense of any claim, issue, or matter therein, he shall be indemnified against expenses (including attorney's fees and appellate attorney's fees) actually and reasonably incurred by him in connection therewith.

**11.3 Advances.** Reasonable expenses incurred in defending a civil or criminal action, suit, or proceeding shall be paid by the Association in advance of the final disposition of such action, suit, or proceeding upon receipt of an undertaking by or on behalf of the affected Director, Officer, or Committee Member to repay such amount if it shall ultimately be determined that he is not entitled to be indemnified by the Association as authorized by this Article 11.

**11.4 Miscellaneous.** The indemnification provided by this Article 11 shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any Bylaw, agreement, vote of Members, or otherwise, and shall continue as to a person who has ceased to be a Director, Officer, or Committee Member and shall inure to the benefit of the heirs and personal representatives of such person.

**11.5 Insurance.** The Association shall have the power to purchase and maintain insurance on behalf of any person who is or was a Director, Officer, Committee Member, employee, or agent of the Association, or a Director, Officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise, against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the Association would have the duty to indemnify him against such liability under the provisions of this Article.

**12. REGISTERED OFFICE ADDRESS AND NAME OF REGISTERED AGENT.** The registered office address and the name of the registered agent of the corporation shall be as determined by the Board of Directors from time to time.

ACTIVE: 4024344\_5

Exhibit "B" to the Amended and Restated Declaration of Condominium  
(Amended and Restated Articles of Incorporation)

Page 6 of 6

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
SIX MILE CORPORATE PARK • 12140 CARISSA COMMERCE COURT, SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707



**AMENDED AND RESTATED**

**BYLAWS**

**OF**

**WEDGEWOOD AT LEXINGTON CONDOMINIUM ASSOCIATION, INC.**

**1. IDENTITY.** These are the Amended and Restated Bylaws (hereinafter "Bylaws") of Wedgewood at Lexington Condominium Association, Inc., a Florida not-for-profit Corporation formed for the purpose of administering Wedgewood at Lexington Condominium No. 1, Wedgewood at Lexington Condominium No. 2 and Wedgewood at Lexington Condominium No. 3 (hereinafter "the Condominiums") which are located at in Fort Myers, Lee County, Florida, upon the lands described in the Declarations of Condominium. (The corporation may hereafter be referred to as the "Association.")

**1.1 Office.** The office of the Association shall be at such location within Lee County, as may from time to time be determined by the Board of Directors.

**1.2 Fiscal Year.** The fiscal year of the Association shall be the calendar year, unless otherwise determined by the Board of Directors.

**1.3 Seal.** The corporate seal of the Association shall be adopted and may be changed by the Board of Directors and shall bear the name or abbreviated name of the Association, the word "Florida," the year of establishment, and shall identify the Association as a not-for-profit corporation. A common seal may be used in lieu of a raised corporate seal and in no event shall a seal be required to validate corporate actions unless specifically required by law.

**1.4 Definitions.** All terms used in these Bylaws shall have the same meaning, to the extent applicable, as set forth in the Articles of Incorporation for the Association, the Declarations for the Condominium and the Florida Condominium Act (Chapter 718, Florida Statutes, 2012), all as amended from time to time.

**2. MEMBERS' MEETINGS.**

**2.1 Annual Meetings.** Annual Members' meetings shall be held at such convenient location in Lee County as may be determined by the Board of Directors. The annual meeting shall be held on the date and time determined by the Board for the purpose of transacting any business authorized to be transacted by the Members.

**2.2 Special Meetings.** Special Members' meetings shall be held whenever called by the President or by a majority of the Board of Directors, and shall be called by the President or Secretary within a reasonable time of receipt of written notice from 25% of the Voting Interests

Exhibit "C" to Amended and Restated Declaration of Condominium  
(Amended and Restated Bylaws)

Page 1 of 23

of the Association (or 25% of the Voting Interests of the Condominium, where appropriate). Members' meetings to recall a Member or Members of the Board of Directors may be called by 10% of the Voting Interests of the Association who shall give notice of the meeting, stating the purpose of the meeting, pursuant to Section 718.112(2)(j) of the Act.

**2.3 Notice of Members' Meetings.** Notice of all Members' meetings, stating the time, place, and purpose(s) of the meeting, shall be sent to each Member by United States regular mail, unless waived in writing, at least 14 days prior to the meeting as to annual meetings and 10 days as to special meetings. Hand delivery and electronic notice is acceptable where permissible by law. Officers required to give notice may delegate the actual giving of notice to another person, such as an Assistant Officer or managing agent. Any Members' meeting or election at which one or more Directors are to be elected must be noticed as provided for in Article 2.4 next following. An Officer of the Association or other person providing notice shall execute an affidavit of mailing per Section 718.112(2)(d)(3) of the Act, which shall be retained in the official records of the Association as proof of such mailing. The notice of the annual meeting shall include an agenda for all known substantive matters to be discussed, or have such an agenda attached to it. A copy of the notice and agenda shall be posted at a conspicuous location, designated by Board resolution, on the Condominium Property at least 14 days in advance of the meeting.

Notice of specific meetings may be waived before or after the meeting and the attendance of any Member (or person authorized to vote for such Member) shall constitute such Member's waiver of notice of such meeting, except when his (or his authorized representative's) attendance is for the sole and express purpose of objecting at the beginning of the meeting to the transaction of business because the meeting is not lawfully called.

**2.4 Board of Directors Election Meetings - Notice and Procedure.** The regular election of Directors shall occur as the first item of business at the annual meeting.

**2.4.1** Not less than 60 days before a scheduled election, the Association shall mail, or deliver, whether by separate Association mailing or included in another Association mailing or delivery including regularly published newsletters, to each Member entitled to vote, a first notice of the date of the election. Any person desiring to be a candidate for the Board of Directors shall give written notice to the Association not less than 40 days before scheduled election. Not less than 14 days before the election, the Association shall mail or deliver a second notice of the election to all Members entitled to vote therein, together with a written secret ballot containing the names of all properly pre-qualified candidates which shall include an information sheet (if provided by the candidate), no larger than 8½ inches by 11 inches furnished by the candidate, to be included with the mailing of the ballot, with the costs of mailing and copying to be borne by the Association.

Exhibit "C" to Amended and Restated Declaration of Condominium  
(Amended and Restated Bylaws)  
Page 2 of 23

**2.4.2** There is no quorum requirement necessary for an election. However, at least twenty percent (20%) of the Voting Interests must cast a ballot in order to have a valid election and elections shall be decided by a plurality of those votes cast.

**2.4.3** In the event that there are only as many (or fewer) candidates pre-qualified for election as there are open seats on the Board, no election shall be held and the pre-qualified candidates shall automatically become Members of the Board after the annual meeting.

**2.4.4** The Board may establish additional election rules or procedures as it deems appropriate to ensure a fair election process. Substantial compliance with these Bylaws and the Act relative to election procedures is sufficient.

**2.5 Quorum/Voting.** A quorum at Members' meetings shall consist of persons entitled to cast a one-third ( $1/3^{\text{rd}}$ ) of the Voting Interests of the entire membership (or a one-third ( $1/3^{\text{rd}}$ ) of the Voting Interests of the Condominium, as appropriate). Those Members whose voting rights are suspended pursuant to the terms of the Condominium Documents and/or Florida Law shall be subtracted from the required number of votes in any calculation for purposes of determining whether a quorum is present during the period of suspension and such Voting Interests shall likewise be subtracted from the required number of votes when calculating any required vote as set forth in the Condominium Documents or the Act. Decisions made by a majority of the Voting Interests present and voting, in person or by proxy, at a meeting at which a quorum is present shall be binding and sufficient for all purposes except such decisions as may be required by the Act or the Condominium Documents require a larger percentage in which case the percentage required in the Act, or the Condominium Documents shall govern. To the extent lawful, Members may join in any action taken at a meeting of the Members through written approval of such action executed after the meeting, and such approval shall be as though the Member duly approved the action of the meeting in question.

**2.5.1 Units Owned by Association.** No Voting Interest or consent right allocated to a Unit owned by the Association shall be exercised or considered for any purpose, whether for a quorum, an election or otherwise, as provided in Section 718.112(2)(b)2. of the Act. Whenever a Unit owned by the Association is ineligible to vote due to the provisions of the Act and these Bylaws, the Voting Interest attributable to that Unit shall be subtracted from the required number of votes when calculating any required vote for quorum for the period during which the Association owns the Unit.

**2.6 Indivisible Vote.** Each Unit shall have one indivisible vote. If a Unit is owned by multiple individuals, such as a husband and wife, any record Owner may vote on behalf of the Unit. If a Unit is owned by a corporation, any officer may vote on behalf of said corporation. If a Unit is owned by a partnership, any general partner may vote on behalf of the partnership. If a Unit is owned in trust, any trustee of a trust shall be entitled to vote. If a Unit is owned by a limited liability company, any member or manager may vote on behalf of the limited liability company. Any person with apparent authority asserting the right to vote on behalf of a Unit

Exhibit "C" to Amended and Restated Declaration of Condominium  
(Amended and Restated Bylaws)

Page 3 of 23

owned by an artificial entity shall be conclusively presumed to be entitled to vote on behalf of said Unit, unless the Unit has filed voting instructions with the Association designating some other person entitled to vote. If multiple Owners or non-individual Owners of a Unit cannot agree on a vote, the vote shall not be counted as to the issue upon which disagreement exists. Voting certificates are not necessary. No individual may cast a vote assigned to a Unit where the voting rights assigned to the Unit are suspended pursuant to the terms of the Condominium Documents and/or Florida Law.

**2.7 Voting/Proxies.** Votes may be cast in person or by proxy. Members and proxyholders may participate in Association meetings via telephone conference, if permitted by the Association. Absent a resolution of the Board to the contrary, the President of the Association shall have the authority to determine whether Members or holders of proxies should be allowed to participate in any particular meeting of the Membership by telephonic conference. In order for a proxyholder to participate telephonically in an Association meeting, a copy of the proxy must be provided to the Association, at the meeting location, prior to the start of the meeting. Only Members or the spouse of a Member may be delegated to hold proxies, provided that the Board may designate agents of the Association (including but not limited to association legal counsel or the association's manager) as an eligible proxyholder. Proxies shall be in writing, signed and dated, and shall be valid only for the particular meeting designated therein or an adjournment thereof, but in no event for more than 90 days, and must be filed with the Association before or at the voter registration immediately preceding the meeting, or adjournment thereof. Except as specifically otherwise provided by law, Members may not vote by general proxy, but may vote by limited proxies substantially conforming to a limited proxy form adopted by the Division of Florida Condominiums, Timeshares and Mobile Homes. Limited proxies and general proxies may be used to establish a quorum. Limited proxies shall be used for votes regarding reserves; for votes taken to waive financial statement requirements; for votes taken to amend the Declarations; for votes taken to amend the Articles of Incorporation or Bylaws; and for any other matter which the Act requires or permits a vote of the Members. To the extent permissible by law, it is the intent of these Bylaws that Members who are given the opportunity to vote by limited proxy, but decline to do so, may grant general powers (including the right to vote with respect to designated agenda items) to the holder of their proxy. No proxy, limited or general, shall be used in the election of Board Members. General proxies may be used for other matters for which limited proxies are not required, and may also be used in voting for non-substantive changes to items for which a limited proxy is required and given. A photographic, photostatic, facsimile, electronic or equivalent reproduction of a signed proxy is a sufficient proxy. Owners may retroactively cure any alleged defect in a proxy by signing a statement ratifying the Owner's intent to cast a proxy vote. The use of proxies is to be liberally construed.

**2.8 No Quorum/Adjournment.** If any meeting of Members cannot be organized because a quorum is not present, or if insufficient Voting Interests are represented to approve a proposed item of Association business, or in any case where a majority of the Voting Interests

Exhibit "C" to Amended and Restated Declaration of Condominium  
(Amended and Restated Bylaws)

Page 4 of 23

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT, SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

present (in person or by proxy) so agree, the Members who are present, either in person or by proxy, may adjourn the meeting from time to time until a quorum is present, or enough votes can be cast to decide a question, or the meeting can be reconvened consistent with the intention of the Members in their approval of the adjournment.

**2.9 Order of Business.** The order of business at annual Members' meetings and, as far as applicable at all other Members' meetings, shall be:

**2.9.1** Call to order by the President;

**2.9.2** At the discretion of the President, appointment by the President of a chairman of the meeting (who need not be a Member or a Director);

**2.9.3** Appointment by the Chair of inspectors of election;

**2.9.4** Election of Directors;

**2.9.5** Calling of the roll, certifying of proxies and determination of a quorum; or, in lieu thereof, certification and acceptance of registration procedures establishing the number of persons present in person or by proxy;

**2.9.6** Proof of notice of the meeting or waiver of notice;

**2.9.7** Disposal of unapproved minutes;

**2.9.8** Reports of Officers;

**2.9.9** Reports of Committees;

**2.9.10** Unfinished business;

**2.9.11** New business;

**2.9.12** Adjournment.

**2.10 Action Without a Meeting.** Anything to the contrary herein notwithstanding, to the extent lawful, any action required to be taken at any annual or special meeting of Members, or any action which may be taken at any annual or special meeting of such Members, may be taken without a meeting, without prior notice, and without a vote if a consent in writing setting forth the action so taken, shall be signed by the requisite number of Voting Interests to approve the action.

**2.11 Class Quorums, Voting and Quorum.** The Members in each of the three (3) Condominiums shall constitute a separate voting category and the membership of each category

Exhibit "C" to Amended and Restated Declaration of Condominium  
(Amended and Restated Bylaws)

Page 5 of 23

shall be entitled to vote upon matters having an effect solely upon its interests, as determined by the Declarations of Condominium. The Board of Directors shall, in all instances, determine which categories shall be entitled to vote upon matters, and the Board's determination shall be binding and final, provided, however, that the Board's determination must be made in good faith and have a reasonable basis. Whenever a vote is taken for a Class only, or where an action of the Board effects only a Class of Association Members, notice only may be given to the members of that Class. By way of example, but not limitation, if the Board intends to consider a special assessment against only against the Unit Owners in one (1) Condominium operated by the Association, only the Unit Owners in that Condominium need receive notice of the Board meeting where the assessment will be considered. Likewise, by way of example, but not limitation, if a special meeting of the Unit Owners in a particular Condominium is to be called for any reason, only the Unit Owners in that Condominium would be considered Members of the Class for notice purposes.

### **3. BOARD OF DIRECTORS.**

**3.1 Number, Term, and Qualifications.** The affairs of the Association shall be governed by a Board composed of five (5) Directors. All Directors shall be Members or the spouse of a Member. If provided in the Act as amended from time to time, co-owners of a Unit cannot simultaneously serve on the Board, except as permitted by the Act. No more than one natural person may represent any one Unit on the Board at any given time. When a Unit is owned by a corporation, a partnership, limited liability company or similar entity, the Primary Occupant, as designated pursuant to the Declarations of Condominium, and the spouse of the Primary Occupant shall be eligible for Board membership. If the Unit is excused from designation of a Primary Occupant because the entity held title before the effective date of this provision, then any eligible voter, as described in Article 2.6 shall be eligible for Board service. Trustees and beneficiaries of trusts (provided that the beneficiaries reside in the Unit), and the spouses of such persons, shall be considered eligible for Board membership. Persons who have been convicted of any felony in this State or in a United States District or Territorial Court, or who has been convicted of any offense in another jurisdiction that would be considered a felony if committed in this State, are not eligible to serve on the Board, unless such felon's rights have been restored for a period of at least 5 years as of the date on which such person seeks election to the Board. A person who has been suspended or removed by the Division of Florida Condominiums, Timeshares, and Mobile Homes pursuant to the Act, or who is more than 90 days delinquent in the payment of any fee, fine, or special or regular assessment is not eligible for Board membership. All Directors shall be up for election at each annual meeting and their term shall expire at the annual meeting. The term of each Director's service shall extend until their elected term is completed. Resignations of Directors are effective when received by the Association in writing, unless a later date is stated.

**3.2 Board Vacancies.** Vacancies in the Board of Directors shall be filled by appointment by a majority vote of the remaining Directors for the remainder of the unexpired

Exhibit "C" to Amended and Restated Declaration of Condominium  
(Amended and Restated Bylaws)

Page 6 of 23

term as provided in Article 3.1; provided that when a Director has been recalled by the membership, the vacancy created by his removal cannot be filled with the same person as has been removed from the Board, and when a majority of the Board has been recalled, vacancies shall be filled by the membership, as provided by law.

**3.3 Organizational Meeting.** The organizational meeting of each newly-elected Board of Directors to elect Officers shall be held at such place and time as shall be fixed by the Directors, provided a quorum shall be present. Unless otherwise noticed, the organizational meeting shall be held immediately following the annual meeting of the Members.

**3.4 Regular Meetings.** Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the Directors. Notice of regular meetings, unless fixed by Board resolution, shall be given to each Director personally or by mail, electronic mail, telephone, or facsimile at least two days prior to the day named for such meeting.

**3.5 Special Meetings.** Special meetings of the Directors may be called by the President and must be called by the Secretary at the written request of any two (2) Directors. Not less than two days' notice of the meeting (except in an emergency) shall be given to each Director personally or by mail, electronic mail, telephone, or facsimile, which notice shall state the time, place, and purpose of the meeting. Twenty percent (20%) of the Voting Interests may petition for the Board to take up an item of business at a regular or special meeting of the Board. Such meeting must be held within 60 days of receipt of the petition. The Board is not required to take any particular action as a result of such petitions.

**3.6 Waiver of Notice.** Any Director may waive notice of a meeting before, at, or after the meeting and such waiver shall be deemed equivalent to the giving of notice. Attendance by a Director at a meeting shall constitute waiver of notice of the meeting.

**3.7 Notice to Owners of Board Meetings.** Notice of meetings, which notice shall specifically include an agenda, shall be posted conspicuously as provided in Article 2.3 of these Bylaws at least 48 continuous hours in advance of the meeting for the attention of Members, except in an emergency. If closed circuit television is available, the Board may use same for posting notices, as permitted by law. Meetings at which a regular monthly or quarterly Assessment or Special Assessment is to be considered shall specifically state that Assessments will be considered and the nature, estimated cost, and description of the purpose for such Assessments. However, written notice of any meeting at which non-emergency special assessments, or at which amendment to rules regarding Unit use will be considered, or where the Board will establish the deductible feature of the Association's insurance policies, shall be mailed or delivered (including electronic delivery as provided by law) to the Members and posted conspicuously as provided in Article 2.3 of these Bylaws not less than 14 continuous days prior to the meeting. Evidence of compliance with this 14-day notice shall be by an affidavit

Exhibit "C" to Amended and Restated Declaration of Condominium  
(Amended and Restated Bylaws)

Page 7 of 23

executed by the person giving notice, where required by law, and shall be filed among the official records of the Association.

**3.8 Owner Participation in Board Meetings.** Meetings of the Board of Directors at which a majority of the Board Members are present, shall be open to all Members. Members may not designate third persons, through power of attorney or otherwise, to attend Board meetings, unless agreed to otherwise by the Board. The Member's right to attend Board meetings includes the right to speak with reference to all designated agenda items; provided, however, the Board may adopt reasonable rules governing the frequency, duration, and manner of Member statements. Unless otherwise provided by the Board, each Member is entitled to speak for three minutes with reference to designated agenda items. Board meetings subject to the attorney-client privilege and Board meetings involving personnel matters shall not be subject to Member attendance.

**3.9 Board Meetings, Quorum, and Voting.** The designation of the agenda for Board meetings shall be at the discretion of the President. However, the President shall be obligated to include any item on the agenda for a Board meeting, if requested, in writing, by two Board Members, and where required due to petition from twenty percent (20%) of the Voting Interests. A quorum at Directors' Meetings shall consist of a majority of the Directors. The acts approved by a majority of the Board of Directors present and voting at a meeting shall constitute the acts of the Board. Directors may not vote by proxy or by secret ballot at Board meetings (except that Directors may vote by secret ballot when electing Officers) and a vote or abstention for each Member present shall be recorded in the minutes. A Director of the Association who abstains from voting on any action taken on any corporate matter shall be presumed to have taken no position with regard to the action. If at any meeting of the Board there be less than a quorum present, or if a quorum exists and a majority of the Directors so approve, the Director(s) present may adjourn the meeting from time to time until a quorum is present and no further notice need be given except for announcement at the meeting as to the date, time, and place of the adjournment. At any adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted. Absent Directors may later sign written joinders in Board actions, but such joinders may not be used for purposes of creating a quorum or counted as official vote for the Board's meeting. Directors may participate telephonically in Board meetings, as provided by law.

**3.10 Presiding Officer.** The presiding Officer at Directors' meetings shall be the President, and in his absence, the Vice President. In the absence of the presiding Officer, the Directors present shall designate one of their number to preside.

**3.11 Director Compensation.** Directors shall serve without pay but shall be entitled to reimbursement for expenses reasonably incurred.

**3.12 Community Association Voting Member.** Inasmuch as the Condominium Association is a "Neighborhood Association" under, and as defined in, the Master Declaration,

Exhibit "C" to Amended and Restated Declaration of Condominium  
(Amended and Restated Bylaws)

Page 8 of 23



the Voting Member representing the Members of the Association in Community Association matters shall be elected by the Board of Directors; provided, however, in the absence of such an election, the President shall be the Voting Member and the Vice President the alternate Voting Member. The Community Association Director will be elected by the Association Members according to the provisions of the Community Association Bylaws, Article 4.2, as amended from time to time.

**4. POWERS AND DUTIES OF THE BOARD OF DIRECTORS.** All of the powers and duties of the Association existing under the laws of Florida generally, Florida Not For Profit Corporation Statute, the Condominium Act, and the Condominium Documents, all as amended from time to time, and all powers and duties of a "Neighborhood Association" and "Neighborhood Committee" under the Master Declaration, shall be exercised exclusively by the Board of Directors, or its duly authorized agents, contractors, or employees, when said powers and duties have been delegated by the Board, subject only to the approval by Members when such is specifically required. The powers of the Directors shall include, but shall not be limited to, the power:

**4.1 To Assess.** The Directors shall adopt budgets and make and collect special and periodic Assessments against Owners to defray the costs of the Association.

**4.2 To Expend Association Funds.** The Directors shall use the proceeds of Assessments in the exercise of its powers and duties.

**4.3 To Maintain The Condominium Property.** The Directors shall maintain, repair, replace, and operate the property within the Condominium.

**4.4 To Adopt Regulations.** The Directors shall enact and may amend Rules and Regulations concerning the transfer, use, appearance, maintenance, and occupancy of the Units, Common Elements, Limited Common Elements, and Association Property, and to enact rules, policies, and resolutions pertaining to the operation of the Association, subject to any limitations contained in the Declarations of Condominium.

**4.5 To Reconstruct After Casualty.** The Directors may reconstruct the Units, Common Elements, Limited Common Elements, and Association Property improvements after casualty and to further improve the property, as specified in the Declarations of Condominium.

**4.6 To Enforce.** The Directors may enforce by legal means the provisions of applicable laws and the Condominium Documents, and may interpret the Condominium Documents, as the final arbiter of their meaning, unless such interpretation is wholly arbitrary, or contrary to law.

**4.7 To Contract.** The Directors may contract for management, maintenance, and operation of the Condominiums and the Association.

Exhibit "C" to Amended and Restated Declaration of Condominium  
(Amended and Restated Bylaws)

Page 9 of 23

**4.8 To Insure.** The Directors shall carry insurance for the protection of the Members and the Association, pursuant to requirements contained in the Declarations of Condominium and the Act.

**4.9 To Pay Utility Bills.** The Directors shall pay the cost of all utility services rendered to the Condominiums and Association Property and not billed to Owners of individual Units.

**4.10 To Hire and Discharge.** The Directors may employ personnel and designate other Officers to be paid a reasonable compensation and grant them such duties as seem appropriate for proper administration of the purposes of the Association.

**4.11 To Sue and Be Sued.** The Directors may bring and defend suits and other proceedings and may exercise its business judgment as to whether the interests of the Association are best served with respect to settlement of a matter or whether a suit or other proceeding should be commenced.

**4.12 To Deal in Real and Personal Property.** The Directors may make and execute contracts, deeds, mortgages, notes and other evidence of indebtedness, leases, and other instruments by its Officers, and may purchase, own, lease, convey, and encumber real and personal property subject to the provisions of the Declarations. The Directors may grant or modify easements and licenses over the Condominium Property necessary or desirable for proper operation of the Condominium.

**4.13 To Enter Into Contracts for Products and Services.** All contracts for the purchase, lease, or renting of materials or equipment, or which are not to be fully performed within one year, and all contracts for services shall be in writing. As to any such contract which requires payment exceeding 5% of the gross budget (including reserves) except for contracts with employees of the Association, attorneys, accountants, architects, engineers, landscape architects, and community association managers, the Association shall obtain competitive bids unless the products and services are needed as the result of an emergency, or unless the desired supplier is the only source of supply within the County serving the Association. The Association need not accept the lowest bid. If a contract was awarded under the competitive bid procedures of this Article, any renewal of that contract is not subject to such competitive bid requirements if the contract contained a provision that allowed the Board to cancel a contract on thirty days' notice. Materials, equipment, or services provided to a condominium under a local government franchise agreement by a franchise holder are not subject to the competitive bid requirements of this Article.

**4.14 To Levy Fines and Suspend Rights.** The Directors may, pursuant to Section 718.303 of the Act, impose fines against a Unit not to exceed the maximum permissible by law, and/or suspend the right to use Common Elements, as permitted by the Act, for failure to comply with the provisions of the Board policies and resolutions, the Condominium Documents,

Exhibit "C" to Amended and Restated Declaration of Condominium  
(Amended and Restated Bylaws)

Page 10 of 23

including the Rules and Regulations, and applicable laws by Members, their Families, Occupants, Tenants, and Invitees.

**4.14.1** A fine may be imposed for each day of continuing violation at the highest rate allowed by law per violation with a single notice and opportunity for hearing, provided that no fine shall in the aggregate exceed the maximum amount permissible by law. A suspension shall be levied and enforceable for a reasonable amount of time, as determined by the Board of Directors, and subject to the approval of the independent committee specified in Article 4.15.3 hereof.

**4.14.2** The party against whom the fine and/or suspension is sought to be levied shall be afforded an opportunity for hearing by being given notice of not less than twenty (20) days. Notice shall be effective when mailed by United States Mail, certified, return receipt requested, to the address of the Member listed in the official records of the Association, and as to Tenants, to the mailing address for the Unit. Said notice shall include:

- (a) A statement of the date, time, and place of the hearing;
- (b) A statement of the provisions of the Declarations, Articles of Incorporation, Bylaws, Rules and Regulations, Board policies and resolutions, or laws which have allegedly been violated; and,
- (c) A short and plain statement of the matters asserted by the Association.

**4.14.3** The party against whom the fine and/or suspension may be levied shall have an opportunity to respond, to present evidence, and to provide written and oral argument on all issues involved and shall have an opportunity at the hearing to review, challenge, and respond to any material considered by the Association. The hearing shall be held before a Committee of Members appointed by the Board, which may not include Board Members nor persons residing in a Board Member's household. If the Committee does not agree with the fine and/or suspension, the fine and/or suspension may not be levied. Should the Association be required to initiate legal proceedings to collect a duly levied fine, or enforce a duly imposed suspension, the prevailing party in an action to collect said fine shall be entitled to an award of costs, and a reasonable attorney's fee incurred before trial (including in connection with the preparation for and conduct of fining and/or suspension hearings), at trial, and on appeal. Members shall be jointly and severally liable for the payment of fines levied against and/or suspension imposed upon Tenants, Guests, Invitees, or other Occupants of a Unit.

**4.15 To Appoint Committees.** The Directors may appoint Committees and delegate to such Committees those powers and duties of the Association as the Board deems advisable. All Committees and Committee Members shall serve at the pleasure of the Board. Committees of the Association as defined in Section 718.103(7) of the Act, shall conduct their affairs in the

Exhibit "C" to Amended and Restated Declaration of Condominium  
(Amended and Restated Bylaws)  
Page 11 of 23

same manner as provided in these Bylaws for Board of Director meetings. All other Committees may meet and conduct their affairs in private without prior notice or Owner participation, unless otherwise directed by the Board of Directors.

**4.16 To Ensure Fire Safety Compliance.** The Directors may accept a Certificate of Compliance from a licensed electrical contractor or electrician as evidence of compliance of the condominium Units with the applicable Fire and Life Safety Code.

**4.17 To Approve the Installation of Hurricane Shutters.** The Directors shall adopt hurricane shutter specifications for the Condominium which shall include color, style, and other factors deemed relevant by the Board. All specifications adopted by the Board shall comply with the applicable building code, or shall be structured to ensure that installed shutters are in compliance with the applicable building code. The Board shall not refuse to approve the installation or replacement of hurricane shutters conforming to the specifications adopted by the Board, provided that the Board may condition approval upon the Member's agreement to execute appropriate documentation regarding same.

**4.18 To Exercise Emergency Powers.** In the event of any "emergency" as defined in Article 4.18.10 below, the Board of Directors may exercise the emergency powers described in this Article, and any other emergency powers authorized by Section 617.0207, Florida Statutes (2012), Section 617.0303, Florida Statutes (2012), and Section 718.1265 of the Act, all as amended from time to time.

**4.18.1** The Board may name as Assistant Officers persons who are not Directors, which Assistant Officers shall have the same authority as the Executive Officers to whom they are assistant during the period of the emergency, to accommodate the incapacity of any Officer of the Association.

**4.18.2** The Board may relocate the principal office or designate alternative principal offices or authorize the Officers to do so.

**4.18.3** During any emergency the Board may hold meetings with notice given only to those Directors with whom it is practicable to communicate, and the notice may be given in any practicable manner, including publication or radio. The Director or Directors in attendance at such a meeting shall constitute a quorum.

**4.18.4** The Board may change or postpone the annual meeting date to a date and time determined by the Board, even if such change will result in not holding an annual meeting in a particular calendar year, as long as the annual meeting is held no more than eighteen (18) months after the prior annual meeting date.

Exhibit "C" to Amended and Restated Declaration of Condominium  
(Amended and Restated Bylaws)

Page 12 of 23

**4.18.5** Corporate action taken in good faith during an emergency under this Article to further the ordinary affairs of the Association shall bind the Association; and shall have the rebuttable presumption of being reasonable and necessary.

**4.18.6** The Board may use reserve funds to meet Association needs, and may use reserve funds as collateral for Association loans. The Board may adopt emergency assessments with such notice deemed practicable by the Board.

**4.18.7** The Board may adopt emergency Rules and Regulations governing the use and occupancy of the Units, Common Elements, Limited Common Elements, and Association property, with notice given only to those Directors with whom it is practicable to communicate.

**4.18.8** Any Officer, Director, or employee of the Association acting with a reasonable belief that his actions are lawful in accordance with these emergency Bylaws shall incur no liability for doing so, except in the case of willful misconduct.

**4.18.9** These emergency Bylaws shall supersede any inconsistent or contrary provisions of the Bylaws during the period of the emergency.

**4.18.10** For purposes of this Article only, an "emergency" exists only during a period of time that the Condominium, or the immediate geographic area in which the Condominium is located, is subjected to:

**4.18.10.1** a state of emergency declared by local civil or law enforcement authorities;

**4.18.10.2** a hurricane warning;

**4.18.10.3** a partial or complete evacuation order;

**4.18.10.4** federal or state "disaster area" status;

**4.18.10.5** a catastrophic occurrence, whether natural or manmade, which seriously damages or threatens to seriously damage the physical existence of the condominium, such as an earthquake, tidal wave, fire, hurricane, tornado, war, civil unrest, or act of terrorism; or,

**4.18.10.6** an unanticipated set of circumstances, which, if not acted upon with immediacy, is likely to cause imminent and significant financial harm to the Association, the Members, the Condominium Property, or Association Property.

**4.19 To Enter Into Contracts and Borrow Money.** The Directors may make contracts and incur liabilities, borrow money at such rates of interest as the Association may

Exhibit "C" to Amended and Restated Declaration of Condominium  
(Amended and Restated Bylaws)

Page 13 of 23

determine, issue its notes, bonds, and other obligations, and secure any of its obligations by mortgage and pledge of all or any of its property, franchises, or income.

## 5. OFFICERS.

**5.1 Executive Officers.** The executive Officers of the Association shall be the President, one or more Vice Presidents, a Secretary and a Treasurer, all of whom shall be elected annually by and from the Board of Directors, and who may be peremptorily removed by a majority vote of the Directors at any meeting. Any person may hold two or more offices except that the President shall not also be the Secretary. The Board of Directors may also appoint such Assistant Officers as may be desired. Assistant Officers need not be Directors.

**5.2 President — Powers and Duties.** The President shall be the Chief Executive Officer of the Association, shall preside at all meetings of the Board of Directors and Association meetings. The President shall have general supervision over the affairs of the Association and shall have all of the powers and duties which are usually vested in the office of President of a corporation.

**5.3 Vice-President — Powers and Duties.** The Vice-President shall, in the absence or disability of the President, exercise the powers and perform the duties of the President. He shall also generally assist the President and exercise such other powers and perform such other duties as shall be prescribed by the Directors.

**5.4 Secretary — Powers and Duties.** The Secretary shall keep the minutes of all proceedings of the Directors and the Members. He shall attend to the giving and serving of all notices to the Members and Directors and other notices required by law. He shall have custody of the seal of the Association and affix the same to instruments requiring a seal when duly signed. He shall keep and have custody of the records of the Association, except those of the Treasurer. He shall perform all other duties incident to the office of Secretary of the Association and as may be required by the Directors or the President.

**5.5 Treasurer — Powers and Duties.** The Treasurer shall have custody of all property of the Association, including funds, securities, and evidences of indebtedness. He shall keep the Assessment rolls and accounts of the Members. He shall keep the books of the Association in accordance with good accounting practices and shall perform all other duties incident to the office of the Treasurer of a corporation.

**5.6 Officers' Compensation.** Officers shall not be entitled to compensation for service as such, but shall be entitled to reimbursement of expenses reasonably incurred. This provision shall not preclude the Board of Directors from employing an Officer or Director as an agent or employee of the Association.

## 6. INDEMNIFICATION.

Exhibit "C" to Amended and Restated Declaration of Condominium  
(Amended and Restated Bylaws)

Page 14 of 23

**6.1 Indemnity.** The Association shall indemnify any Officer, Director, or Committee Member who was or is a party or is threatened to be made a party to any threatened, pending, or contemplated action, suit or proceeding, whether civil, criminal, administrative, or investigative, by reason of the fact that he is or was a Director, Officer, or Committee Member of the Association, against expenses (including attorney's fees and appellate attorney's fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit, or proceeding, unless (i) a court of competent jurisdiction finally determines, after all appeals have been exhausted or not pursued by the proposed indemnitee, that he did not act in good faith or in a manner he reasonably believed to be in or not opposed to the best interest of the Association, and, with respect to any criminal action or proceeding, that he had reasonable cause to believe his conduct was unlawful, and (ii) such court also determines specifically that indemnification should be denied. The termination of any action, suit, or proceeding by judgment, order, settlement, conviction, or upon a plea of *nolo contendere* or its equivalent shall not, of itself, create a presumption that the person failed to act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interest of the Association, and with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful. It is the intent of the membership of the Association, by the adoption of this provision, to provide the most comprehensive indemnification possible to their Officers, Directors, and Committee Members as permitted by Florida law.

**6.2 Defense.** To the extent that a Director, Officer, or Committee Member of the Association has been successful on the merits or otherwise in defense of any action, suit, or proceeding referred to in Article 6.1 above, or in defense of any claim, issue, or matter therein, he shall be indemnified against expenses (including attorney's fees and appellate attorney's fees) actually and reasonably incurred by him in connection therewith.

**6.3 Advances.** Reasonable expenses incurred in defending a civil or criminal action, suit, or proceeding shall be paid by the Association in advance of the final disposition of such action, suit, or proceeding upon receipt of an undertaking by or on behalf of the affected Director, Officer, or Committee Member to repay such amount if it shall ultimately be determined that he is not entitled to be indemnified by the Association as authorized by this Article 6.

**6.4 Miscellaneous.** The indemnification provided by this Article 6 shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any Bylaw, agreement, vote of Members, or otherwise, and shall continue as to a person who has ceased to be a Director, Officer, or Committee Member and shall inure to the benefit of the heirs and personal representatives of such person.

**6.5 Insurance.** The Association shall have the power to purchase and maintain insurance on behalf of any person who is or was a Director, Officer, Committee Member, employee, or agent of the Association, or a Director, Officer, employee, or agent of another

Exhibit "C" to Amended and Restated Declaration of Condominium  
(Amended and Restated Bylaws)

Page 15 of 23

corporation, partnership, joint venture, trust, or other enterprise, against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the Association would have the duty to indemnify him against such liability under the provisions of this Article.

**7. MINUTES AND INSPECTION OF RECORDS.** Minutes of all meetings of Members and of the Board of Directors shall be kept in a business-like manner. These, plus records of all receipts and expenditures and all other official records, as defined in Section 718.111(12) of the Act, shall be available for inspection by Members and Board Members at all reasonable times. Provided, however, that the Directors may adopt reasonable rules regarding the frequency, time, location, notice, and manner of record inspections and any copying.

**8. FISCAL MANAGEMENT.**

**8.1 Budget.** The budget shall be adopted by the Board. A proposed annual budget of Common Expenses and anticipated revenues shall be prepared by the Board of Directors which shall include all anticipated income/revenue and expenses for operation, maintenance, and administration of the Condominium. The proposed budget may also include expenses of security, in-house communications, Directors and Officers insurance, transportation services, bulk cable or master antenna television, and interior pest control, all of which are declared to be Common Expenses under these Bylaws. The proposed budget shall include reserves per Section 718.112(2)(f)2 of the Act, the funding of which may be waived or reduced by a vote of a majority of the Voting Interests present (in person or by proxy) and voting at a duly noticed meeting of the Association, or by written agreement of a majority of the entire Voting Interests. Reserve funds and any accrued interest on the funds shall remain in the reserve account for authorized reserve expenditures, unless their use for other purposes is approved in advance by a vote of the majority of the Voting Interests present (in person or by proxy) and voting at a duly called meeting of the Association, or by the written approval of a majority of the entire Voting Interests. The budget may contain a reasonable allowance for contingencies and provide funds for all operating expenses previously incurred. If at any time a budget shall prove insufficient, it may be amended by the Board of Directors for the remaining portion of the fiscal year, provided that notice of the Board meeting at which the revised budget will be considered along with a copy of the proposed revisions to the budget shall be mailed to each Member as provided in Article 8.2 hereof.

**8.1.1 Separate Budgets.** A separate budget for each Condominium and for the Association shall be made, adopted and provided as required herein. Each budget shall disclose:

**8.1.1.1** Estimated expenses specific to a Condominium such as the maintenance, deferred maintenance or replacement of the Common Elements of the Condominium, which shall be provided for in the budget of the specific Condominium;

Exhibit "C" to Amended and Restated Declaration of Condominium  
(Amended and Restated Bylaws)

Page 16 of 23



**8.1.1.2** Estimated expenses not specific to a Condominium such as the maintenance, deferred maintenance or replacement of the portions of the Common Elements of a Condominium serving all Members of the Association, Association Property or other property serving more than one Condominium which shall be provided for in the Association budget; and

**8.1.1.3** Each Condominium's share of the estimated expenses of the Association, which shall be shown on the individual Condominium budgets.

**8.1.2 Budget Meetings and Votes.** Whenever a meeting or vote of Unit Owners with respect to a budget (or reserves shown therein) is required to be permitted above:

**8.1.2.1** The meeting and vote with respect to the Association's budget shall be of all Unit Owners; and

**8.1.2.2** The meeting and vote with respect to a budget for a particular Condominium shall be of only Owners of Units in that Condominium.

**8.1.3 Shares of Association Budget.** Unit Owners in each Condominium shall pay Assessments for expenses shown in the Association's budget calculated by multiplying (i) the Unit's percentage share of Common Expenses by (ii) the amount of Association expenses allocated to the Condominium. Association expenses shall be allocated to each Condominium based upon the following formula:

$$\begin{array}{r} \text{Association} \\ \text{Expenses} \end{array} \quad \times \quad \frac{\text{Units in the Condominium}}{\text{Units in all Condominiums}}$$

**8.1.4 Substitute Budget.** If an adopted budget requires Assessments against the Units in any fiscal year which exceed 115 percent of the Assessments for the preceding fiscal year, the Board shall conduct a special meeting of the Members to consider a substitute budget if the Board receives, within 21 days after adoption of the annual budget, a written request for a special meeting from at least 10 percent of all Voting Interests. The special meeting shall be conducted within 60 days after adoption of the annual budget. At least 14 days prior to such special meeting, the Board shall hand deliver to each Member or mail to each Member at the address last furnished to the Association, a notice of the meeting. An Officer or manager of the Association, or other person providing notice of such meeting shall execute an affidavit evidencing compliance with this notice requirement. Such affidavit shall be filed among the official records of the Association. At the special meeting, Members shall consider and enact a substitute budget. The adoption of the substitute budget requires a vote of not less than a majority vote of all the Voting Interests. If a meeting of the Members has been called and a quorum is not attained or a substitute budget is not adopted by the Members, the budget adopted by the Board of Directors goes into effect as scheduled. In determining whether Assessments exceed 115 percent of similar Assessments in prior years, any authorized provisions for reasonable reserves for repair or replacement of the Condominium Property, anticipated

Exhibit "C" to Amended and Restated Declaration of Condominium  
(Amended and Restated Bylaws)

Page 17 of 23

expenses by the Association which are not anticipated to be incurred on a regular or annual basis, or Assessments for betterments to the Condominium Property must be excluded from the computation.

**8.2 Mailing and Posting.** A copy of the proposed annual budget shall be mailed or hand-delivered to the Members not less than 14 days prior to the meeting of the Directors at which the budget will be adopted together with a notice of the meeting. Electronic notice transmitted to the address furnished by the Unit Owner for such purpose is acceptable where permissible by law. The notice shall also be posted in a conspicuous location on the Condominium Property as provided by law. The Board may include notice of its meeting to set the insurance deductible with notice of the budget meeting.

**8.3 Assessments.** The annual shares of the Units of the Common Expenses shall be made payable in installments due monthly or quarterly (as determined by the Board) in advance and shall become due on the first day of each such period and shall become delinquent 10 days thereafter. No invoice need be sent by the Association, although the Association may do so. The Association shall have the right to accelerate Assessments of an Owner delinquent in the payment of Common Expenses. Accelerated Assessments shall be due and payable on the date a claim of lien is filed and may include the amounts due for the remainder of the fiscal year for which the claim of lien was filed.

**8.4 Special Assessments.** Special Assessments for Common Expenses which are not funded through the budget may be made by the Board of Directors, and the time of payment shall likewise be determined by them. Notice of the Board meeting at which such Assessments shall be considered shall be posted and mailed to each Member as provided in Article 3.7 hereof, except in the event of an emergency. The funds collected pursuant to a Special Assessment shall be used only for the specific purpose or purposes set forth in such notice. However, upon completion of such specific purpose or purposes, any excess funds will be considered Common Surplus, and may, at the discretion of the Board, either be returned to the Members or applied as a credit towards future Assessments.

**8.5 Assessment Roll.** The Assessments for Common Expenses and Charges shall be set forth upon a roll of the Units which shall be available for inspection at all reasonable times by Members. Such roll shall indicate for each Unit the name and address of the Owner, and the Assessments and Charges paid and unpaid. A certificate made by a duly authorized representative of the Association or by the Board of Directors as to the status of a Unit's account may be relied upon for all purposes by any person for whom made.

**8.6 Liability for Assessments and Charges.** A Member shall be liable for all Assessments and Charges coming due while the Owner of a Unit, and such Member and Member's grantees or successors after a conveyance or other transfer of title shall be jointly and severally liable for all unpaid Assessments and Charges due and payable up to the time of such voluntary conveyance. Liability may not be avoided by waiver of the use or enjoyment of any

Exhibit "C" to Amended and Restated Declaration of Condominium  
(Amended and Restated Bylaws)

Page 18 of 23

Common Elements or Association Property or by abandonment of the Unit for which the Assessments or Charges are due. Where a mortgagee holding a first mortgage of record obtains title to a Unit by foreclosure, such mortgagee shall be liable for such Unit's unpaid Assessments, Charges, or share of the Common Expenses which became due prior to acquisition of such mortgagee's title as provided in the Act. Such mortgagee or its successors and assigns are liable for all Assessments and Charges accruing after their taking of title.

**8.7 Liens for Assessments.** The unpaid portion of an Assessment, including an accelerated Assessment which is due, together with all costs, collection expenses, interest, late fees, and reasonable attorney's fees for collection, including appeals, shall be secured by a continuing lien upon the Unit.

**8.8 Lien for Charges.** Unpaid Charges due to the Association together with costs, interest, late fees, expenses and reasonable attorney's fees shall be secured by a common law and contractual lien upon the Unit and all appurtenances thereto when a notice claiming the lien has been recorded by the Association.

**8.9 Collection — Interest; Administrative Late Fee; Application of Payments.** Assessments or Charges paid on or before ten days after the date due shall not bear interest, but all sums not paid on or before ten (10) days shall bear interest at the highest rate permitted by law from the date due until paid. In addition to such interest the Association may charge an administrative late fee in an amount not to exceed the greater of \$25 or 5% of each installment of the Assessment for which payment is received more than ten (10) days after the date due, or the maximum late fee permissible by law. The Association may also accelerate all Assessments or Charges which are accrued, but not yet due, in the manner provided by law. All payments upon account shall be first applied to interest, then the late fee, then to any costs and collection expenses and reasonable attorney's fees incurred, and then to the Assessment payment first due.

Except as otherwise provided in the Act, no lien may be filed by the Association against a Condominium Unit until thirty (30) days after the date on which a notice of intent to file a lien has been delivered to the Owner pursuant to Section 718.121(4) of the Act.

**8.10 Collection — Suit.** The Association, at its option, may enforce collection of delinquent Assessments or Charges by suit at law, by foreclosure of the lien securing the Assessments or Charges, or by any other remedy available under the laws of the State of Florida, and in any event the Association shall be entitled to recover the payments which are delinquent at the time of collection, judgment, or decree, together with those which have become due by acceleration or which have thereafter become due, plus interest thereon, and all costs and expenses incident to the collection and the proceedings, including reasonable attorney's fees, incurred before trial, at trial, and on appeal. The Association may attach rental income for delinquent Units and may withhold approval for the sale, lease, or other transfer of a Unit, or any interest therein, until all past due Assessments, interest, late fees, costs, and attorney's fees have

Exhibit "C" to Amended and Restated Declaration of Condominium  
(Amended and Restated Bylaws)

Page 19 of 23

been paid in full. The Association must deliver or mail by certified mail to the Member written notices of its intention to file a lien and to foreclose the lien, as provided by law.

**8.11 Association Depository.** The Depository of the Association in which the funds of the Association shall be deposited, shall be financial institutions authorized to do business in Florida which carry FDIC insurance or equivalent private insurance provided that such insurance is backed by the full faith and credit of the United States of America. Alternatively, the Association may deposit funds with brokerage houses or institutions which are members of the National Association of Securities Dealers, Inc. and insured by industry insurance backed by the full faith and credit of the United States of America. Principal of Association funds, whether reserves or operating funds, may not be placed at risk for investment purposes. Withdrawal of money from those accounts shall be only by checks or other withdrawal instruments signed by those persons as are authorized by the Directors or by electronic transfer protocols approved by the Board of Directors.

**8.12 Commingling of Funds.** All funds of the Association shall be maintained separately in the Association's name. No community association manager or business entity required to be licensed or registered under Section 468.432, Florida Statutes (2012), as amended from time to time, no agent, employee, Officer, or Director of the Association shall commingle any Association funds with his funds or with the funds of any other condominium association or community association as defined in Section 468.431, Florida Statutes (2012), as amended from time to time, or with those of any other entity. Reserve funds and operating funds of the Association may be commingled for investment purposes, as provided by law.

**8.13 Financial Reports.** A complete financial report of actual receipts and expenditures of the Association shall be made annually which shall comply with Rule 61B-22, Florida Administrative Code (2012), as amended from time to time, and with Section 718.111(13) of the Act.

**8.14 Fidelity Bonding.** The Association shall obtain and maintain adequate fidelity bonding in the minimum principal sum set forth in the Act, for each person (whether or not a Director) who controls or disburses Association funds, and the President, Secretary and Treasurer. The Association shall bear the cost of bonding of Directors and Officers. In the case of a community association manager or management firm, the cost of bonding may be allocated as the parties may agree. All persons providing management services to the Association, or otherwise having the authority to control or disburse Association funds, shall provide the Association with a certificate of insurance evidencing compliance with this paragraph, naming the Association as an insured under said policy.

**9. PARLIAMENTARY RULES.** Robert's Rules of Order (latest edition) shall be used as a general, non-binding guide in the conduct of Members' meetings, Board meetings, and Committee meetings to ensure fairness, impartiality, and respect for minority views without unduly burdening majority rights. Meetings shall also be conducted in accordance with these

Exhibit "C" to Amended and Restated Declaration of Condominium  
(Amended and Restated Bylaws)

Page 20 of 23

Bylaws and the procedures established by the Board from time to time, including the form of voting documents to be used. The ruling of the Chair of the meetings unless he or the Board of Directors designates a third person, as Parliamentarian, shall be binding on all matters of procedure, unless contrary to law.

**10. BYLAW AMENDMENTS.** Amendments to the Bylaws shall be adopted in the following manner:

**10.1 Proposal of Amendments.** An amendment may be proposed by the President of the Association, a majority of the Directors, or by twenty-five percent (25%) of the entire Voting Interests.

**10.2 Proposed Amendment Format.** Proposals to amend existing Bylaws shall contain the full text of the article to be amended. New words shall be underlined and words to be deleted shall be ~~lined through~~ with hyphens. If the proposed change is so extensive that this procedure would hinder rather than assist understanding, a notation must be inserted immediately preceding the proposed amendment saying, "SUBSTANTIAL REWORDING OF BYLAWS. SEE BYLAW NUMBER \_\_\_ FOR PRESENT TEXT."

**10.3 Notice.** The subject matter of proposed amendments shall be included in the notice of any meeting at which a proposed amendment is to be considered or in connection with documentation for action without a meeting.

**10.4 Adoption of Amendments.** A resolution for the adoption of a proposed amendment may be adopted by a vote of two-thirds ( $2/3^{\text{rds}}$ ) of the Voting Interests of the Association present (in person or by proxy) and voting at a duly noticed meeting at which a quorum is present, or by the written agreement of two-thirds ( $2/3^{\text{rds}}$ ) of the entire Voting Interests. Amendments correcting errors, omissions or scrivener's errors may be executed by the Officers of the Association, upon Board approval, without need for Association membership vote.

**10.5 Effective Date.** An amendment when adopted shall become effective after being recorded in the Lee County Public Records according to law.

**10.6 Automatic Amendment.** These Bylaws shall be deemed amended, if necessary, so as to make the same consistent with the provisions of the Declarations of Condominium or the Articles of Incorporation. Whenever the Act, Chapter 617, Florida Statutes, or other applicable statutes or administrative regulations, as amended from time to time, are amended to impose procedural requirements less stringent than set forth in these Bylaws, the Board may operate the Association pursuant to the less stringent requirements without the need to change these Bylaws. The Board of Directors without a vote of the Owners, may also adopt by majority vote, amendments to these Bylaws as the Board deems necessary to comply with such operational changes as may be enacted by future amendments to Chapters 607, 617, and the Act, or such

Exhibit "C" to Amended and Restated Declaration of Condominium  
(Amended and Restated Bylaws)

Page 21 of 23

other statutes or administrative regulations as required for the operation of the Association, all as amended from time to time.

**10.7 Proviso.** Provided, however, that no amendment shall change the configuration of any Unit or the share in the Common Elements appurtenant to it, or increase the Owner's proportionate share of the Common Expenses, unless the record Owner of the Unit concerned and all record Owners of the mortgages on such apartment shall join in the execution of the amendment, and all other Members approve the amendment.

## **11. DISPUTE RESOLUTION.**

**11.1 Mandatory Arbitration.** If unresolved, disputes between the Board and Members as defined in Section 718.1255(1) of the Act, must be arbitrated in mandatory non-binding arbitration proceedings as provided in the Condominium Act prior to commencing litigation, so long as the Condominium Act requires such arbitration.

**11.2 Member Inquiries.** When a Member files a written inquiry by certified mail with the Board, the Board shall respond in writing to the Member within 30 days of receipt of said inquiry. The Board's response shall either give a substantive response to the inquirer, or notify the inquirer that legal advice has been requested, or notify the inquirer that advice has been requested from the Association's counsel or the Division. If the Board requests advice from the Division, the Board shall, within ten days of its receipt of the advice, provide in writing a substantive response to the inquirer. If a legal opinion is requested, the Board shall, within 60 days after the receipt of the inquiry, provide in writing a substantive response to the inquirer. The failure to provide a substantive response to the inquirer as provided herein precludes the Association from recovering attorney's fees and costs in any subsequent litigation, administrative proceeding, or arbitration arising out of the inquiry. Absent a different rule adopted by the Board of Directors, the Board shall only be obligated to respond to one inquiry per month pertinent to any particular Unit. In the event of a grievance of a Member against the Association, the Board of Directors, or a Member thereof, written notice in detail of the grievance shall be given the Directors prior to the institution of litigation, (including but not limited to arbitration) and they shall be allowed a period of 30 days in which to resolve the grievance.

**11.3 Other Remedies.** Nothing herein shall preclude the Association from pursuing any remedy for the violation of the Condominium Documents or disputes with a Member or other party as may be available to the Association under the laws of the State of Florida or the Condominium Documents.

**12. MISCELLANEOUS.** The following miscellaneous provisions shall apply to these Bylaws and the Condominium Documents.

**12.1 Conflicts.** The term "Condominium Documents," as used in these Bylaws and elsewhere shall include the Declarations of Condominium, Articles of Incorporation, these

Exhibit "C" to Amended and Restated Declaration of Condominium  
(Amended and Restated Bylaws)

Page 22 of 23

Bylaws, the Rules and Regulations of the Association, the Plats, Surveys, Plot Plans, and graphic descriptions of improvements of record, and all other exhibits to the original Declarations of Condominium. In the event of a conflict between the language in the Declarations of Condominium and the graphic descriptions of record, the graphic description of record shall control. In the event of a conflict between language in any of the other Condominium Documents, the following priorities shall control:

1. Declarations of Condominium;
2. Articles of Incorporation;
3. Bylaws; and,
4. Rules and Regulations.

**12.2 Gender.** The use of the term “he,” “she,” “his,” “hers,” “their,” “theirs” and all other similar pronouns should be construed to include all genders and encompass the plural as well as the singular.

**12.3 Severability.** In the event that any provisions of these Bylaws is deemed invalid, the remaining provisions shall be deemed in full force and effect.

ACTIVE: 4024501\_5

Exhibit “C” to Amended and Restated Declaration of Condominium  
(Amended and Restated Bylaws)

Page 23 of 23

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT, SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

**AMENDED AND RESTATED**  
**DECLARATION OF CONDOMINIUM**  
**OF**  
**WEDGEWOOD AT LEXINGTON CONDOMINIUM NO. 2**

**RECITALS:**

In a Declaration of Condominium recorded at O.R. Book 2788, Page 2938, *et seq.* of the Lee County Public Records on 4<sup>th</sup> day of February 1997, the Condominium Developer did submit to condominium ownership pursuant to Chapter 718, Florida Statutes, known as the Condominium Act, that property situated in Lee County, Florida, more particularly described as follows:

TWO PARCELS OF LAND SITUATED IN SECTION 9, TOWNSHIP 46 SOUTH, RANGE 24 EAST, LEE COUNTY FLORIDA, SAID PARCELS BEING PART OF TRACTS 17 AND 18 OF THE LANDS PLATTED AS "LEXINGTON COUNTRY CLUB" AS RECORDED IN PLAT BOOK 56, PAGES 59 - 68, IN LEE COUNTY FLORIDA, AND BEING MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS;

**PARCEL #1** PART OF TRACT 17 AS DESIGNATED IN THE PLAT OF LEXINGTON COUNTRY CLUB, PLAT BOOK 56 PAGES 59 – 68, IN LEE COUNTY FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**COMMENCING** AT THE PLATTED CENTERLINE INTERSECTION OF BAYBERRY BEND AND WILLOWCREST COURT, THENCE S 88 D 39'10" W 17.67' TO A POINT OF THE WEST RIGHT OF WAY OF BAYBERRY BENT (35' R/W), AND THE EAST LINE OF TRACT 17 OF WHICH THIS IS PART; AND MARKING THE TRUE POINT OF BEGINNING

THENCE S 80 D 55'34" W A DISTANCE OF 138.24' TO A POINT; THENCE N 12 D 35'46" W A DISTANCE OF 149.08' TO A POINT; THENCE N 14 D 13'58" W A DISTANCE OF 360.37' TO A POINT; THENCE N 12 D 31'40" W A DISTANCE OF 44.14' TO A POINT; THENCE N 05 D 28'54" W A DISTANCE OF 371.41' TO A POINT; THENCE N 14 D 06'57" W A DISTANCE OF 207.64' TO A POINT; THENCE N 68 D 05'12" E A DISTANCE OF 140.38' TO A POINT; THENCE AROUND A NON-TANGENT CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 08 D 44'18" AN ARC DISTANCE OF 355.47' A CHORD BEARING OF S 12 D 41'48" E A DISTANCE OF 355.12' TO A POINT; THENCE AROUND A CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 09 D 02'05" AN ARC DISTANCE OF 76.08' A CHORD BEARING OF S 03 D 48'37" E A DISTANCE OF 76.01' TO A POINT; THENCE AROUND A CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 20 D 14'03" AN ARC DISTANCE OF 359.33' A CHORD BEARING OF S 09 D 24'36" E A DISTANCE OF 357.47' TO A POINT; THENCE AROUND A CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 09 D 47'58" AN ARC DISTANCE OF 82.52' A CHORD BEARING OF S 14 D 37'38" E A DISTANCE OF 82.42' TO A POINT; THENCE AROUND A CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 02 D 40'56" AN ARC DISTANCE OF 47.63' A CHORD BEARING OF S 11 D 04'07" E A DISTANCE OF 47.63' TO A POINT; THENCE S 12 D 24'36" E A DISTANCE OF 211.50' TO A POINT; THENCE AROUND A CURVE TO THE RIGHT THROUGH A

Amended and Restated Declaration of Condominium  
(Page 1 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707



CENTRAL ANGLE OF 02 D 53'42" AN ARC DISTANCE OF 32.16' A CHORD BEARING OF S 10 D 57'45" E A DISTANCE OF 32.16' TO A POINT MARKING THE POINT OF BEGINNING.

CONTAINING 3.744 ACRES MORE OR LESS

**PARCEL #2** PART OF TRACT 18 AS DESIGNATED IN THE PLAT OF LEXINGTON COUNTRY CLUB, PLAT BOOK 56 PAGES 59 – 68, IN LEE COUNTY FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**COMMENCING** AT THE PLATTED CENTERLINE INTERSECTION OF BAYBERRY BEND AND WILLOWCREST COURT, THENCE N 16 D 53'29" E 48.07' TO A POINT ON THE RIGHT OF WAY OF SAID INTERSECTION MARKING THE COMMON CORNER BETWEEN BLOCK 5 OF LEXINGTON COUNTRY CLUB AND THE AFOREMENTIONED TRACT 18 OF WHICH THIS IS A PART, SAID POINT ALSO BEING THE TRUE POINT OF BEGINNING:

THENCE AROUND A NON-TANGENT CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 25 D 59'38" AN ARC DISTANCE OF 22.68' A CHORD BEARING OF N 25 D 24'25" W A DISTANCE OF 22.49' TO A POINT; THENCE N 12 D 24'36" W A DISTANCE OF 183.21' TO A POINT; THENCE AROUND A CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 02 D 40'56" AN ARC DISTANCE OF 46.00' A CHORD BEARING OF N 11 D 04'07" W A DISTANCE OF 45.99' TO A POINT THENCE AROUND A CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 09 D 47'58" AN ARC DISTANCE OF 88.51' A CHORD BEARING OF N 14 D 37'38" W A DISTANCE OF 88.40' TO A POINT; THENCE AROUND A CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 20 D 14'03" AN ARC DISTANCE OF 346.97' A CHORD BEARING OF N 09 D 24'36" W A DISTANCE OF 345.17' TO A POINT; THENCE AROUND A CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 09 D 02'05" AN ARC DISTANCE OF 81.60' A CHORD BEARING OF N 03 D 48'37" W A DISTANCE OF 81.52' TO A POINT; THENCE AROUND A CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 08 D 48'37" AN ARC DISTANCE OF 363.77' A CHORD BEARING OF N 12 D 43'58" W A DISTANCE OF 363.42' TO A POINT; THENCE N 68 D 05'12" E A DISTANCE OF 143.86' TO A POINT; THENCE S 12 D 38'10" E A DISTANCE OF 28.25' TO A POINT; THENCE S 14 D 26'27" E A DISTANCE OF 172.86' TO A POINT; THENCE S 11 D 48'30" E A DISTANCE OF 33.38' TO A POINT; THENCE S 10 D 15'32" E A DISTANCE OF 174.40' TO A POINT; THENCE S 04 D 12'37" E A DISTANCE OF 39.68' TO A POINT; THENCE S 02 D 57'41" E A DISTANCE OF 172.59' TO A POINT; THENCE S 04 D 34'33" E A DISTANCE OF 23.86' TO A POINT; THENCE S 14 D 47'16" E A DISTANCE OF 169.65' TO A POINT; THENCE S 17 D 52'14" E A DISTANCE OF 29.89' TO A POINT; THENCE S 12 D 30'23" E A DISTANCE OF 207.29' TO A POINT; THENCE AROUND A CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 01 D 22'45" AN ARC DISTANCE OF 30.10' A CHORD BEARING OF S 84 D 23'31" W A DISTANCE OF 30.10' TO A POINT; THENCE S 32 D 03'27" W A DISTANCE OF 150.07' TO THE POINT OF BEGINNING.

CONTAINING 3.474 ACRES MORE OR LESS

Said Declaration was subsequently amended as follows:

Amendment recorded at O.R. Book 3323, Page 901, *et seq.*, Lee County Public Records;  
and

Amendment recorded at Instrument No. 2012000156333, Lee County Public Records;

Amended and Restated Declaration of Condominium  
(Page 2 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

The submission of the land to the condominium form of ownership by that document is and will remain effective. By adoption of this Amended and Restated Declaration of Condominium (hereinafter "Declaration"), the Association Members hereby adopt certain amendments to the Declaration of Condominium and amendments thereof and hereby restate the Declaration in its entirety. By adoption of this Declaration, the Members of the Association ratify governance of the property described above and in Exhibit "A" hereto under the condominium form of ownership and the provisions of the Condominium Act, as defined in Article 1.1 hereof.

**1. DEFINITIONS.** As used herein or elsewhere in the Condominium Documents, unless otherwise provided, the terms used shall be as defined in the Act and as herein provided:

**1.1 "Act" or "Condominium Act"** means the Condominium Act (Chapter 718, Florida Statutes, 2012), as it now exists or as it may be amended from time to time, including the definitions therein contained.

**1.2 "Articles"** means the Articles of Incorporation as attached hereto as Exhibit "B", as they may be amended from time to time.

**1.3 "Assessment"** means a share of the funds required for the payment of Common Expenses, which from time to time is assessed against the Units.

**1.4 "Association"** means WEDGEWOOD AT LEXINGTON CONDOMINIUM ASSOCIATION, INC., a Florida Corporation Not For Profit, the entity responsible for the operation of the Wedgewood at Lexington Condominium No. 1, Wedgewood at Lexington Condominium No. 2 and Wedgewood at Lexington Condominium No. 3.

**1.5 "Association Property"** means all property owned by the Association for the use and benefit of the Unit Owners. The two recreation areas which serve the Condominiums are intended to be Association Property.

**1.6 "Board of Directors" or "Board" or "Directors"** means the representative body which is responsible for the administration of the Association's affairs, and which is the same body that is sometimes referred to in the Condominium Act as the "Board of Administration."

**1.7 "Building"** means the structures in which the Units and portions of the Common Elements are located.

**1.8 "Bylaws"** mean the Bylaws of the Association as attached hereto as Exhibit "C", as they may be amended from time to time.

**1.9 "Casualty"** for the purposes of this Declaration, and not for the purpose of construing coverage between any insurer and insured, means an event which causes damage to the Condominium Property due to some sudden, fortuitous cause, including (but not limited to)

Amended and Restated Declaration of Condominium  
(Page 3 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL. 33966  
TELEPHONE (239) 433-7707

fire, flood, hail, wind, rain, vandalism, explosion, or bursting pipes, but does not include progressive decay or corrosion, or slow or continuous leaks.

**1.10 "Charge"** means any legal or equitable indebtedness or sums owed to or due to the Association, incurred by, or on behalf of, a Unit Owner, other than Assessments for Common Expenses. Said obligations may arise by oral or written contract, by law or in equity, or may be created by these Condominium Documents.

**1.11 "Common Elements"** means and includes:

**1.11.1** The portions of the Condominium Property not included within the Units.

**1.11.2** Easements through Units for conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility and other services to Units and the Common Elements.

**1.11.3** An easement of support in every portion of a Unit which contributes to the support of the Building, including but not limited to all load bearing interior walls within the Units.

**1.11.4** The property and installations required for the furnishing of utilities and other services to more than one Unit or to the Common Elements and for the furnishing of wastewater treatment (sewer) services to the Units, provided that such properties and installations are located within the Condominium Property.

**1.11.5** Any other parts of the Condominium Property designated as Common Elements in this Declaration.

**1.12 "Common Expenses of the Association"** means those expenses for which all Unit Owners are liable to the Association, including but not limited to expenses of administration, maintenance, and operation of the Association and such other expenses as may be declared Common Expenses of the Association either by this Declaration, the Articles of Incorporation, the Bylaws or by the Board of Directors. Maintenance and repair of all Association Property is a Common Expense of the Association. Bulk interior pest control for Units, if provided by the Association, is a Common Expense of the Association. Common Expenses of the Association include, but are not limited to, such items as cost of premiums for public liability insurance, pool service, operation, maintenance, and management of the two recreation areas serving the Condominiums, accounting and legal fees, and wages and fees for managerial and other services. Legal fees regarding the rights, liabilities, interests or affairs of the Association as an entity shall be a Common Expense of the Association. The expenses of communications services as defined in Chapter 202, information services, or Internet services, are specifically considered a Common Expense of the Association, if so designated by the Board. Common Expenses of the Association also include reasonable insurance for directors and officers, commonly used road maintenance and operation expenses, security services and other expenses which are reasonably related to the general benefit of the Unit Owners of the several

Amended and Restated Declaration of Condominium  
(Page 4 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL. 33966  
TELEPHONE (239) 433-7707

Condominiums even if such expenses do not attach to the property or the Condominiums of the Association.

Common Expenses of the Association shall be shared 74/238 by Condominium No. 1 Owners, 84/238 by Condominium No. 2 Owners, and 80/238 by Condominium No. 3 Owners. Determining the allocation of the Common Expenses of the Association as opposed to Common Expenses of the Condominium shall be in the sole discretion of the Board of Directors of the Association.

**1.13 “Common Expenses of the Condominium”** means those expenses for which Unit Owners in the individual Condominiums are liable to the Association. Expenses pertaining to the maintenance, repair, and replacement of the Common Elements of the individual Condominiums is Common Expense of the Condominium. By way of example, but not limitation, building painting, roof repair, exterior ground maintenance, and casualty insurance are Common Expenses of the Condominium. Legal fees involving the interests of the physical property within a particular Condominium, including but not limited to assessment collection matters, shall be a Common Expense of the Condominium. Determining the allocation of the Common Expenses of the Condominium as opposed to Common Expenses of the Association shall be in the sole discretion of the Board of Directors of the Association. When the Association receives a single billing for an item that is declared a Common Expense of the Condominium (e.g., lawn maintenance, casualty insurance, etc.) the Board may allocate segments of said invoices to the individual Condominiums as the Board in its sole discretion deems fair and equitable. Common Expenses of the Condominium shall be shared by Condominium No. 1 Unit Owners on a 1/74 basis, by Condominium No. 2 Unit Owners on a 1/84 basis, and by Condominium No. 3 Unit Owners on a 1/80 basis. Reserves required by the Act and the Condominium Documents are a Common Expense of the Condominium.

**1.14 “Common Surplus”** means the excess of all receipts of the Association, including, but not limited to, Assessments, rents, profits and revenues on account of the Common Elements, above the amount of the Common Expenses. Common Surplus shall be determined in the same manner as Common Expenses.

**1.15 “Community Association”** means Lexington Community Association, Inc., a Florida corporation not for profit, being the entity responsible for the administration of the Community Declaration.

**1.16 “Community Covenants”** means the Declaration of Covenants for Lexington recorded in the Public Records of Lee County, Florida, which Declaration encumbers, *inter alia*, the Condominium Property, and when the context permits, shall also mean the Articles of Incorporation and By-Laws of the Community Association, all as now or hereafter amended, modified or supplemented.

**1.17 “Condominium Documents”** means this Declaration; the Surveyor’s Plat and Site Plans, hereinafter collectively referred to as “the Plat” or “Condominium Plat”, copies of

Amended and Restated Declaration of Condominium  
(Page 5 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

which are attached hereto as Exhibit "A"; Articles of Incorporation of Wedgewood at Lexington Condominium Association, Inc. attached hereto as Exhibit "B"; Bylaws attached hereto as Exhibit "C"; and Rules and Regulations. The Rules and Regulations need not (but may) be recorded in the County Public Records in order to be valid.

**1.18 "Condominium Parcel"** means a Unit together with the undivided share in the Common Elements which is appurtenant to said Unit and when the context permits, the term includes all of the appurtenances to the Unit.

**1.19 "Condominium Property"** means the land and property interests subjected to condominium ownership under this Declaration, all improvements on the land as depicted in the Surveyor's Plat, or replacement thereof of like kind and quality, and alterations or additions made to the Common Elements or Association Property by the Association and all easements and rights appurtenant thereto intended for use in connection with the Condominium. Additions or alterations made to the Units or Common Elements by Unit Owners (or their predecessors in title) are not part of the Condominium Property. References in the Condominium Documents to Condominium Property shall include Association Property, unless indicated otherwise.

**1.20 "County"** means the County of Lee, State of Florida.

**1.21 "Declaration" or "Declaration of Condominium"** means this instrument, and as it may be amended from time to time.

**1.22 "Domestic Partners"** means two adults who have chosen to share their lives in a committed relationship that includes a mutual and exclusive commitment to each other's well-being, wherein each partner shares the same permanent address, have no blood relationship that would preclude marriage in the State of Florida, are of the age of legal majority, are jointly responsible for each other's common welfare, share financial interdependence and mutual obligation akin to those of marriage. Domestic Partners shall be considered as married individuals for the purpose of the Declaration.

**1.23 "Family" or "Single Family"** shall refer to any one of the following:

**1.23.1** One natural person, his spouse or Domestic Partner, if any, and their custodial children, if any.

**1.23.2** Not more than two natural persons not meeting the requirement of Article 1.23.1 above, but who customarily and continuously reside together as a single housekeeping Unit, and the custodial children of said parties, if any.

**1.23.3** The reference to "natural" herein is intended to distinguish between an individual and a corporation or other artificial entity. "Family member" is a person who resides in a Unit as part of the Owner's Family, but is not a title holder.

Amended and Restated Declaration of Condominium  
(Page 6 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

**1.24 “Fractional Ownership” or “Unit Sharing”** means any arrangement (whether written or verbal) whereby multiple individuals, artificial entities, or other combinations acquire title to a Unit (or any other possessory or use right in a Unit) with the intention of allocating use rights among legal or beneficial owners, whether pursuant to verbal or written agreements, regarding the sharing of use and possession rights for a Unit.

**1.25 “Guest”** means any person who is not the Unit Owner or a Tenant or a member of the Owner’s or Tenant’s Family, who is physically present in, or occupies the Unit on a temporary basis at the invitation of the Owner or other legally permitted occupant, without the payment of consideration.

**1.26 “Insurable Improvements”** shall mean the “Buildings” as defined in Article 1.7 of this Declaration, less upgrades or additions by Unit Owners (or their predecessors in title) and those portions of the Condominium Property required by the Act to be insured by the Association. If a Unit Owner has replaced any glass with impact glass which meets the applicable code at the time of such replacement, such glass and its related framework shall be considered part of the Insurable Improvements, unless prohibited by law.

**1.27 “Invitee”** a person or persons allowed entry for the purpose of conducting business with a Unit’s occupant, or otherwise entering the Condominium Property on a temporary basis at the express or implied consent of the Unit Owner, including contractors, workmen, delivery persons, domestic assistants and health care assistants.

**1.28 “Lease,”** when used in the context of the renting of Units, means the grant by a Unit Owner of a right of use of the Owner’s Unit for consideration.

**1.29 “Lien for Charges”** means a lien which is recorded to secure a Charge.

**1.30 “Limited Common Elements”** means those Common Elements which are reserved for the use of a certain Unit or Units to the exclusion of all other Units, as specified in the Declaration. References herein to Common Elements shall include all Limited Common Elements, unless the context would prohibit or it is otherwise expressly provided. Whenever a portion of the Condominium Property naturally and exclusively services a particular Unit, and where the area in question lies outside of the boundaries of the Unit, the delegation of maintenance responsibility for the area (by way of example, but not limitation, air conditioning compressors) shall serve to define the area as a Limited Common Element.

**1.31 “Limited Common Expenses”** means those expenses affiliated with the maintenance, repair, replacement, or reconstruction after Casualty of a Limited Common Element, the costs of which are assessed only against the benefiting Unit Owner(s), as authorized by Section 718.113(1) of the Act, and if so provided in this Declaration.

**1.32 “Member”** means the record Owner(s) of legal title to a Unit.

Amended and Restated Declaration of Condominium  
(Page 7 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

**1.33 “Occupant”** when used in connection with a Unit, means a person who is physically present in a Unit on two or more consecutive days, including staying overnight for one night.

**1.34 “Person”** means any individual or representative of an entity, including Unit Owners, Family members, Tenants, Guests, and Invitees. Whenever the word “Person” is used to require or prohibit certain conduct, it is the intention that the Owner of the Unit with which such Person is affiliated shall be responsible for ensuring such Person’s compliance with the Condominium Documents.

**1.35 “Primary Occupant”** means a natural person designated for occupancy of a Unit when title to the Unit is held in the name of two or more persons who are not husband and wife, or Domestic Partners, or by a trustee or a corporation or other entity which is not a natural person, except where the content clearly indicates otherwise, the term “Owner” shall include “Primary Occupant”.

**1.36 “Rules and Regulations”** means those rules and regulations promulgated by the Board of Directors, governing the use, occupancy, alteration, maintenance, transfer and appearance of Units, Common Elements and Limited Common Elements, and the operation and administration of the Association, subject to any limits set forth in the Declaration of Condominium.

**1.37 “Tenant” or “Lessee”** means a person occupying a Unit, other than the Owner, whether pursuant to a verbal or written agreement, where said occupancy by the non-owner involves consideration, the payment of money, the exchange of goods and services, etc. The term “Tenant” shall be used interchangeably with “Lessee”.

**1.38 “Unit”** means a part of the Condominium Property subject to exclusive ownership.

**1.39 “Unit Owner” or “Owner”** means the record Owner of a Condominium Parcel.

**1.40 “Utility Services”** as used in the Condominium Act and as construed with reference to this Condominium, and as used in the Declaration and Bylaws, shall include but not be limited to electric power, gas, hot and cold water, heating, refrigeration, air conditioning and garbage and sewage disposal.

**1.41 “Voting Interests of the Association”** means and refers to the arrangement established in the Condominium Documents by which the Owners of each Unit collectively are entitled to one vote in the Association matters. There are 238 Units, so the total number of Voting Interests of the Association is 238. Matters affecting the entire Association (all Condominiums), as determined by the Board of Directors, shall be decided by the Voting Interests of the Association. By way of example, but not limitation, the election of Directors, the recall of Directors, the waiver of financial reporting requirements, alterations of Association

Amended and Restated Declaration of Condominium  
(Page 8 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL. 33966  
TELEPHONE (239) 433-7707

Property, certain alterations of Common Elements, certain amendments to the Declaration of Condominium, amendments to the Articles of Incorporation, and amendments to the Bylaws, are decided by the Voting Interests of the Association. Determining whether a voting item involves the Voting Interests of the Association as opposed to the Voting Interests of the Condominium, shall be determined in the sole discretion of the Board of Directors of the Association.

**1.42 "Voting Interests of the Condominium"** means those voting items which are to be considered for vote by the Unit Owners in individual Condominiums in accordance with the Class Quorum and Voting procedures specified in Article 2.11 of the Bylaws. By way of example, but not limitation, certain material alterations of Common Elements, certain amendments to the Declaration of Condominium, and the waiver or reduction of reserve funding shall be based upon the Voting Interests of the Condominium. Determining whether a voting item is a matter involving the Voting Interests of the Condominium, as opposed to Voting Interests of the Association shall be determined in the sole discretion of the Board of Directors of the Association.

**2. STATEMENT OF CONDOMINIUM DECLARATION.** Worthington Communities, Inc. submitted the property described in Exhibit "A" hereto and as described above to condominium ownership in accordance with Florida Statutes.

**3. CONDOMINIUM NAME.** The name by which this Condominium is identified is "Wedgewood at Lexington Condominium No. 2".

**4. UNIT IDENTIFICATION.** The identification of each Unit shall be by number and shall be as indicated on the Plat, Exhibit "A."

**5. SURVEY AND GRAPHIC DESCRIPTION.** A survey of the land previously submitted to condominium ownership and a plat thereof describing each Unit, Common Elements and their relative location and the approximate dimensions of each Unit are as shown on the Plat which is attached as Exhibit "A".

**6. VOTING RIGHTS; OWNERSHIP OF COMMON ELEMENTS.** The voting rights of the Owner of each Unit shall be  $1/238^{\text{th}}$  (one Voting Interest per Unit) for Association matters and  $1/84^{\text{th}}$  for individual Condominium voting issues. Voting rights may be suspended pursuant to the terms of the Condominium Documents and/or Florida Law. The sharing of Common Expenses and ownership of Common Elements and Common Surplus shall be on a  $1/84^{\text{th}}$  basis for Common Expenses of the Condominium and  $1/238^{\text{th}}$  basis for Common Expenses of the Association. Suspension of voting rights shall not affect the basis for which Common Expenses are shared or Common Elements and Common Surplus owned. However, suspended Voting Interests shall be subtracted from the total number of votes required when calculating any required vote or quorum during the period for which said Voting Interest is suspended. The undivided share of ownership of the Common Elements and Common Surplus appurtenant to a Unit cannot be conveyed or separately hypothecated. As long as the Condominium exists, the Common Elements cannot be

Amended and Restated Declaration of Condominium  
(Page 9 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707



partitioned. The shares in the funds and assets of the Association cannot be assigned by a Unit Owner, pledged or transferred except as an appurtenance to the Units.

## 7. EASEMENTS.

**7.1 Easements.** Each of the following easements and easement rights is reserved through the Condominium Property and is a covenant running with the land of the Condominium, and notwithstanding any of the other provisions of this Declaration, may not be revoked and shall survive the exclusion of any land from the Condominium, unless released in connection with termination of the Condominium. None of these easements may be encumbered by any leasehold or lien other than those on the Condominium Parcels. Any lien encumbering these easements shall automatically be subordinate to the rights of the Unit Owners with respect to such easements.

**7.2 Support.** Each Unit shall have an easement of support and of necessity and shall be subject to an easement of support and necessity in favor of all other Units and the Common Elements.

**7.3 Utility and Other Services; Drainage.** Easements are reserved under, through and over the Condominium Property as may be required from time to time for utility, cable television, communications and security systems, and other services and drainage in order to serve the Condominium. The Association shall have the right of access to each Unit during reasonable hours when necessary for maintenance, repair or replacement of any Common Elements or of any portion of a Unit to be maintained by the Association pursuant to the Declaration or as necessary to prevent damage to the Common Elements or to a Unit or Units.

**7.4 Encroachments.** If (a) any portion of the Common Elements encroaches upon any Unit; (b) any Unit encroaches upon any other Unit or upon any portion of the Common Elements; or (c) any encroachment shall hereafter occur as a result of (i) construction of the Improvements; (ii) settling or shifting of the Improvements; (iii) any alteration or repair to the Common Elements made by or with the consent of the Association; or (iv) any repair or restoration of the Improvements (or any portion thereof) or any Unit after damage by fire or other casualty or any taking by condemnation or eminent domain proceedings of all or any portion of any Unit or the Common Elements, then, in any such event, a valid easement shall exist for such encroachment and the maintenance of the same so long as the Improvement shall stand.

**7.5 Ingress and Egress.** A non-exclusive easement shall exist in favor of each Unit Owner and Occupant, their respective Guests, Tenants, and Invitees for pedestrian traffic over, through, and across sidewalks, streets, paths, walks, and other portions of the Common Elements as from time to time may be intended and designated for such purpose and use, and for vehicular and pedestrian traffic over, through, and across such portion of the Common Elements as from time to time may be paved or intended for such purposes, and for purposes of ingress and egress to the public ways.

Amended and Restated Declaration of Condominium  
(Page 10 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

**7.6 Other Condominiums; Community Association.** The Community Association shall have all easements provided it in the Community Covenants including, without limitation, those over "Lots" (as defined therein). Additionally, the Community Association shall have a perpetual easement over the Common Elements to perform the maintenance, repair and replacement functions described in this Declaration.

Any recreation or other commonly-used facilities located within the Condominium Property shall be subject to a perpetual, non-exclusive easement in favor of the Owners of Units in any other Condominium operated by the Association, provided that (i) the use of such easement shall be subject to a reasonable regulation by the Association and (ii) such Unit Owners shall share in the expenses of such facilities in the manner provided in herein.

Each Owner and Occupant, and the Guests and Invitees thereof, if any Unit in a Condominium operated by the Association shall also have a perpetual easement of ingress and egress for vehicular and pedestrian use over all portions of the Common Elements reasonably suited for such purposes.

**7.7 Additional Easements.** The Association, by and through the Board of Directors on behalf of all Unit Owners (each of whom hereby appoints the Association as its attorney-in-fact for this purpose), shall have the right to grant such additional general ("blanket") and specific electric, gas or other utility, cable television, security systems, communications or service easements (and appropriate bills of sale for equipment, conduits, pipes, lines and similar installations pertaining thereto), or relocated any such existing easements or drainage facilities, in any portion of the Condominium Property, and to grant access easements or relocate any existing access easements in any portion of the Condominium Property, as the Association shall deem necessary or desirable, provided that such easements or the relocation of existing easements will not prevent or unreasonably interfere with the reasonable use of the Units for dwelling purposes.

**8. CONDOMINIUM UNITS AND APPURTENANCES.** The Land has constructed thereon the Building, consisting of nine (9) buildings containing eight (8) Units each and two (2) buildings containing six (6) Units each for a total of eighty-four (74) Units. Each such Unit is identified by a separate numerical designation. The designation of each of such Units is set forth on Exhibit "A" attached hereto. Exhibit "A" consists of a survey of the Land, a graphic description of the Improvements located thereon, including, but not limited to, the Building in with the Units are located, and a plot plan thereof. Said Exhibit "A", together with this Declaration, is sufficient in detail to identify the Common Elements and Each Unit and their respective locations and dimensions.

There shall pass with a Unit as appurtenances thereto (a) an undivided share in the Common Elements and Common Surplus; (b) the exclusive right to use such portion of the Common Elements as may be provided in this Declaration, including the applicable Limited Common Element garage; (c) an exclusive easement for the use of the airspace occupied by the Unit as it exists at any particular time and as the Unit may lawfully be altered or reconstructed from time to

Amended and Restated Declaration of Condominium  
(Page 11 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

time, provided that an easement in airspace which is vacated shall be terminated automatically; (d) membership in the Association with the full voting rights appurtenant thereto; and (e) other appurtenances as may be provided by this Declaration or the Act.

**8.1 Unit Boundaries.** Each Unit shall include that part of the Condominium Property containing the Unit that lies within the following boundaries:

**8.1.1 Upper and Lower Boundaries.** The upper and lower boundaries of the Unit shall be the following boundaries extended to their planar intersections with the perimetrical boundaries:

**8.1.1.1 Upper Boundaries.** The horizontal plane of the unfinished lower surface of the ceiling of the Unit.

**8.1.1.2 Lower Boundaries.** The horizontal plane of the unfinished upper surface of the floor of the Unit.

**8.1.1.3 Interior Divisions.** Except as provided in subsections 8.1.1.1 and 8.1.1.2 above, no part of the floor of the top floor, ceiling of the bottom floor, stairwell adjoining the two-floors or nonstructural interior walls shall be considered a boundary of the Unit.

**8.2 Perimetrical Boundaries.** The perimetrical boundaries of the Unit shall be the vertical planes of the unfinished interior surfaces of the walls bounding the Unit extended to their planar intersections with each other and with the upper and lower boundaries.

**8.3 Apertures.** Where there are apertures in any boundary, including, but not limited to, windows, doors, bay windows and skylights, such boundaries shall be extended to include the windows, doors and other fixtures located in such apertures, including all frameworks thereof; provided, however, that exterior surfaces made of glass or other transparent material, and the exterior of doors, shall not be included in the boundaries of the Unit and shall therefore be Common Elements.

**8.4 Exceptions.** In cases not specifically covered above, and/or in any case of conflict or ambiguity, the survey of the Units set forth in Exhibit "A" hereto shall control in determining the boundaries of a Unit, except that the provisions of Section 8.3 above shall control unless specifically depicted otherwise on such survey.

**8.5 Limited Common Elements.** Each Unit may have, to the extent applicable and subject to the provisions of this Declaration, as Limited Common Elements appurtenant thereto:

**8.5.1 Lanais.** Any lanai (and all improvements thereto) as to which direct and exclusive access shall be afforded to any particular Unit or Units to the exclusion of others shall be a Limited Common Element of such Unit(s). The boundaries of same shall be (i) lower: the upper unfinished surface of the slab of the lanai, (ii) upper: the lower unfinished surface of any

Amended and Restated Declaration of Condominium  
(Page 12 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

overhanging slab, (iii) perimetrical: the exterior surface of any adjoining Common Element wall or, where there is no wall on a first floor lanai, the edge of the concrete slab facing the lanai and (iv) other perimetrical: any sliding glass door(s) or fixed glass panel(s) abutting the lanai.

**8.5.2 Garages.** Each Unit is hereby assigned the exclusive right to use the garage adjacent to the Unit, same being a Limited Common Element thereof. The boundaries of a garage Limited Common Element shall be determined in the same manner as those of a Unit, provided that the upper boundary shall be the unfinished lower surface of the roof or slab located over the Unit so that any overhead storage area (and the ceiling structure) shall be a part of the Limited Common Elements.

Each Unit is also hereby assigned the exclusive right to use the driveway immediately adjacent to the aforesaid garage, same to be a Limited Common Element of the Unit As well.

**8.6 Conveyance of a Unit.** A conveyance of a Unit shall automatically include all Limited Common Elements appurtenant to that Unit unless otherwise specified in the instrument of such conveyance.

**8.7 Miscellaneous Areas, Equipment.** Any fixtures or equipment (e.g., an air conditioning unit located adjacent to the Unit and related lines and equipment) serving a Unit or Units exclusively and any area upon/within which such fixtures or equipment are located shall be Limited Common Elements of such Unit(s).

**9. MAINTENANCE, ALTERATION AND IMPROVEMENTS.** Responsibility for the maintenance of the Condominium Property, and restrictions upon the alteration and improvement thereof, shall be as follows:

**9.1 Association Maintenance, Repair and Replacement Obligation.** The maintenance, repair and replacement of all Common Elements (except those Limited Common Elements for which this Declaration delegates responsibility to the Unit Owner) and Association Property shall be performed by the Association, and the cost is a Common Expense, except as may otherwise be specifically noted with respect to Limited Common Elements. Maintenance, repair and replacement of outside stair railings to second floor Units is the responsibility of the Association.

**9.1.1 General Exterior Maintenance.** The Association's maintenance, repair and replacement responsibility shall include, but not be limited to, exterior painting, roofing, maintenance of parking facilities (except as otherwise provided herein to the contrary), and general exterior maintenance, but shall not include maintenance, repair and replacement of railings, screens and screen enclosures, nor any alteration or addition to the Condominium Property made by a Unit Owner or his predecessors in title, nor any portions of the Condominium Property exposed to the elements for which this Declaration delegates responsibility to the Unit Owner.

Amended and Restated Declaration of Condominium  
(Page 13 of 46)

LAW OFFICES  
BECKER & POLJAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

**9.1.2 Plumbing and Electrical.** The Association's maintenance, repair and replacement responsibility includes, except as may be specifically otherwise provided to the contrary, without limitation, all electrical conduits and installations located from (but not including) the circuit breaker outward; electrical conduits and installations located within or outside a Unit for the furnishing of utilities to another Unit, more than one Unit, or the Common Elements; plumbing fixtures and installations located within or outside a Unit for the furnishing of utilities to another Unit, more than one Unit, or the Common Elements. The Association's maintenance, repair and replacement responsibility does not include electrical fixtures, switches or receptacles, plumbing fixtures, or other electrical, plumbing or mechanical installations located within the Unit and serving only that Unit.

**9.1.3 Incidental Damage.** If, in connection with the discharge of its maintenance, repair or replacement responsibilities, the Association must remove, disassemble, or destroy portions of the Condominium Property which the Unit Owner is required to maintain, repair, or replace, the Association shall be responsible for reinstallation or replacement of that item, including cabinetry, drywall and moldings, to its unfinished state, and excluding floor coverings, wall coverings, ceiling coverings, paint, wallpaper, paneling, and other finishes, provided that the Association's obligations are limited to the replacement of items that were part of the Condominium Property as originally installed by the Developer, or replacements thereof of like kind and quality, and except in cases of Casualty repair, or repair of damage caused by a covered cause of loss under the Association's applicable insurance policy, which shall be governed by Article 13 of this Declaration. Repair or replacement of all upgrades or additions, even if made by a predecessor in title, shall be the responsibility of the Unit Owner, specifically including but not limited to hurricane shutters which the Association must remove in connection with the maintenance of the Building, although the Association may have shutter reinstallation work performed by its contractor, and the Unit Owner will be responsible for reimbursement to the Association as a Charge.

**9.2 Unit Owner Maintenance, Repair and Replacement Obligation.** Each Unit Owner is responsible, at his own expense, for all maintenance, repair, and replacement of his own Unit and those Limited Common Elements serving his Unit, if so provided herein, whether ordinary or extraordinary including, without limitation:

**9.2.1 Windows.** The Unit Owner shall maintain, repair and replace the window installations originally installed by the Developer or subsequent replacement thereof. Same includes the window frame and encasement, the plate glass, and all caulking thereof. The Unit Owner shall be responsible for interior window locking and opening mechanisms, the windowsill and glass breakage. The Association shall be responsible for exterior caulking around the window frames.

**9.2.2 Screens, Screen Frames, and Railings.** The Unit Owner shall maintain, repair and replace all window screens, screen doors or lanai screens, including hardware and framing, and including lanai railings. The second floor, outside stair railings are the responsibility of the Association.

Amended and Restated Declaration of Condominium  
(Page 14 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

**9.2.3 Drywall.** The Unit Owner shall maintain, repair and replace all drywall within the Unit, the finishes thereof (including trim), and the structural framing related thereto, including studs and insulation, except that the Association shall maintain, repair and replace drywall on the interior side of the exterior boundary walls, and the drywall on the ceiling of the Units, if any.

**9.2.4 Electrical.** The Unit Owner shall maintain, repair and replace all electrical fixtures/facilities located within the Unit, which service only the individual Unit plus all electrical fixtures, apparatus or installations from and including the circuit breaker inward, which service only that Unit.

**9.2.5 Sliding Glass Doors.** The Unit Owner shall maintain, repair and replace sliding glass doors and the structural components thereof (including frames and fixed panels), including trim and caulking.

**9.2.6 Unit Front Entry Doors.** The Unit Owner shall maintain the interior of the Unit front entry door and the Association shall maintain the exterior of said door, and be responsible for the repair and replacement of said door (excluding locks and hardware, which shall be the Unit Owner's responsibility).

**9.2.7 Other Doors.** The Unit Owner shall maintain, repair and replace all other doors and the framing and structural components thereof (including trim, caulking, locks and hardware) within or servicing the Unit.

**9.2.8 Hurricane Shutters.** The Unit Owner shall maintain, repair and replace hurricane shutters and the structural components thereof.

**9.2.9 Plumbing and Mechanical.** The Unit Owner shall maintain, repair and replace the electrical, mechanical and plumbing fixtures and outlets (including connections) within a Unit and serving only that Unit including sinks, toilets, tubs, showers, shower pans, and all related fixtures and installations.

**9.2.10 Appliances.** The Unit Owner shall maintain, repair and replace appliances.

**9.2.11 Heating and Air Conditioning Equipment; Ductwork.** The Unit Owner shall maintain, repair and replace all portions of the heating and air conditioning equipment (including compressors, air handlers, ductwork, freon lines and discharge lines), dryer vents to the point of termination (even if exterior to the Unit), air conditioner discharge lines to the point of termination or connection to another discharge (even if exterior to the Unit).

**9.2.12 Floor Coverings.** The Unit Owner shall maintain, repair and replace carpeting and other floor covering (including lanai areas).

Amended and Restated Declaration of Condominium  
(Page 15 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

**9.2.13 Hardware and Locks.** The Unit Owner shall maintain, repair and replace door and window hardware and locks.

**9.2.14 Other Facilities and Fixtures.** The Unit Owner shall maintain, repair and replace all other facilities or fixtures located or contained entirely within a Unit which serve only that Unit.

**9.2.15 Plumbing (Incoming).** The Unit Owner shall maintain, repair and replace all incoming plumbing from (and including) the shut-off valve (at hot water) inward.

**9.2.16 Plumbing (Outgoing).** The Unit Owner shall maintain, repair and replace outbound plumbing until the point of exit from the Unit boundary. Provided, however, that the Unit Owner is responsible for the remediation of clogged pipes or drains, where the source of blockage or obstruction originates from the Unit, even if the area where the blockage or obstruction is located is outside of the Unit boundary.

**9.2.17 Garages.** The Unit Owner shall be responsible for the maintenance, repair and replacement of garage doors (and all affiliated hardware and mechanisms) and garage door openers (and affiliated controls and electronics).

Any of the above-described areas that are to be maintained, repaired or replaced by the Unit Owner, or by the Association at the expense of the benefiting Unit(s), if located outside of the boundaries of the Unit, are declared Limited Common Elements. Responsibility for maintenance, repair and replacement of Condominium Property may not coincide with obligation for insurance of Condominium Property, nor its repair after Casualty, or damage from covered cause of loss under the Association's applicable insurance policy, which are governed by Article 12 and Article 13 hereof, respectively.

**9.3 Unit Owner Obligations In Connection with Maintenance, Repair and Replacement.** In connection with his maintenance, repair and replacement obligations, the Unit Owner shall have the responsibility to obtain the prior written approval of the Association, through the Board of Directors, before performing any maintenance, repair or replacement which requires: changes or alterations to the physical appearance of the Condominium Property visible from any exterior vantage; excavation; or access to a Building roof.

Nothing shall preclude the Association from acting as the Owner's agent and obtaining the services of contractors to perform Unit Owner maintenance responsibilities in the event of an emergency, or in non-emergency situations, provided that in non-emergency situations, the Association and the Owner so agree, or absent such agreement when such work is deemed necessary, as determined by the Board to facilitate projects involving the Association's maintenance of the Condominium Property. In all such cases the Unit Owner shall be deemed to consent to reimbursement of expenses incurred, secured by such rights as exist for collecting Common Expenses under these Condominium Documents through a Lien for Charges. Unit Owners shall at all times be responsible to ensure, whether or not Association approval is

Amended and Restated Declaration of Condominium  
(Page 16 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL. 33966  
TELEPHONE (239) 433-7707

required for work being done within the Unit, that all contractors and other persons performing services for the Unit Owner are properly licensed and insured, including required Worker's Compensation insurance, and that the Condominium Property is kept free from liens. The Unit Owner shall hold the Association harmless from any claim of any nature arising out of failure to comply with these requirements.

**9.4 Lanais.** The Unit Owner who owns or has the right to the exclusive use of a lanai shall be responsible for the maintenance, repair and replacement of: lanai floor coverings (the Board may prohibit certain types of floor coverings or require the removal of existing coverings when necessary for the structural preservation of the Building); storm shutters and other enclosures; fixed and/or sliding glass doors and affiliated framing and hardware thereof; the wiring, electrical outlet(s) and fixture(s) on or servicing the lanai; ceiling fans; and the replacement of light bulbs. The Association shall be responsible for structural maintenance, repair and replacement of lanai floors, and ceilings, and also the Building walls enclosed by the lanais.

**9.5 Unit Floor Coverings.** All Units above the first living floor shall always have the floors covered with wall-to-wall carpeting, except in kitchens, bathrooms, lanais, foyers, and utility or laundry rooms, except as provided below. Owners of Units above the first living floor who wish to install or replace hard floor surfaces (tile, marble, wood, etc.) in any area of the Unit are required to also install an approved sound-deadening material. The Board has the authority to adopt specifications for minimum sound proofing material that will be approved.

**9.6 Modifications or Alterations by Unit Owners.** No Owner may make or permit the making of any modifications or alterations to any portion of his Unit visible from the exterior, or in any manner change the appearance of any portion of the Common Elements, or undertake any structural work or undertake any structural modification or alteration, without first obtaining the written consent of the Board of Directors, which consent shall be denied if the Board determines that the proposed modifications or alterations would adversely affect, or in any manner be detrimental to, the Condominium in part or whole. "Structural" modifications or alterations include, but are not limited to: relocation of existing electrical, plumbing, ductwork, air conditioning or heating installations; relocation of existing fixtures or appliances such as toilets, sinks, tubs, showers, dishwashers, refrigerators, or ranges; the removal or modification of any partition, door, window or screen; raising ceilings; or relocating kitchen or bathroom cabinetry. For purposes of this provision, the term "structural" work shall also include the addition, removal, or relocation of any duct work, plumbing line or fixture, any electrical line or fixture, or the removal, modification or creation of any interior partition. Replacement of cabinetry, appliances and fixtures, with substantially equivalent installations, in the same location, shall not be deemed "structural" and shall not require approval of the Association, unless a building or other permit is required. Further, "structural" modifications or alterations shall include any and all work that requires a building permit, an electrical permit, a plumbing permit, a mechanical permit, or similar permit from the appropriate governmental agency, whether or not mentioned above.

Amended and Restated Declaration of Condominium  
(Page 17 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707



The Board may, in appropriate circumstances, require sealed plans from an Architect or Professional Engineer licensed to practice in Florida as a condition of reviewing any requested structural modification, alteration or addition to the Condominium Property. The Board, in reaching its decision, may take into account uniformity of appearance, compatibility with architecture in Wedgewood at Lexington Condominiums and the Lexington Community, the quality of the proposed alteration, objections of neighboring residents, and such other criteria as the Board may reasonably adopt in reaching its decision. If the Board determines to permit any modification or alteration which is visible from the exterior of the premises, from any vantage, said modification or alteration must also be approved by the Unit Owners in the manner provided in Article 9.8 of this Declaration, regardless of the cost or expense of such modification or alteration. If any Unit Owner requests approval of any structural modification or alteration, the Association may permit such modification or alteration if same would not materially affect or interfere with the utility services constituting Common Elements, if any, located therein, the structural integrity of the Building or create a nuisance or disturbance to neighboring Units.

Approval by the Association shall not constitute approval of the Community Association, which may be separately required by the Community Covenants. Once the Unit Owner has obtained the Board's consent, such consent must be forwarded to the Community Association, together with the requested addition, alterations and improvement and any additional information, for review by the Architectural Review Committee as provided in the Community Covenants. The proposed additions, alterations and improvements by the Unit Owners shall be made in compliance with all laws, rules, ordinances and regulations of all governmental authorities having jurisdiction, and with any conditions imposed by the Association with respect to design, structural integrity, aesthetic appeal, construction details, lien protection or otherwise. A Unit Owner making or causing to be made any such additions, alterations or improvements agrees, and shall be deemed to have agreed, for such Owner, and his heirs, personal representatives, successors and assigns, as appropriate, to hold the Association and its Board of Directors, the Community Association and members of the Architectural Review Committee and all other Unit Owners harmless from and to indemnify them for any liability or damage to the Condominium Property and expenses arising therefrom, and shall be solely responsible for the maintenance, repair and insurance thereof from and after that date of installation or construction thereof as may be required by the Association.

**9.7 Additional Unit Owner Responsibility for Modifications or Alterations.** If a Unit Owner (or his predecessors in title) makes, or has made any modifications or alterations to the interior or exterior of the Unit, Common Elements, or Limited Common Elements, the Unit Owner (and his heirs, successors in title and assigns) shall be financially responsible for the insurance, maintenance, care, preservation, reconstruction, repair or replacement of the modification or alteration and shall execute such documents as the Association may promulgate, if any, accepting said financial responsibility. Any modification or alteration to the Condominium Property made by a Unit Owner may be required to be removed in connection with the Association's maintenance of the Condominium Property. In such cases, the Unit Owner who installed the modification or alteration (and/or their successors in title) shall be

Amended and Restated Declaration of Condominium  
(Page 18 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

obligated to reimburse the Association for any costs affiliated with removal and/or re-installation of the item, with said obligation being secured by a right of Lien for Charges of equal dignity to the Common Expense lien created by this Declaration, or alternatively, said Owner may be required to remove and reinstall said modification or alteration, if so determined by the Board of Directors. Further, the Association, its contractors and agents, shall not be liable for any damage to the item arising out of its removal and/or reinstallation, unless occasioned by the gross negligence or willful misconduct of the Association or its contractor or agent, although the Association may provide for stricter liability standards in contracts with contractors.

**9.8 Material Alterations by Association. Material Alterations by Association.**

There shall be no material alterations or substantial additions to the Common Elements or real property which is Association Property by the Association, except as authorized by the Board of Directors. Provided, however, that if any such alteration or addition to real property which is Association Property requires the expenditure of more than ten percent (10%) of the Association's total budget for the fiscal year in which the work is authorized, including reserves, the Board shall obtain approval of a two-thirds (2/3) of Voting Interests present (in person or by proxy) and voting at an Association meeting at which a quorum has been obtained, or by written agreement of two-thirds (2/3) of the entire Voting Interests of the Association. Material alterations or substantial additions to the Common Elements of individual Condominiums shall be authorized as follows. The Board of Directors may authorize any alteration or addition which does not exceed ten percent (10%) of the total budget for the Condominium for which the alteration or addition is proposed. Any material alteration of or substantial addition to Common Elements of a Condominium exceeding that amount shall be approved by two-thirds (2/3) of the Voting Interests of the Condominium present (in person or by proxy) and voting at a meeting of the Association at which a Class Quorum has been obtained. Necessary maintenance of the Common Elements, or Association Property regardless of the level of expenditure, is the responsibility of the Board of Directors. Cellular antennae and similar apparatus and apparatus to provide communication or internet services as provided in Article 1.12, may be placed on the Condominium Property as authorized by the Board.

**9.9 Enforcement of Maintenance.** If, after reasonable notice, the Owner of a Unit fails to maintain the Unit or other portions of the Condominium Property as required by this Declaration, the Association shall have, without waiver of other remedies, the right to enter the Owner's Unit or Common Element (including Limited Common Elements) and perform or cause performance of the necessary work, and/or institute legal proceedings at law or in equity to enforce compliance, and/or to take any and all other lawful actions to remedy such violation, in which event the Unit Owner shall be charged for the costs of such activities (including attorney's fees incurred by the Association) by the Association which shall be secured by a Lien for Charges.

**9.10 Damage Caused by Conditions of the Condominium Property.** Each Unit Owner shall be liable to the Association and/or other Unit Owners for the expenses of any maintenance, repair or replacement of the Condominium Property, made necessary by his

Amended and Restated Declaration of Condominium  
(Page 19 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

intentional act or negligence, or by that of any member of his Family or his or their Occupants, Guests, Tenants or Invitees. If any condition, defect or malfunction existing within a Unit or Common Elements which the Unit Owner is obligated to insure, maintain, repair, or replace if caused by the Owner's (or his Family member's, Occupant's, Guest's, Tenant's or Invitee's) acts, negligence, or failure to comply with the Condominium Documents or applicable law, shall cause damage to the Common Elements, Association Property, or to other Units, the Owner of the offending Unit shall be liable to the person or entity responsible for repairing the damaged areas for all costs of repair or replacement not paid by insurance (including the deductible) and without waiver of any insurer's subrogation rights, provided that such responsibility shall be conditioned on the neighboring Unit(s) being adequately insured based on local standards and conditions. Further, any claim of a Unit Owner against the Association or another Unit Owner relative to damage to the Condominium Property, to the extent the Association or other Unit Owner might otherwise be liable pursuant to the Condominium Documents or applicable law, shall be predicated upon the Unit Owner making the claim being adequately insured based on local standards and conditions, whether or not individual Unit Owner insurance is mandated by the Act. Should any Unit Owner fail to maintain such insurance, any claim will be reduced to the extent such Unit Owner's insurance, if obtained pursuant to the above-described standards, would have provided coverage or compensation for the loss and without waiving any other remedy of the Association regarding Unit Owner insurance requirements. The requirement that the individual Unit Owner obtain insurance shall not be construed to confer any additional liability or responsibility on the Association or other Unit Owners (without limitation, the Association shall not be obligated to obtain proof of Unit Owner insurance), but is intended to require Unit Owners and the Association to respectively insure risks that are customarily experienced in condominiums located in Florida's coastal communities, condominiums in general, including but not limited to damages occasioned by windstorms, hurricanes, tornadoes, floods, rainstorms, bursting pipes, water seepage and leakage, and mold and mildew, regardless of whether such insurance is legally required. If one or more of the Units involved is not occupied at the time a damage incident is discovered (regardless of the cause), the Association may enter the Unit(s) without prior notice to the Owner(s) and take reasonable action to mitigate damage or prevent its spread, at the Unit Owner's expense. The Association may, but is not obligated to, repair the damage without the prior consent of the Owner, in the event of an emergency, and the Owner shall be responsible for reimbursement of the Association, with the cost being secured by a Lien for Charges. Unit Owners are required to shut off all water valves when the Unit will be unoccupied on an overnight basis, and failure to do so will create a presumption of negligence.

Unit Owners are also required to ensure that electricity, and if separately metered, water and sewer, are always available to service the Unit. If Unit Owner fails to maintain Utility Services to Unit, the Association shall have, without waiver of other remedies, the right to enter into the Owner's Unit and Limited Common Element and take any and all lawful actions to make the utilities available to service the Unit, in which event the Unit Owner shall be charged for such activities (including attorneys' fees incurred by the Association) by the Association which shall be secured by a Lien for Charges.

Amended and Restated Declaration of Condominium  
(Page 20 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

**9.11 Combination of Units.** Units may not be combined in to a single living space.

**9.12 Hurricane Protection.** The Board of Directors shall adopt hurricane shutter specifications for the Condominium which shall include color, style, and other factors deemed relevant by the Board. All specifications adopted by the Board shall comply with the applicable building code. The Board may adopt the Master Association Hurricane Shutter Specifications as those applicable to the Association.

**10. ASSESSMENTS AND CHARGES.** Assessments against Owners shall be made by the Board of Directors of the Association, in the manner provided in the Bylaws and as follows, and shall be borne by the Unit Owners on the basis set forth in Article 6 and elsewhere in these Condominium Documents.

**10.1 Liability for Assessments and Charges.** A Unit Owner, regardless of how title is acquired, including a purchaser at a judicial sale, shall be liable for all Assessments and Charges coming due while he/she is the Unit Owner. Except as provided in Article 10.5, any person or entity which acquires title to a Unit shall be jointly and severally liable with their predecessor in title for all unpaid Assessments and Charges against the predecessor for his/her share of the Charges and Assessments, including interest, late fees, attorney's fees and other costs and expenses of collection incurred by the Association up to the time of the transfer, without prejudice to any right the transferee may have to recover from the transferor the amounts paid by the transferee. The liability for Assessments or Charges may not be avoided by waiver of the use or enjoyment of any Common Elements or by the abandonment of the Unit for which the Assessments or Charges are made.

**10.2 Default in Payment of Assessments for Common Expenses or Charges.** Assessments and installments thereof not paid within ten (10) days from the date when they are due shall incur a late fee and bear interest in an amount as determined by the Board of Directors which, unless otherwise specified, shall be the maximum allowed by law. The Board may accelerate unpaid Assessments in the manner prescribed by law. The Association has a lien on each Condominium Parcel for any unpaid Assessments on such parcel, with interest, late fees and for reasonable attorney's fees, as well as costs and expenses of collection incurred by the Association incident to the collection of the Assessment or enforcement of the lien. If prohibited by the Act, no lien may be filed by the Association against a Condominium Unit until thirty (30) days after the date on which a notice of intent to file a lien has been delivered to the Owner pursuant to Section 718.121(4) of the Act. The Association may also accelerate all Assessments or Charges which are accrued, but not yet due, in the manner provided by law. The Association's lien is in effect until all sums secured by it have been fully paid or until barred by law. A claim of lien shall be signed and acknowledged by an Officer or agent of the Association. Upon recording, the Association's claim of lien shall relate back to the date of the filing of the original Declaration of Condominium. Upon payment in full, the Condominium Parcel is entitled to a satisfaction of the lien. The Association may bring an action in its name to foreclose a lien for Assessments or Charges in the manner that a mortgage of real property is foreclosed

Amended and Restated Declaration of Condominium  
(Page 21 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

and may also bring an action to recover a money judgment for the unpaid Assessments or Charges without waiving any claim of lien.

**10.3 Notice of Intention to Foreclose Lien.** So long as required by law, no foreclosure judgment may be entered until at least thirty (30) days after the Association gives written notice to the Unit Owner of its intention to foreclose its lien to collect the unpaid Assessments or Charges. If this notice is not given at least thirty (30) days before the foreclosure action is filed, and if the unpaid Assessments or Charges, including those which have been accelerated (if applicable) and those coming due after the claim of lien is recorded, are paid before the entry of a final judgment or foreclosure, the Association shall not recover attorney's fees or costs. The notice must be given by delivery of a copy of it to the Unit Owner or by certified mail, return receipt requested, addressed to the Unit Owner. If after diligent search and inquiry the Association cannot find the Unit Owner or a mailing address at which the Unit Owner will receive the notice, the court may proceed with the foreclosure action and may award attorney's fees and costs as permitted by law. The notice requirements of this provision are satisfied if the Unit Owner records a Notice of Contest of Lien as provided in the Act.

**10.4 Attachment of Rental Income When Unit is Delinquent.** Notwithstanding any other remedy available to the Association under this Declaration, the Bylaws, or applicable law, the Association shall have the following options when payment of Assessments or Charges are in default (more than ten days in arrears). The Association may, without order of the Court, direct rental income (by written notice to the Tenant with copy to Unit Owner) from Units in default to be paid directly to the Association until all outstanding Assessments, Charges, other monetary obligations, interest, late fees, costs, collection expenses, attorney's fees and receiver's fees, if applicable, are paid in full. As an alternative, the Association may apply to a Court of competent jurisdiction, either in connection with a foreclosure suit, a personal suit, or otherwise, to have rental proceeds paid on account of a Unit in default paid directly to the Association, the court registry, or a receiver, as the Court may direct. The Association may choose any of these courses of action, or other remedies as may be prescribed by law or elsewhere in the Condominium Documents, as the Board deems appropriate, without same constituting a waiver or election of remedies.

**10.5 First Mortgagee.** The priority of the Association's lien and the obligation for payment of past due Assessments or other sums due in relation to first mortgagees who obtain title as a result of foreclosure or deed in lieu of foreclosure, shall be determined by the Act.

**10.6 Certificate of Unpaid Assessments or Charges.** Any Unit Owner has the right to require from the Association a certificate showing the amount of unpaid Assessments or Charges against him/her with respect to his/her Unit. The Association, its agents, and counsel shall be entitled to charge a fee for preparing such information, in amounts established by the Board, or in a management agreement between the Association and a Community Association Management Firm, or based on reasonable and customary fees charged by legal counsel.

Amended and Restated Declaration of Condominium  
(Page 22 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

**10.7 Lien for Charges.** There is created by this Declaration a common law and contractual lien to secure payment for any service which the Association provides for an individual Unit Owner or expenses which the Association incurs in regard to a Unit Owner and which is not otherwise secured by the statutory lien for Common Expenses. By way of example, but not limitation, a Lien for Charges exists to secure repayment to the Association when it must remove or reinstall Unit Owner alterations or items of Unit Owner insurance, maintenance, repair or replacement responsibility in connection with the Association's discharge of its Common Element maintenance responsibilities, or address emergency situations, such as water extraction from a Unit. The Lien for Charges shall be of equal priority to, shall accrue interest and late fees, and shall be foreclosed in the same manner as the Common Expense lien, including the right to recover attorney's fees, costs and expenses of collection.

**10.8 Other Remedies.** The Board of Directors shall have the authority to impose such other remedies or sanctions permitted by the Act pertaining to non-payment of monetary obligations to the Association. Without limitation, same include suspension of use rights in Common Elements and Association Property; suspension of voting rights; suspension of the right to serve on the Board; the attachment of rental income; denial of lease approval requests; and acceleration.

**11. ADMINISTRATION AND MANAGEMENT OF CONDOMINIUM.** The administration and management of the Condominium shall be by the Association, which shall have by and through its Officers and Directors, such powers, authority and responsibilities as are vested in the Officers and Directors of a corporation not-for-profit under the laws of the State of Florida, including but not limited to those set forth more specifically elsewhere in the Condominium Documents. The Association shall have authority to enter into management and other agreements concerning the matters of common interest through its Officers. The management of the Association and election of the Members to the Board of Directors shall be as set forth in the Bylaws. Without limiting the foregoing, the Association shall have the following rights and powers:

**11.1 Access.** The irrevocable right of access to each Unit and its appurtenant Limited Common Elements during reasonable hours as may be necessary for the maintenance, repair or replacement of any Common Elements or of any portion of a Unit to be maintained by the Association pursuant to this Declaration, or as necessary to prevent damage to the Common Elements or to any other Unit or Units, or to determine compliance with the terms and provisions of this Declaration, the exhibits annexed hereto, and the Rules and Regulations adopted pursuant to such documents, as the same may be amended from time to time. A pass key must be provided by the Unit Owner to the Association for each Unit entry door, and as may be applicable air conditioning or utility room or closet, and storage unit. The Association may utilize a master key system. When a Unit Owner must maintain, repair or replace portions of the Condominium Property as provided herein, and which requires access to another Unit for said purpose, the Unit Owner shall have reasonable right of access which shall be administered

Amended and Restated Declaration of Condominium  
(Page 23 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

through the Association. The Unit Owner upon whose behalf access has been obtained shall be obligated for the expense of repairing any damage to the Condominium Property.

**11.2 Assessments and Charges.** The power to make and collect regular and special Assessments and other Charges against Unit Owners and to lease, maintain, repair, and replace the Common Elements and Association Property.

**11.3 Delegation.** The power to enter into contracts with others, for valuable consideration, for maintenance and management of the Condominium Property and Association Property and in connection therewith, or to its Officers and agents, to delegate the powers and rights herein contained, including, without limitation, the making and collecting of Assessments and other Charges against Unit Owners, and perfecting liens for non-payment thereof.

**11.4 Regulations.** The power to adopt and amend Rules and Regulations covering the details of the operation of the Association and use of the Condominium Property and Association Property.

**11.5 Acquisition or Transfer of Real Property; Leasing Common Elements and Association Property.** The power to acquire real property and transfer real property owned by the Association or otherwise convey and mortgage real property for the use and benefit of its Members with the same approval of two-thirds (2/3rds) of the Voting Interests of the Association present (in person or by proxy) and voting at a duly noted meeting of the Association where a quorum is present. No Unit Owner approval shall be required to acquire, purchase, or mortgage a Unit in connection with foreclosure of a lien or deed in lieu of foreclosure, nor to dispose of such Unit. No Unit Owner approval shall be required to accept title to properties in connection with resolving title defects or effectuating the intent of the original Condominium Documents. By way of example, but not limitation, the Board of Directors may authorize acceptance of title to the recreational facilities serving the Condominiums without need for approval of the Unit Owners. Leasing of Units, Common Elements or Association Property may be approved by the Board of Directors, as well as the lease fees, use fees, and other fees permitted by the Act or the Condominium Documents.

**11.6 Membership Agreements.** The power to enter into agreements to acquire leaseholds, memberships, and other possessory or use interests in lands or facilities such as country clubs, golf courses, marinas, and other recreational facilities with the approval of two-thirds (2/3rds) of the Voting Interests of the Association present (in person or by proxy) and voting at a duly noted meeting of the Association where a quorum is present.

**11.7 Fees for Use of Common Elements; Other Fees and Deposits.** The power to set fees, pursuant to Section 718.111(4) of the Act, the Board of Directors shall have the authority to set use fees for private use of Common Elements or Association Property, as well as the regulations and policies pertaining to such use. The Board of Directors may also establish other fees and deposits determined necessary by the Board. Without limitation, same include: clubhouse/meeting room deposits, use fees and/or clean-up fees; fees for the issuance of parking

Amended and Restated Declaration of Condominium  
(Page 24 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

passes or decals; fees for architectural/engineer review of renovation/alteration plans; contractor damage deposits; and internet service, facsimile service and other services using Association equipment. Nothing in this Declaration shall be construed as obligating the Association to provide any of the aforementioned services.

**11.8 Lease of Association Property or Common Elements.** The power to lease Association Property or Common Elements, as authorized by the Board of Directors, including, but not limited to, the lease of Building roof areas and other Common Elements for antennas or other telecommunications and similar equipment. No use fee may be charged against a Unit Owner for use of the Common Elements or Association Property except fees set by the Board pertaining to an Owner having exclusive use of the Common Elements or Association Property, or as agreed by the Association and the party leasing Association Property or Common Elements, pursuant to an oral or written Lease agreement, or fees authorized by this Declaration.

**11.9 Limitation Upon Liability of Association.** Notwithstanding the duty to maintain, repair, replace, insure or reconstruct parts of the Condominium Property, the Association is not liable to Unit Owners or any other person for injury or damage, other than for the cost of maintenance and repair of items for which the Association is otherwise responsible, caused by any latent or unknown condition of the Condominium Property. Further, the Association shall not be liable for any such injury or damage caused by defects in design or workmanship or any other reason connected with any alterations or improvements done by or on behalf of any Unit Owners, regardless of whether or not same shall have been approved by the Association pursuant to the provisions hereof.

Notwithstanding anything contained herein or in the Condominium Documents or any other document governing or binding the Association, the Association shall not be liable or responsible for, or in any manner be a guarantor or insurer of, the health, safety or welfare of any Owner, occupant or user of any portion of the Condominium Property, including, without limitation, residents and their Families, Guests, Tenants, Invitees or for any property of any such persons. Without limiting the generality of the foregoing:

**11.9.1** It is the express intent of the Condominium Documents that the various provisions thereof which are enforceable by the Association, and which govern or regulate the use of the Condominium Property, have been written, and are to be interpreted and enforced, for the sole purpose of enhancing and maintaining the enjoyment of the Condominium Property and the value thereof; and

**11.9.2** The Association is not empowered, and has not been created, to act as an entity which enforces or ensures the compliance with the laws of the United States, State of Florida, Lee County, and/or any other jurisdiction or the prevention of tortious or criminal activities; and

**11.9.3** Any provisions of the Condominium Documents setting forth the uses of Assessments which relate to health, safety and or welfare shall be interpreted and applied only as

Amended and Restated Declaration of Condominium  
(Page 25 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707



limitations on the uses of Assessment funds and not as creating a duty of the Association to protect or further the health, safety or welfare of any person(s), even if Assessment funds are chosen to be used for any such reason.

Each Unit Owner and each other person having an interest in or lien upon, or making any use of, any portion of the Condominium Property shall be bound by this provision and shall be deemed to have automatically waived any and all rights, claims, demands and causes of action against the Association arising from or connected with any matter for which the liability of the Association has been disclaimed in this provision.

As used in this section, "Association" shall include within its meaning all of the Association's Directors, Officers, Committee Members and other persons the Association may be required to indemnify, to the extent and limit of such indemnity, and without waiving, reducing or otherwise modifying coverage obligations or subrogation rights of any insurer.

**11.10 Disclaimer, Waiver, and Release of Claims Regarding Mold and Mildew.** Each Unit Owner acknowledges that the Condominium is located in a hot, humid climate, which is conducive to the growth of mold and/or mildew. The Board of Directors shall have the authority to adopt reasonable Rules and Regulations regarding maximum or minimum temperatures for Units and/or recommend that the air conditioning to the Units be set within certain temperature and/or humidity ranges and may require Owners to take such further actions as the Board deems advisable to control humidity and mold and/or mildew growth.

The Association shall not be responsible for the prevention of mold and/or mildew or any damages, including, but not limited to any special or consequential damages, property damages, personal injury, loss of income, emotional distress, death, loss of use, loss of income diminution or loss of value of the Unit, economic damages, and adverse health effects relating to, arising from or caused by mold and/or mildew accumulation regardless of the cause of said mold/or mildew.

Each Unit Owner and each other person having an interest in or lien upon, or making any use of, any portion of the Condominium Property shall be bound by this provision and shall be deemed to have automatically waived any and all claims, obligations, demands, damages, causes of action, liabilities losses and expenses, whether now known or hereafter known, foreseen or unforeseen, that such person has, or may have in the future, in law or in equity against the Association, its Officers, Directors, and Committee Members, or any person or entity the Association is obligated to indemnify (and without waiving, reducing or otherwise modifying coverage obligations or subrogation rights of any insurer) arising out of, relating to, or in any way connected with indoor air quality, moisture, or the growth, release, discharge, dispersal or presence of mold and/or mildew or any chemical or toxin secreted therefrom.

**11.11 Restraint Upon Assignment of Shares in Assets.** The share of a Unit Owner in the funds and assets of the Association cannot be assigned, hypothecated, or transferred in any manner except as an appurtenance to his/her Unit.

Amended and Restated Declaration of Condominium  
(Page 26 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

**12. INSURANCE.** The insurance which shall be carried upon the Condominium Property, including the Units, Common Elements, and Association Property shall be as follows:

**12.1 Authority to Purchase Insurance.** All insurance policies shall be purchased by the Association for the benefit of the Association and the Unit Owners and their mortgagees as their respective interests may appear.

**12.2 Coverage.**

**12.2.1 Property Insurance.** Except as otherwise provided herein, the Association shall obtain and maintain fire, wind, general property and extended coverage insurance with a responsible insurance company upon all of the Insurable Improvements of the entire Condominium, including Association Property, the Common Elements (including Limited Common Elements), the Units, and the personal property of the Association, for the replacement value thereof, including coverage for changes in building codes, if reasonably available and determined commercially practicable by the Board, and less a commercially reasonable deductible as determined by the Board, provided the Board may exclude landscaping and exterior improvements not customarily insured by condominium associations in the locality, and foundation and excavation costs, in its discretion. The Association shall determine the replacement value of the Insurable Improvements through independent appraisal, at least every 36 months, so long as required by the Act. The Board shall establish deductibles, at a duly noticed meeting of the Board, and shall give notice of such meeting, and determine the deductibles, as required by the Act, so long as required by the Act. Notwithstanding the foregoing requirement, the Association, through its Board of Directors, will have fulfilled its duty to obtain insurance coverage if it obtains and maintains such insurance coverage as may be reasonably available from time to time given market and economic conditions, provided such coverage shall always meet the minimum level of adequate coverage required by Section 718.111(11) of the Act. The original policy of insurance shall be held by the Association, and mortgagees shall be furnished, upon request, mortgage endorsements covering their respective interests. The word "Building" or "Insurable Improvement" in every property insurance policy issued to protect a Condominium building does not include: personal property in the Unit or Limited Common Elements; Unit floor, wall, or ceiling coverings; Unit or lanai electrical fixtures; appliances; water heaters; water filters; built-in cabinets or countertops; window treatments, including curtains, drapes, blinds, hardware and similar window treatment components; and replacements of any of the foregoing, which are located within the boundaries of a Unit and serve only one Unit. Whenever the Act is amended to shift insurance responsibility for insurance of components from the Association to the Unit Owner, or vice-versa, this Declaration shall be deemed amended accordingly, so as to coincide with the Act. The Unit Owners shall also be responsible to insure all alterations, modifications or additions made to the Unit, Limited Common Elements, or Common Elements by said Unit Owner, or his predecessor in interest or title.

**12.2.2 Flood.** The Association shall use its best efforts to obtain and maintain adequate flood insurance, for replacement value, less a commercially reasonable deductible as

Amended and Restated Declaration of Condominium  
(Page 27 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

determined by the Board, and less foundation and excavation costs if determined by the Board. The Association will have discharged its responsibility to use its "best efforts" to obtain "adequate" flood insurance if it is able to purchase flood insurance through the National Flood Insurance Program (NFIP), or through any similar federally-sponsored or related program, or through private carriers with similar coverage, for premium rates that are generally commensurate with flood insurance premium rates for condominiums in the local area.

**12.2.3 Liability Insurance.** The Association shall obtain and maintain public liability insurance covering all of the Common Elements and Association Property and insuring the Association and the Unit Owners as their interest may appear in such amount as the Board of Directors may deem appropriate. The Board of Directors shall have authority to compromise and settle all claims against the Association or upon insurance policies held by the Association. The Unit Owners shall have no personal liability upon such claims, except as may be otherwise provided by law, and nothing herein contained shall in any way be construed as imposing upon the Association a duty to assess Unit Owners for the purpose of raising sufficient funds to discharge any liability in excess of insurance coverage.

**12.2.4 Fidelity Bond.** The Association shall obtain and maintain insurance or fidelity bonding of all persons who control or disburse funds of the Association. The insurance policy or fidelity bond must cover the maximum funds that will be in the custody of the Association or its management agent at any one time. As used in this paragraph, the term "persons who control or disburse funds of the association" includes, but is not limited to, those individuals authorized to sign checks on behalf of the Association, and the President, Secretary, and Treasurer of the Association.

**12.2.5 Worker's Compensation.** Such worker's compensation coverage as may be required by law, or deemed advisable by the Board.

**12.2.6 Other Insurance.** Such other insurance as the Board of Directors may from time to time deem to be necessary, including but not limited to Errors and Omissions Officers and Directors Liability insurance coverage and insurance for the benefit of its employees.

**12.3 Deductible and Other Insurance Features.** The Board of Directors shall establish the amount of the deductible under the insurance policies, and other features (including but not limited to exclusions), as it deems desirable and financially expedient, in the exercise of its business judgment, and in the method provided by the Act. The deductible and other features shall be consistent with industry standards and prevailing practice for communities of similar size and age, and having similar construction and facilities in the locale where the Condominium Property is situated.

Where appropriate and obtainable, each of the foregoing policies shall waive the insurer's right to: (i) subrogation against the Association and against the Unit Owners individually and as a group, (ii) to pay only a fraction of any loss in the event of coinsurance or if other insurance

Amended and Restated Declaration of Condominium  
(Page 28 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

carriers have issued coverage upon the same risk, and (iii) avoid liability for a loss that is caused by an act of the Board of Directors of the Association, a member of the Board of Directors of the Association, a Committee of the Board of Directors or members of any such Committee, one or more Unit Owners or as a result of contractual undertakings (including duties performed in connection with the Association's obligations to the Community Association as set forth in the Community Covenants). Additionally, each policy shall provide that any insurance trust agreement will be recognized, that the insurance provided shall not be prejudiced by any act or omission of the individual Unit Owners that are not under the control of the Association, and that the policy shall be primary, even if a Unit Owner has other insurance that covers the same loss.

**12.4 Premiums.** Premiums upon insurance policies purchased by the Association shall be paid by the Association as a Common Expense of the Condominium or Common Expense of the Association, as applicable.

**12.5 Insurance Shares or Proceeds.** Insurance proceeds of policies purchased by the Association covering property losses shall be paid to the Association, and all policies and endorsements thereon shall be deposited with the Association. The duty of the Association shall be to receive such proceeds as are paid and to hold and disburse the same for the purposes stated herein and for the benefit of the Unit Owners and their mortgagees in the following shares:

**12.5.1 Common Elements; Proceeds On Account Of Damage To Common Elements.** An undivided share for each Unit Owner, such share being the same as the undivided share in the Common Expenses of the Condominium appurtenant to the Unit.

**12.5.2 Unit; Proceeds On Account Of Damage To Units Shall Be Held In The Following Undivided Shares.**

**12.5.2.1 Surplus.** It shall be presumed that the first monies disbursed in payment of costs of reconstruction and repair shall be from insurance proceeds. If there is a balance in a construction fund after payment of all costs relating to the reconstruction and repair for which the fund is established, such balance shall be distributed in the manner elsewhere stated.

**12.5.2.2 When The Condominium Building Is To Be Restored.** For the Owners of damaged Units in proportion to the costs of repairing the damage suffered by each Unit Owner, which cost shall be determined by the Association.

**12.5.2.3 When The Condominium Building Is Not To Be Restored.** An undivided share for each Unit Owner, such share being the same as the undivided share in the Common Expenses of the Condominium appurtenant to the Unit.

**12.5.2.4 Common Elements and Units.** When both Common Elements and those portions of the Unit insured by the Association are damaged by a common occurrence, the proceeds of insurance shall be allocated between damage to Common Elements,

Amended and Restated Declaration of Condominium  
(Page 29 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

Limited Common Elements, and Units as the Board of Directors shall determine. It shall be presumed that when there are insurance proceeds received on account of a common Casualty or covered cause of loss under the Association's applicable insurance policy, but insufficient proceeds for Casualty or covered cause of loss repair (including but not limited to shortfalls occasioned by the existence of a deductible), that such shortfalls shall first be applied to Common Elements damage, and then to damage to Units and Limited Common Elements, it being the intent of this provision that when there is a common Casualty loss or covered cause of loss under the Association's applicable insurance policy causing significant damage to the premises, the shortfalls occasioned by deductibles shall be first apportioned to all Unit Owners in proportion to their share of the Common Elements and not applied first to Unit damage.

**12.5.3 Mortgages.** In the event a mortgage endorsement has been issued as to a Unit, the share of that Unit Owner shall be held in trust for the mortgagee and the Unit Owner as their interests may appear; provided, however, that no mortgagee shall have any right to determine or participate in the determination as to whether or not any damaged property shall be reconstructed or repaired, and no mortgagee shall have any right to apply or have applied to the reduction of a mortgage debt any insurance proceeds.

**12.6 Distribution of Proceeds.** Proceeds of insurance policies received by the Association shall be distributed in the following manner:

**12.6.1 Reconstruction or Repair.** If the damage for which the proceeds are paid is to be repaired or reconstructed, the proceeds shall be paid to defray the cost thereof as elsewhere provided. Any proceeds remaining after defraying such costs shall be distributed to the Unit Owners, or, at the option of the Board, may be deposited in the reserve fund kept on behalf of the Condominium.

**12.6.2 Failure to Reconstruct or Repair.** If it is determined in the manner elsewhere provided that the damage for which the proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be distributed in accordance with the Plan of Termination approved pursuant to Article 18.

**12.7 Association as Agent.** The Association is irrevocably appointed agent for each Unit Owner and for each Owner of a mortgage or other lien upon any Unit and for each Owner of any other interest in the Condominium Property or any property in which the Association owns an interest, to adjust all claims arising under insurance policies by the Association, and to execute and deliver releases upon the payment of such claim.

**13. RECONSTRUCTION AFTER CASUALTY.** If any part of the Condominium Property shall be damaged by Casualty or covered cause of loss under the Association's applicable insurance policy, whether or not it shall be reconstructed or repaired shall be determined in the following manner:

Amended and Restated Declaration of Condominium  
(Page 30 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

**13.1 Common Elements.** If the damaged improvement is any of the Common Elements, the damaged Common Element shall be reconstructed or repaired, unless the Condominium is to be terminated as provided elsewhere herein.

**13.2 The Building.**

**13.2.1 Lesser Damage.** If the damage renders less than 50% of the Units in the Condominium uninhabitable, as determined by the Board of Directors or governmental agencies of jurisdiction, the damaged property shall be reconstructed or repaired.

**13.2.2 Major Damage.** If the damage renders more than 50% of the Units in the Condominium uninhabitable, as determined by the Board of Directors or governmental agencies of jurisdiction, the damaged property will be reconstructed or repaired, unless 75% of the entire Voting Interests in the Condominium agree in writing that such reconstruction or repair shall not take place. The decision whether or not to reconstruct or repair shall be made within one hundred eighty (180) days after the Casualty or covered cause of loss under the Association's applicable insurance policy, provided however that the Board of Directors shall have the authority to extend this period for decision-making, not to exceed three (3) years, to deal with exigencies in communication with Unit Owners caused by natural disasters or other significant casualties, or to deal with delays in obtaining information regarding reconstruction costs or insurance proceeds available for reconstruction.

**13.2.3 Plans and Specifications.** Any reconstruction or repair must be substantially in accordance with the plans and specifications for the original Building, as set forth in the plans and specifications for the Building, or if not, then according to plans and specifications approved by the Board of Directors, regardless of whether it is a material alteration or substantial addition as described in Article 9.8 and no vote of the Unit Owners shall be required.

**13.2.4 Definition of "Uninhabitable".** For purposes of this Declaration, "uninhabitable" shall mean that the Board of Directors has concluded that the Condominium Property which the Association is required to insure cannot be restored to the condition (or a better condition) in which it existed prior to the Casualty or covered cause of loss under the Association's applicable insurance policy through available insurance proceeds, plus a special assessment against each Unit Owner not to exceed 10% of the average fair market value of the Units, as determined by the Board. This calculation shall not include costs affiliated with those items the Unit Owner is obligated to repair or replace, at the Unit Owner's expense. A governmental agency's declaration or order that the Condominium Property may not be occupied for a defined period of time due to safety concerns shall not conclusively establish that Units are uninhabitable, provided that the Units can be made safe for occupancy pursuant to the standards set forth above. In the event of a dispute as to whether or not Units are "habitable", a resolution enacted by the Board shall be binding on all parties, unless wholly arbitrary or contrary to law.

Amended and Restated Declaration of Condominium  
(Page 31 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

**13.3 Responsibility.** All reconstruction work after a Casualty or covered cause of loss under the Association's applicable insurance policy for damaged items that the Association insures shall be undertaken by the Association, except that a Unit Owner may undertake reconstruction work on portions of the Unit with the prior written consent of the Board of Administration. However, such work, and the disbursement of insurance proceeds, may be conditioned upon the approval of the repair methods, the qualifications of the proposed contractor, the contract that is used for that purpose, and reasonable verification of appropriate steps to ensure that the work is done and that the contractor is paid for the performance of said work. Unit Owners shall be responsible for reconstructing those items that the Unit Owners are required to insure. All required governmental permits and approvals must be obtained prior to commencing reconstruction. Assessments for the cost of the work shall be set forth in Article 13.5 below. If an Owner fails to repair and reconstruct those items that the Unit Owner is responsible for under this Declaration, the Association shall have, without waiver of other remedies, the right to proceed in accordance with Article 9.9, in which event the Unit Owner shall be charged for the costs of such activities (including attorney's fees incurred by the Association) by the Association which shall be secured by such rights as exist for collecting Common Expenses under these Condominium Documents i.e., a Lien for Charges.

**13.4 Estimates of Costs.** After a determination is made to rebuild or repair damage to property for which the Association or Unit Owner has the responsibility of reconstruction and repair, the Association or Unit Owner shall obtain promptly reliable and detailed estimates of the cost to rebuild or repair.

**13.5 Assessments.** The cost of reconstruction after Casualty for those portions of the Condominium Property required to be insured by the Association shall be considered a Common Expense of the Condominium, pursuant to Section 718.111(11)(j) of the Act. However, any cost of repair, reconstruction or replacement of portions of the Condominium Property that is not caused by a Casualty or covered cause of loss under the Association's applicable insurance policy, as determined by the Board of Directors, shall be repaired, and said costs allocated pursuant to the general maintenance, repair, and replacement provisions of this Declaration.

**13.6 Damage Caused By Wear and Tear of the Condominium Property.** Damage to the Condominium Property that is not caused by a Casualty as defined in Article 1.9 or covered cause of loss under the Association's applicable insurance policy, shall be repaired or replaced in accordance with the provisions of Article 9 and shall not be subject to this Article 13. To the extent legally required, it is the intention of this Article 13.6 to "opt out" of the provisions of Section 718.111(11)(j) of the Act as pertains to damage not covered by Casualty.

**13.7 Termination of Condominium if Not Reconstructed.** If the Owners vote not to reconstruct the Condominium by vote described in Article 13.2.2 hereof, the Condominium shall be terminated in accordance with the procedures set forth in Article 18 hereof.

Amended and Restated Declaration of Condominium  
(Page 32 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

**13.8 Additional Board Authority.** In addition to Board authority granted by law and the Condominium Documents, the Board shall have the following power and authority in connection with emergency conditions:

**13.8.1** To determine after a Casualty whether the Units can be safely occupied, which decision shall not be conclusive as to the determination of habitability in Article 13.2. Such decision shall be based upon the advice of emergency management officials or a licensed professional.

**13.8.2** To declare any portion of the Condominium Property or Association Property unavailable for occupation by Owners, Family members, Tenants, or Guests after a Casualty, including during the rebuilding process. Such decision by the Board shall be based upon the advice of emergency management officials or a licensed professional (such as an engineer) and can be made only if necessary to protect the health, safety, or welfare of the Association, Owners, Family members, Tenants, or Guests.

**13.8.3** To mitigate damage and take action to prevent the spread of fungus (including but not limited to mold and mildew) by tearing out wet drywall and carpet (even if the Unit Owner is obligated to insure and/or replace those items) and to remove personal property from the Unit and dispose of damaged property or store such property onsite or at an offsite location, with Owners responsible for reimbursing the Association for items for which the Owner is responsible but which may be necessary to prevent further damage. The Association shall bear no liability for such actions, if taken in good faith.

**13.8.4** To contract on behalf of Unit Owners, with said Owners responsible to reimburse the Association, for items for which the Owner is responsible but which may be necessary to prevent further damage. Without limitation, this includes debris removal, dry-out of Units and replacement of damaged air conditioners when necessary to provide climate control in the Units. The Unit Owner shall be responsible to reimburse the Association within ten (10) days of the Association's invoice. The Association's right to payment shall be secured by a Common Expense Lien as provided in the Act and actions to collect such sums shall entitle the Association to recover interest, late fees, attorney's fees, and other costs and expenses of collection.

**13.8.5** To implement a disaster plan prior to, during or after an impending disaster including, but not limited to, shutting down elevators, electricity, security systems, and air conditioners.

**13.8.6** To adopt, by Board action, emergency assessments with such notice deemed practicable by the Board.

**13.8.7** To adopt emergency Rules and Regulations governing the use and occupancy of the Units, Common Elements, Limited Common Elements, and Association property, with notice given only to those Directors with whom it is practicable to communicate.

Amended and Restated Declaration of Condominium  
(Page 33 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707



**13.8.8** To enter into agreements with local counties and municipalities to assist counties and municipalities with debris removal.

**13.8.9** To exercise all emergency powers set forth in the Act.

**14. USE RESTRICTIONS.** Use of the property submitted for condominium ownership shall be in accordance with the following use restrictions and reservations:

**14.1 Occupancy of Units; Single Family Residence.** A Condominium Unit shall be used only as a Single Family residence. As used in the Condominium Documents, "Single Family" means one natural person, a group of two or more natural persons who customarily reside together as a Single Family housekeeping Unit, each of whom is related to each of the others by blood, marriage (or domestic partnership) or adoption, or not more than two persons not so related, who customarily reside together as a single housekeeping Unit. No more than two (2) persons per bedroom and one (1) person per den may permanently occupy a Unit, unless otherwise approved by the Board of Directors. For purposes of these Condominium Documents, "permanently occupy" means to sleep in the Unit for more than thirty (30) nights during a calendar year. No Unit may be divided or subdivided into a smaller Unit nor any portion sold or otherwise transferred. No person may occupy a Unit as a Unit Owner, Tenant, or Family member thereof (i.e., occupy the Unit on an overnight basis for more than thirty (30) days in a calendar year) unless said person's occupancy has been specifically approved by the Association, through the Board of Directors. Any person who occupies a Unit for more than thirty (30) days in a calendar year shall not be considered a Guest. Units may not be used for commercial or business purposes. Unit Owners (and their Family members and Tenants) may use Units for "home office" or "telecommuting" purposes, provided that such uses do not involve customers or clients coming onto the Condominium Property, the posting of any signage in the Condominium, the storage of equipment, products, or materials in the Condominium, nor more than two regular deliveries per day of correspondence or similar items from customary express delivery services.

**14.2 Nuisance.** The Condominium Property shall not be used for any immoral, improper or unlawful purpose and no use or behavior shall be allowed which will create a public or private nuisance, nor which shall unreasonably interfere with the quiet possession or enjoyment of the Condominium Property, nor which becomes a source of annoyance to the Condominium residents, or which will increase insurance rates. All property shall be kept in a neat and orderly manner. The Common Elements shall be used for the purpose of furnishing services and facilities as herein provided for the welfare and enjoyment of such residents. The Condominium Property shall be used in accordance with all federal, state, and local laws and ordinances.

**14.3 Garages.** Garages shall be used only for the storage of the Unit Owner's or Tenant's primary vehicle, the storage of a golf cart (which shall be kept only in the garage) and the storage of other property of the Owner thereof.

Amended and Restated Declaration of Condominium  
(Page 34 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL. 33966  
TELEPHONE (239) 433-7707

**14.4 Children.** Children shall be permitted to reside in Units, subject to the provisions of Article 14.1.

**14.5 Pets.** Each Unit may maintain two (2) domestic dogs or cats in total (two dogs, two cats, or one cat and one dog). No pet shall be kept, bred or maintained for any commercial purpose, shall not become a nuisance or annoyance to neighbors. All pets must be registered with the Association. No reptiles, "exotic" pets or wildlife shall be kept in or on the Condominium Property (including Units), as no animal, other than dogs, cats, one bird, or fish are permitted to be kept on the Condominium Property. Unit Owners must pick-up all solid wastes of their pets and dispose of such wastes appropriately. All pets (including cats) must be kept on a leash or otherwise manually restrained at all times when outside the Unit and shall not be permitted on outdoor recreational areas (e.g., pool decks). No pets may be kept in or on lanais when the Owner is not in the Unit. Without limiting the generality of Article 20 hereof, a violation of the provisions of this paragraph shall entitle the Association to all rights and remedies, including, but not limited to, the right to fine Unit Owners (as provided in any applicable rules and regulations) and/or to require any pet to be permanently removed from the Condominium Property. This Article shall not prohibit the keeping of fish in aquariums or up to one (1) caged household-type bird in a Unit, provided that the bird is not kept on Limited Common Elements and does not become a nuisance or annoyance to neighbors.

**14.6 Alterations.** Without limiting the generality of Article 9 hereof, and subject to the proviso contain therein as to hurricane shutters, no Unit Owner shall cause or allow improvements or changes to any Unit, Limited Common Elements appurtenant thereto or Common Elements, including, but not limited to, painting or other decorating of any nature (other than to the interior of the Unit), installing any electrical wiring, television antenna, machinery, or air conditioning units or in any manner changing the appearance of any portion of the Building, without obtaining the prior written consent of the Association, in the manner specified in Article 9 hereof.

**14.7 Use of Common Elements.** The Common Elements shall be used only for furnishing of the services and facilities for which they are reasonably suited and which are incident to the use and occupancy of Units.

**14.8 No Improper Uses.** No improper, offensive, hazardous or unlawful use shall be made of the Condominium Property or any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereover shall be observed. Violations of laws, orders, rules, regulations or requirements of any governmental agency having jurisdiction thereover, relating to any portion of the Condominium Property, shall be corrected by, and at the sole expense of, the party obligated to maintain or repair such portion of the Condominium Property, elsewhere herein set forth. Notwithstanding the foregoing and any provisions of this Declaration, the Articles of Incorporation or By-Laws, the Association shall not be liable to any person(s) for its failure to enforce the provisions of this Article 14.8.

Amended and Restated Declaration of Condominium  
(Page 35 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

**14.9 Hurricane Protection.** No type of hurricane protection may be installed in or around the Units other than hurricane shutters meeting the specifications (including as to location) adopted by the Board of Directors as required by the Act.

**14.10 Exterior Improvements; Landscaping.** Without limited the generality of other Articles of this Declaration, but subject to any provision of this Declaration specifically permitting same, no Unit Owner shall cause anything to be affixed or attached to, hung, displayed or placed on the exterior walls, doors, lanais or windows of the Buildings (including, but not limited to, awnings, signs, storm shutters, screens, window tinting, furniture, fixtures and equipment), nor to plant or grow any type of shrubbery, flower, tree, vine, grass or other plant life outside his Unit, without the prior written consent of the Association.

**14.11 Commercial/Recreational Vehicle and Trailers.** Except as permitted below, no trucks, other commercial vehicles, campers, mobile homes, recreational vehicles, motorcycles or boat or other trailers shall be kept on the Condominium Property. For purposes of the foregoing, "commercial vehicles" shall mean those not designed or used for customary personal/family purposes. The absence of commercial-type lettering or graphics on a vehicle shall not be dispositive as to whether the same is a commercial vehicle. The foregoing shall not prohibit, however, (i) the parking of otherwise prohibited vehicles on the Condominium Property in the course of providing services to the Condominium Property, the Occupants thereof or the Association, (ii) unmarked pick-up trucks of less than a three-quarter (3/4) ton capacity or (iii) vans with windows which contain seating for at least four (4) persons, provided that such vans and trucks shall not bear commercial-type lettering or graphics. A non-commercial vehicle may, however, be kept if (i) it is the Unit Owner's or Occupant's primary vehicle and (ii) it is kept in a garage. All vehicles kept on the Condominium Property shall be operational and in good condition. In the event of doubt or dispute as to whether a vehicle is prohibited by this Section, the good-faith determination of the Board of Directors shall be binding and conclusive. Golf carts shall be permitted, subject to regulations by the Association.

All persons are hereby advised to consult with the Association and the Community Association (which may have its own vehicle restrictions) prior to bringing any vehicle upon the Condominium Property.

**14.12 Relief by Association.** The Association shall have the power (but not the obligation) to grant relief in particular circumstances from the provisions of specific restrictions contained in this Article 14 for good cause shown.

**14.13 Changes in Permitted Uses.** No amendments to this Article 14, any other provision of this Declaration governing the use of Units or the Common Elements or to any rules and regulations of the Association shall operate to prohibit the keeping of a pet, parking of a vehicle or leasing or occupancy of a Unit where the same was (i) permitted prior to the effectiveness of the amendment, (ii) being conducted in reliance on such permissibility and (iii) is continuing with the same pet, vehicle, lessee or occupant as existed prior to the effectiveness of the amendment. Likewise, no improvement made to or about any Unit (e.g., the installation of

Amended and Restated Declaration of Condominium  
(Page 36 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

hurricane shutters) which was permitted at the time of its making shall be required to be removed by virtue of a change in the permissibility of such types of improvements.

**14.14 Additional Restrictions.** Additional use restrictions are contained in the Rules and Regulations, which may be amended from time to time by the Board of Directors. Amendments to the Rules and Regulations may, but need not be recorded in the Public Records. Additional use restrictions are also contained elsewhere in the Condominium Documents.

**15. LEASING.** The lease of a Unit is defined as occupancy of the Unit by any person other than the Unit Owner, whether pursuant to verbal or written agreement, where said occupancy by the non-owner involves consideration (the payment of money, the exchange of goods or services, or any other exchange of value). The term "leasing" and "renting" shall be used interchangeably for the purpose of this Declaration. The term "Tenant" and "Lessee" shall likewise be used interchangeably. All leases must be in writing. Should a Unit Owner wish to lease his Unit, he shall comply with the approval requirements of the Community Association. No individual rooms may be rented and no transient tenants may be accommodated. "Rent-sharing" and subleasing are prohibited. All leases shall be for a minimum period of thirty (30) days. Leases may be extended or renewed, subject to Board approval. This section shall apply to all Unit Owners, regardless of when the Unit was purchased or title acquired.

**15.1** When checking in with the Community Association Administration, the Lessee must sign a statement that they are aware that in the event the Owner is delinquent, the Association shall have the authority to direct that all rental income related to the Unit be paid to the Association until all past due and current obligations of the Association have been paid in full, and that they have been provided with and will comply with the Rules and Regulations of the Association and the Community Association.

**16. MAINTENANCE OF COMMUNITY INTERESTS.** In order to maintain a community of congenial Unit Owners who are financially responsible, and thus protect the value of the Units, the use and transfer of Units by any Owner shall be subject to the following provisions as long as the Condominium exists upon the land, which provisions each Unit Owner covenants to observe:

**16.1 Forms of Ownership:**

**16.1.1 Ownership by Individuals.** A Unit may be owned by one natural person who has qualified and been approved as elsewhere provided herein.

**16.1.2 Co-Ownership.** Co-ownership of Units may be permitted. If the co-owners are other than husband and wife or Domestic Partners, the Board shall condition its approval upon the designation of one approved natural person as "Primary Occupant." The use of the Unit by other persons shall be as if the Primary Occupant was the only actual Owner. Any changes in the Primary Occupant shall be treated as a transfer of ownership by sale or gift subject to the provisions of the Condominium Documents. No more than one change in Primary

Amended and Restated Declaration of Condominium  
(Page 37 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

Occupant will be approved in any calendar year. No time share estates may be created. "Unit Sharing" by multiple families and "Fractional Ownership" are prohibited.

**16.1.3 Ownership by Corporations, Partnerships, Limited Liability Companies, Trusts, or Other Artificial Entities.** A Unit may be owned in trust, or by a corporation, partnership, limited liability company, or other entity which is not a natural person, if approved in the manner provided elsewhere herein. The intent of this provision is to allow flexibility in estate, financial, or tax planning, and not to create circumstances in which the Unit may be used as a short-term or transient accommodations for several entities, individuals or families as a timeshare, a shared Unit, fractional ownership, or used as Guest accommodations for employees, customers, or Guests of Units owned by business entities, religious, or charitable organizations, and the like. The approval of a partnership, trustee, corporation, limited liability company, or other entity as a Unit Owner shall be conditioned upon designation by the Owner of one natural person to be the "Primary Occupant." The use of the Unit by other persons shall be as if the Primary Occupant were the only actual Unit Owner. The Primary Occupant shall be the person entitled to vote on behalf of the Unit, and exercise rights of membership. Any change in this Primary Occupant shall be treated as a transfer of ownership by sale or gift subject to the provisions of the Condominium Documents. No more than one change in designation of Primary Occupant will be approved in any twelve (12) month period.

**16.1.4 Life Estate.** A Unit may be subject to a life estate, either by operation of law or by a voluntary conveyance approved as provided below. In that event, the life tenant shall be the only Member from such Unit, and occupancy of the Unit shall be as if the life tenant were the only Owner. Upon termination of the life estate, the holders of the remainder interest shall have no occupancy right unless separately approved by the Association. The life tenant shall be liable for all Assessments and Charges against the Unit. Any vote, consent, or approval required by the Condominium Documents or law may be given by the life tenant alone, and the vote, consent or approval of the holders of the remainder interest shall not be required. If there is more than one life tenant, they shall be treated as co-owners for purposes of determining voting and occupancy rights.

**16.2** A copy of the deed or other instrument of conveyance must be provided to the Association within ten (10) days of the date such instrument was recorded.

**17. METHOD OF AMENDMENT OF DECLARATION.** Except as elsewhere provided otherwise, this Declaration may be amended in the following manner:

**17.1 Proposal of Amendments.** An amendment may be proposed by the President of the Association, a majority of the Directors, or by twenty-five percent (25%) of the entire Voting Interests.

**17.2 Proposed Amendment Format.** Proposals to amend the existing Declaration of Condominium shall contain the full text of the article to be amended. New words shall be underlined and words to be deleted shall be ~~lined through~~ with hyphens. If the proposed change

Amended and Restated Declaration of Condominium  
(Page 38 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

is so extensive that this procedure would hinder rather than assist understanding, a notation must be inserted immediately preceding the proposed amendment saying, "SUBSTANTIAL REWORDING OF DECLARATION OF CONDOMINIUM. SEE ARTICLE NUMBER FOR PRESENT TEXT."

**17.3 Notice.** The subject matter of proposed amendments shall be included in the notice of any meeting at which a proposed amendment is to be considered or in connection with documentation for action without a meeting.

**17.4 Adoption of Amendments.** A resolution for the adoption of a proposed amendment may be adopted by a vote of two-thirds (2/3<sup>rds</sup>) of the Voting Interests of the Association present (in person or by proxy) and voting at a duly noticed meeting at which a quorum is present, or by the written agreement of two-thirds (2/3<sup>rds</sup>) of the entire Voting Interests. Amendments correcting errors, omissions or scrivener's errors may be executed by the Officers of the Association, upon Board approval, without need for Association membership vote.

**17.5 Effective Date.** An amendment when adopted shall become effective after being recorded in the Lee County Public Records according to law.

**17.6 Automatic Amendment.** Whenever the Act, Chapter 617, Florida Statutes, or other applicable statutes or administrative regulations, as amended from time to time, are amended to impose procedural requirements less stringent than set forth in this Declaration, the Board may operate the Association pursuant to the less stringent requirements without the need to change this Declaration. The Board of Directors without a vote of the Owners, may also adopt by majority vote, amendments to this Declaration as the Board deems necessary to comply with such operational changes as may be enacted by future amendments to Chapters 607, 617, and the Act, or such other statutes or administrative regulations as required for the operation of the Association, all as amended from time to time.

**17.7 Proviso.** No amendments to Article 14 or any other provision of this Declaration governing the use of Units or the Common Elements or to any rules and regulations of the Association shall operate to prohibit the keeping of a pet, parking of a vehicle or leasing or occupancy of a Unit where the same was (i) permitted prior to the effectiveness of the amendment, (ii) being conducted in reliance on such permissibility and (iii) is continuing with the same pet, vehicle, lessee or occupant as existed prior to the effectiveness of the amendment. Likewise, no improvement made to or about any Unit (e.g., the installation of hurricane shutters) which was permitted at the time of its making shall be required to be removed by virtue of a change in the permissibility of such types of improvements. No amendment shall change the configuration of any Unit or the share in the Common Elements appurtenant to it, or increase the Owner's proportionate share of the Common Expenses, unless the record Owner of the Unit concerned and all record Owners of the mortgages on such apartment shall join in the execution of the amendment, and all other Unit Owners approve the amendment.

Amended and Restated Declaration of Condominium  
(Page 39 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

## 18. TERMINATION.

18.1 The Condominium may be terminated under any one of the following alternatives:

### 18.1.1 Termination Because of Economic Waste or Impossibility.

Notwithstanding anything to the contrary in this Declaration, the condominium form of ownership may be terminated by a plan of termination approved by the percentage of Voting Interests necessary to amend the Declaration when:

- the total estimated cost of repairs necessary to restore the improvements to their former condition or bring them into compliance with applicable laws or regulations exceeds the combined fair market value of all Units in the Condominium after completion of the repair; or
- it becomes impossible to operate or reconstruct the Condominium in its prior physical configuration because of land use laws or regulations.

It is the intent of this provision to incorporate Section 718.117(2) of the Act.

**18.1.2 Optional Termination.** Except as provided in Article 18.1.1, the condominium form of ownership may be terminated pursuant to a plan of termination approved by at least eighty percent (80%) of the total Voting Interests of the Condominium if not more than ten percent (10%) of the total Voting Interests of the Condominium have rejected the plan of termination by negative vote or by providing written objections thereto. It is the intent of this provision to incorporate the provisions of Section 718.117(3) of the Act.

**18.1.3 Very Substantial Damage.** If the Condominium suffers major damage as defined in Article 13, which shall mean that more than one-half the Units in the Condominium are rendered uninhabitable as determined in the sole discretion of the Board of Directors, the Condominium may be terminated if seventy-five percent (75%) of the total Voting Interests in the Condominium vote to approve a plan of termination.

**18.1.4 Mortgage Lienholders.** Notwithstanding any provision to the contrary in this Declaration or Chapter 718, approval of a plan of termination by the holder of a recorded mortgage lien affecting a Condominium Parcel is not required unless the plan of termination would result in less than the full satisfaction of the mortgage lien affecting the Condominium Parcel. If such approval is required and not given, a holder of a recorded mortgage lien who objects to a plan of termination may contest the plan as provided in Section 718.117(16) of the Act.

**18.2 Procedures for Termination and Sale.** The termination of the Condominium via either of the methods set forth in 18.1.1 through 18.1.3 herein shall be as set forth in Section 718.117(4) – (20) of the Act.

Amended and Restated Declaration of Condominium  
(Page 40 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

**18.3 Amendment.** This Article 18 may be amended in the same manner in which this Declaration may be amended generally, as set forth in Article 17.

**19. CONDEMNATION.**

**19.1 Awards.** The taking of all or any part of the Condominium Property by condemnation or eminent domain shall be deemed to be a Casualty to the portion taken, and the awards for that taking shall be deemed to be proceeds from insurance on account of the Casualty. Even though the awards may be payable to Unit Owners, the Unit Owners shall deposit the awards with the Association, and if any fail to do so, a special assessment shall be made against a defaulting Unit Owner in the amount of this award, or the amount of the award shall be set off against any sums payable to that Owner.

**19.2 Determination Whether to Continue Condominium.** Whether the Condominium will be continued after condemnation will be decided in the same manner as repair after Casualty as set forth in Article 13 hereof.

**19.3 Distribution of Funds.** If the Condominium is terminated after condemnation, the proceeds of all awards and special assessments will be owned and distributed in the manner provided for insurance proceeds when the Condominium is terminated after a Casualty. If the Condominium is not terminated after condemnation, the size of the Condominium may be reduced. The Owners of condemned Units, if any, will share in awards and special assessments as provided below.

**19.4 Association as Agent.** The Association is hereby irrevocably appointed as each Unit Owner's attorney-in-fact for purposes of negotiating or litigating with the condemning authority for the purpose of realizing just compensation for the taking.

**19.5 Units Reduced but Habitable.** If the taking reduces the size of a Unit and the remaining portion of the Unit can be made habitable, the awards for the taking of a portion of that Unit shall be used for the following purposes in the order stated, and the following changes shall be effected in the Condominium.

**19.5.1 Restoration of Unit.** The Unit shall be made habitable. If the cost of the restoration exceeds the amount of the award, the additional funds required shall be assessed against the Owner of the Unit.

**19.5.2 Distribution of Surplus.** The balance of the award, if any, shall be distributed to the Owner of the Unit and to each mortgagee of the Unit, the remittance being made payable jointly to the Owner and mortgagees.

**19.5.3 Adjustment of Shares in Common Elements.** If the floor area of a Unit is reduced by the taking, the number representing the share in the Common Elements appurtenant to the Unit shall be reduced in the proportion by which the floor area of the Unit is

Amended and Restated Declaration of Condominium  
(Page 41 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707



reduced by the taking, and then the shares of all Unit Owners in the Common Elements shall be restated as percentages of the total of the numbers representing their original shares as reduced by the taking.

**19.6 Units Not Habitable.** If the taking of any entire Unit or so reduces the size of the Unit that it cannot be made habitable, the award for the taking of the Unit shall be used for the following purposes in the order stated, and the following changes shall be effected in the Condominium:

**19.6.1 Payment of Award.** The condemnation award immediately prior to the taking shall be paid to the Owner of the Unit and to each mortgagee of the Unit, the remittance being made payable jointly to the Owner and mortgagee(s).

**19.6.2 Addition to Common Elements.** If possible and practical, the remaining portion of the Unit shall become a part of the Common Elements and shall be placed in condition for use by all Unit Owners in the manner approved by the Board of Directors.

**19.6.3 Assessments.** If the amount of the award for the taking is not sufficient to pay the fair market value of the condemned Unit to the Unit Owner and to recondition the remaining portion of the Unit, the amount required for those purposes shall be raised by special assessment against all of the Unit Owners who will continue as Owners of any Unit after the changes in the Condominium effected by the taking. The Assessments shall be made in proportion to the shares of those Owners in the Common Expenses after the changes effected by the taking.

**19.7 Taking of Common Elements.** Awards for the taking of Common Elements shall be used to make the remaining portion of the Common Elements usable in the manner approved by the Board of Directors. The balance of such awards, if any, may be returned to the Unit Owners or used by the Association as the Board may determine.

**19.8 Amendment of Declaration.** The changes in Units, in the Common Elements and in the ownership of the Common Elements that are necessitated by condemnation shall be evidenced by an amendment of the Declaration of Condominium that need be approved only by a majority of all Directors of the Board.

## **20. COMPLIANCE AND DEFAULT.**

**20.1 Duty to Comply; Right to Sue.** Each Unit Owner, his Family, Tenants, Guests, Invitees and all Unit Occupants and the Association shall be governed by and shall comply with the provisions of the Condominium Act and the Condominium Documents. Actions for damages or for injunctive relief, or both, for failure to comply may be brought by the Association or by a Unit Owner against:

**20.1.1** The Association;

Amended and Restated Declaration of Condominium  
(Page 42 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

**20.1.2** A Unit Owner; or

**20.1.3** Anyone who occupies a Unit as a Unit Owner, Family member, Tenant, Occupant or Guest. Unit Owners shall be jointly and severally liable for violations of the Condominium Documents by their Family members, Tenants, Guests, Invitees and Unit Occupants.

**20.2 Attorney's Fees.** In any legal proceeding arising out of an alleged failure of a Unit Owner, Family member, Tenant, Guest, Invitee Unit Occupant or the Association to comply with the requirements of the Condominium Act or the Condominium Documents, as they may be amended from time to time, the prevailing party shall be entitled to recover the costs and expenses of the proceeding and a reasonable attorney's fee before trial, at trial and on appeal.

**20.3 No Election of Remedies.** All rights, remedies and privileges granted to the Association or Unit Owners under any terms, provisions, covenants, or conditions of the Condominium Documents shall be deemed to be cumulative, and the exercise of any one or more shall not be deemed to constitute an election of remedies, nor shall it preclude the party from exercising such other additional rights, remedies, or privileges as may be granted by the Condominium Documents, or at law or in equity.

**20.4 Waiver of Application of Condominium Documents.** The Association shall have the right to waive the application of one or more of the covenants or restrictions of the Condominium Documents, or to permit a deviation from said covenants or restrictions, as to any Unit where, in the discretion of the Board, hardship circumstances exist which justify such waiver or deviation. In the event of any such waiver or permitted deviation, or in the event the Association fails to enforce violation of said covenants or restrictions, such actions or inactions shall not be deemed to prohibit nor restrict the right of the Association, or any other person having the right to enforce said covenants or restrictions, from insisting upon strict compliance with respect to all other Units, nor shall any such actions be deemed a waiver of any of the covenants or restrictions contained in the Condominium Documents as same may be applied in the future.

**20.5 Notice of Lien or Suit.**

**20.5.1 Notice of Lien.** A Unit Owner shall give to the Association written notice of every lien upon his Unit other than for permitted first mortgages, taxes, and special assessments, within five (5) days after the Unit Owner receives actual notice of the attachment thereof.

**20.5.2 Notice of Suit.** A Unit Owner shall give notice, in writing, to the Association of every suit or other proceeding which may affect the title to his Unit, or impose liability on the Association, such notice to be given five (5) days after the Unit Owner receives actual knowledge thereof.

Amended and Restated Declaration of Condominium  
(Page 43 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

**20.5.3 Failure to Comply.** Failure of an Owner to comply with this Article 20.5 will not affect the validity of any judicial suit; however, the failure may render the Owner liable to any party injured by such failure.

**21. THE COMMUNITY ASSOCIATION.** Lexington Community Association, Inc. (same being defined herein as the "Community Association") has been created to administer the Community Covenants and, generally, to operate, administer, regulate the use of, and maintain and repair the "Common Areas" of all types under the Community Covenants. In addition to the Unit Owners, Owners of other residential units (and possibly other parties) will be members of the Community Association and, as such, shall have the right of access to and use of the Common Areas. The following provisions have been included herein, and shall be interpreted and enforced, in order to further the purposes of the Community Association and the Community Covenants:

**21.1 Maintenance.** The Community Association shall, per the Community Covenants, maintain the following portions of, or installations with, the Common Elements: grass and landscaping, pavement (including painting thereon), curbs and parking bumpers (if any), the common irrigation system, street lights and directional and identifying signage.

**21.2 Assessments and Collections.** Assessments levied by the Community Association shall be the responsibility of the Unit Owners individually and not Common Expenses hereunder. However, the Association may enter into an agreement with the Community Association whereunder the Association may collect the Assessments of the Community Association for Unit Owners, or vice versa.

**21.3 Amendments.** Notwithstanding anything contained in this Declaration or the Articles of Incorporation, Bylaws or rules and regulations of the Association to the contrary, no amendment to any of said documents shall be effective as against the Community Association if same alters, impairs or prohibits the rights of the Community Association or its Members unless the Community Association consents thereto.

**21.4 Non-Discrimination.** Neither the provisions of this Declaration nor those of the Articles of Incorporation, Bylaws or rules and regulations of the Association shall be interpreted or enforced in a manner which discriminates against the Community Association or its members (particularly, but without limitation, its members who are not Unit Owners) or Members of the Association entitled to use any portion of the Common Elements.

**22. MISCELLANEOUS PROVISIONS.**

**22.1 Covenants Running with the Land.** The covenants and restrictions as herein contained, or forming a part of the Condominium Documents, shall be deemed to run with the land and shall run perpetually unless terminated or amended as provided herein.

Amended and Restated Declaration of Condominium  
(Page 44 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

**22.2 Savings Clause.** If any provision of the Condominium Documents hereto, as the same now exist or as may be later amended or any portion thereof, shall be held invalid by any Court, or other governmental agency with proper authority to so hold, the validity of the remainder of said Condominium Documents shall remain in full force and effect.

**22.3 Heirs, Successors and Assigns.** These Condominium Documents shall be binding upon the heirs, nominees, successors, administrators, executors and assigns of all Unit Owners.

**22.4 Notices.** All notices shall be given as provided in the Bylaws. Anything contained to the contrary notwithstanding, the Association shall not be responsible to any mortgagee or lienor of any Unit hereunder, and may assume the Unit is free of any such mortgages or liens, unless written notice of the existence of such mortgage or lien is received by the Association.

**22.5 Compliance with Fair Housing Laws.** There shall be no limitation upon sale, lease, or occupancy of any Unit based upon race, creed, color, sex, religion, national origin, handicap, or familial status. The Association may make reasonable accommodations, including reasonable waiver of the covenants and restrictions of the Condominium Documents, when necessary to afford handicapped individuals the opportunity to enjoy the Condominium premises, or to comply with other legal requirements.

**22.6 Conflicts.** In the event of a conflict between any provision of the Condominium Documents and the Condominium Act, the Condominium Act shall control, except in cases where the Act permits the Condominium Documents to regulate the subject, in which case the Condominium Documents will control. In the event of a conflict between this Declaration and the other Condominium Documents, same shall be governed as provided in the Bylaws.

**22.7 Interpretation.** The Board of Directors shall be responsible for interpreting the provisions of the Condominium Documents. The Board's interpretations shall be binding upon all parties unless wholly unreasonable. A written opinion rendered by Association's legal counsel that an interpretation adopted by the Board is not wholly unreasonable shall conclusively establish the interpretation is valid.

**22.8 Captions and Headings.** The headings and captions used in the Condominium Documents are solely for convenience sake and shall not be considered a limitation of any nature in interpreting the Condominium Documents.

**22.9 Waiver.** No provisions contained in the Condominium Documents shall be deemed to have been waived because of any failure to enforce the same, irrespective of the number of violations or breaches, which may occur.

Amended and Restated Declaration of Condominium  
(Page 45 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

**22.10 Plurality; Gender.** Wherever the context so permits, the singular shall include the plural, the plural shall include the singular, and the use of any gender shall be deemed to include all or no genders.

ACTIVE: 4329020\_2

Amended and Restated Declaration of Condominium  
(Page 46 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

JULY 29, 1996  
JOB NO. 2100

EXHIBIT 1

OR2788 PG2983

**LEGAL DESCRIPTION**

*WEDGEWOOD AT LEXINGTON, CONDOMINIUM NO.2*  
SECTION 9, TOWNSHIP 46 SOUTH, RANGE 24 EAST

**TWO PARCELS OF LAND** SITUATED IN SECTION 9, TOWNSHIP 46 SOUTH, RANGE 24 EAST, LEE COUNTY FLORIDA, SAID PARCELS BEING PART OF TRACTS 17 AND 18 OF THE LANDS PLATTED AS "LEXINGTON COUNTRY CLUB" AS RECORDED IN PLAT BOOK 56, PAGES 59 - 68, IN LEE COUNTY FLORIDA, AND BEING MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS;

**PARCEL #1 PART OF TRACT 17 AS DESIGNATED IN THE PLAT OF LEXINGTON COUNTRY CLUB, PLAT BOOK 56 PAGES 59-68, IN LEE COUNTY FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:**

**COMMENCING** at the platted centerline intersection of Bayberry Bend and Willowcrest Court, thence S 88d 39' 10" W 17.67' to a point of the West right of way line of bayberry bend (35' r/w), and the east line of Tract 17 of which this is a part; and marking the true POINT OF BEGINNING

thence S 80 d 55'34" W a distance of 138.24' to a point  
thence N 12 d 35'46" W a distance of 149.08' to a point  
thence N 14 d 13'58" W a distance of 360.37' to a point  
thence N 12 d 31'40" W a distance of 44.14' to a point  
thence N 05 d 28'54" W a distance of 371.41' to a point  
thence N 14 d 06'57" W a distance of 207.64' to a point  
thence N 68 d 05'12" E a distance of 140.38' to a point  
thence around a non-tangent curve to the right through a central angle of 08 d 44'18" an arc distance of 355.47'  
a chord bearing of S 12 d 41'48" E a distance of 355.12' to a point  
thence around a curve to the right through a central angle of 09 d 02'05" an arc distance of 76.08'  
a chord bearing of S 03 d 48'37" E a distance of 76.01' to a point  
thence around a curve to the left through a central angle of 20 d 14'03" an arc distance of 359.33'  
a chord bearing of S 09 d 24'36" E a distance of 357.47' to a point  
thence around a curve to the right through a central angle of 09 d 47'58" an arc distance of 82.52'  
a chord bearing of S 14 d 37'38" E a distance of 82.42' to a point  
thence around a curve to the left through a central angle of 02 d 40'56" an arc distance of 47.63'  
a chord bearing of S 11 d 04'07" E a distance of 47.63' to a point  
thence S 12 d 24'36" E a distance of 211.50' to a point  
thence around a curve to the right through a central angle of 02 d 53'42" an arc distance of 32.16'  
a chord bearing of S 10 d 57'45" E a distance of 32.16' to a point marking the point of beginning.

containing 3.744 acres more or less

**PARCEL #2 PART OF TRACT 18 AS DESIGNATED IN THE PLAT OF LEXINGTON COUNTRY CLUB, PLAT BOOK 56 PAGES 59-68, IN LEE COUNTY FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:**

**COMMENCING** at the platted centerline intersection of Bayberry Bend and Willowcrest Court, thence N 16d 53'29" E 48.07' to a point on the right of way of said intersection marking the common corner between Block 5 of Lexington Country Club and the aforesaid Tract 18 of which this is a part, said point also being the true POINT OF BEGINNING:

thence around a non-tangent curve to the right through a central angle of 25 d 59'38" an arc distance of 22.68'  
 a chord bearing of N 25 d 24'25" W a distance of 22.49' to a point  
 thence N 12 d 24'36" W a distance of 183.21' to a point  
 thence around a curve to the right through a central angle of 02 d 40'56" an arc distance of 46.00'  
 a chord bearing of N 11 d 04'07" W a distance of 45.99' to a point thence around a curve to the left  
 through a central angle of 09 d 47'58" an arc distance of 88.51'  
 a chord bearing of N 14 d 37'38" W a distance of 88.40' to a point  
 thence around a curve to the right through a central angle of 20 d 14'03" an arc distance of 346.97'  
 a chord bearing of N 09 d 24'36" W a distance of 345.17' to a point  
 thence around a curve to the left through a central angle of 09 d 02'05" an arc distance of 81.60'  
 a chord bearing of N 03 d 48'37" W a distance of 81.52' to a point  
 thence around a curve to the left through a central angle of 08 d 48'37" an arc distance of 363.77'  
 a chord bearing of N 12 d 43'58" W a distance of 363.42' to a point  
 thence N 68 d 05'12" E a distance of 143.86' to a point  
 thence S 12 d 38'10" E a distance of 28.25' to a point  
 thence S 14 d 26'27" E a distance of 172.86' to a point  
 thence S 11 d 48'30" E a distance of 33.38' to a point  
 thence S 10 d 15'32" E a distance of 174.40' to a point  
 thence S 04 d 12'37" E a distance of 39.68' to a point  
 thence S 02 d 57'41" E a distance of 172.59' to a point  
 thence S 04 d 34'33" E a distance of 23.86' to a point  
 thence S 14 d 47'16" E a distance of 169.65' to a point  
 thence S 17 d 52'14" E a distance of 29.89' to a point  
 thence S 12 d 30'23" E a distance of 207.29' to a point  
 thence around a curve to the left through a central angle of 01 d 22'45" an arc distance of 30.10'  
 a chord bearing of S 84 d 23'31" W a distance of 30.10' to a point  
 thence S 32 d 03'27" W a distance of 150.07' to the point of beginning.

containing 3.474 acres more or less

(SEE ATTACHED "BOUNDARY SKETCH")

OR2788 PG2985

THIS SURVEY DESCRIPTION HAS BEEN PREPARED BASED ON THE  
PLATTED SUBDIVISION OF LEXINGTON COUNTRY CLUB IN LEE  
COUNTY FLORIDA AND IS FOR THE SOLE PURPOSE OF DEFINING  
THE LIMITS OF CONDOMINIUM ASSOCIATION BOUNDARIES. THIS  
DESCRIPTION IS NOT VALID WITHOUT THE SIGNATURE AND  
ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND  
MAPPER . THE SKETCH AND DESCRIPTION ARE NOT FULL AND  
COMPLETE WITHOUT THE OTHER.

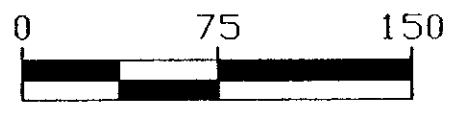
  
\_\_\_\_\_  
ROGER H. HARRAH STATE OF FLORIDA LS#5294

DATE SIGNED: 07-30-96

FOR:  
COMMUNITY ENGINEERING SERVICES, INC LB#6572  
9200 BONITA BEACH ROAD, SUITE 213  
BONITA SPRINGS, FLORIDA 34135



DR2788 P62986



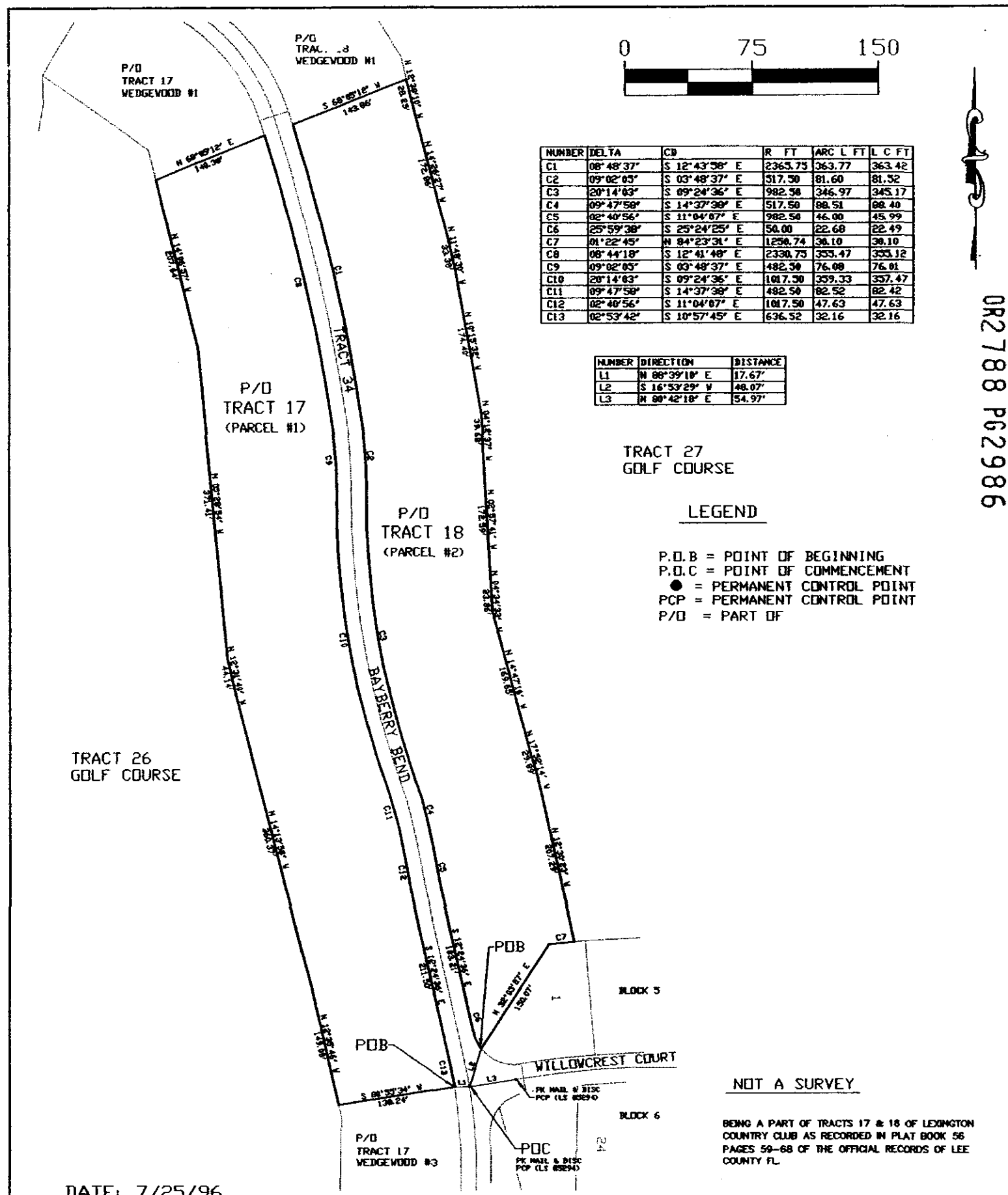
NUMBER	DELTA	CD	R FT	ARC L FT	L C FT
C1	08°48'37"	S 12°43'58" E	2363.73	363.77	363.42
C2	09°02'03"	S 03°48'37" E	317.50	81.60	81.52
C3	20°14'03"	S 09°24'36" E	982.58	346.97	345.17
C4	09°47'58"	S 14°37'39" E	517.50	88.51	88.40
C5	02°40'56"	S 11°04'07" E	982.50	46.00	45.99
C6	25°59'38"	S 25°24'25" E	50.00	22.68	22.49
C7	01°22'45"	N 84°23'31" E	1256.74	38.10	38.10
C8	06°44'18"	S 12°41'48" E	2330.75	353.47	353.12
C9	09°02'03"	S 03°48'37" E	482.50	76.08	76.01
C10	20°14'03"	S 09°24'36" E	1017.50	359.33	357.47
C11	09°47'58"	S 14°37'39" E	482.50	82.52	82.42
C12	02°40'56"	S 11°04'07" E	1017.50	47.63	47.63
C13	02°53'42"	S 10°57'45" E	636.52	32.16	32.16

NUMBER	DIRECTION	DISTANCE
L1	N 88°39'10" E	17.67'
L2	S 16°53'29" W	48.07'
L3	N 80°42'18" E	54.97'

TRACT 27  
GOLF COURSE

LEGEND

- P.O.B = POINT OF BEGINNING
- P.O.C = POINT OF COMMENCEMENT
- = PERMANENT CONTROL POINT
- PCP = PERMANENT CONTROL POINT
- P/O = PART OF



NOT A SURVEY  
BEING A PART OF TRACTS 17 & 18 OF LEXINGTON COUNTRY CLUB AS RECORDED IN PLAT BOOK 56 PAGES 59-68 OF THE OFFICIAL RECORDS OF LEE COUNTY FL.

DATE: 7/25/96

**CES** COMMUNITY ENGINEERING SERVICES, INC.  
 LB # 6872  
 Civil Engineering • Planning • Project Management  
 9200 Bonita Beach Road Suite 213  
 Bonita Springs, Florida 33923  
 Telephone (941) 495-0009 Fax (941) 495-7034

WEDGEWOOD AT LEXINGTON  
 CONDOMINIUM No.2  
 BOUNDARY SKETCH OF PARCELS  
 SHEET 1 of 2

## EXHIBIT 1

LEGEND

(C) = CALCULATED  
 DE = DRAINAGE EASEMENT  
 LC = LONG CHORD  
 P.U.E. = PUBLIC UTILITY EASEMENT  
 LME = LAKE MAINTENANCE EASEMENT  
 (M) = MEASURED  
 (P) = PREVIOUSLY PLATTED  
 R/W = RIGHT OF WAY  
 PG = PAGE  
 PB = PLAT BOOK  
 ESMT = EASEMENT  
 POC = POINT OF COMMENCEMENT  
 POB = POINT OF BEGINNING  
 (R) = RADIAL  
 (NR) = NON-RADIAL  
 C# = CURVE NUMBER  
 L# = LINE NUMBER  
 ○ = IRON ROD & CAP SET (LS#5294)  
 NGVD = NATIONAL GEODETIC VERTICAL DATUM 1929

OR2788 PG2987

**GENERAL NOTES**

1. THE BEARINGS SHOWN HEREON ARE BASED THE PLATTED "LEXINGTON COUNTRY CLUB" A SUBDIVISION AS RECORDED IN PLAT BOOK 56 PAGES 59-68 IN THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.
2. PROPERTY HAS BASE FLOOD ELEVATION OF 10.0' NGVD AND IS SITUATED IN FLOOD ZONE A-12 AS SHOWN ON FEMA PANEL #125124 0435 B.
3. SUBJECT TO ALL RESERVATIONS, RESTRICTIONS, AND RIGHTS OF WAY OF RECORD.
4. THE LAND DESCRIPTION ATTACHED WAS PREPARED BY THE SURVEYOR
5. THE PURPOSE OF THIS SURVEY IS TO SHOW THE LIMITS OF DESIGNATED CONDOMINIUM ASSOCIATION BOUNDARIES.

DATE: 05/30/96



COMMUNITY ENGINEERING SERVICES, INC.  
 Civil Engineering • Planning • Project Management  
 LD#96572  
 9200 Bonita Beach Road Suite 213  
 Bonita Springs, Florida 34135  
 Telephone (941) 485-0009 Fax (941) 4

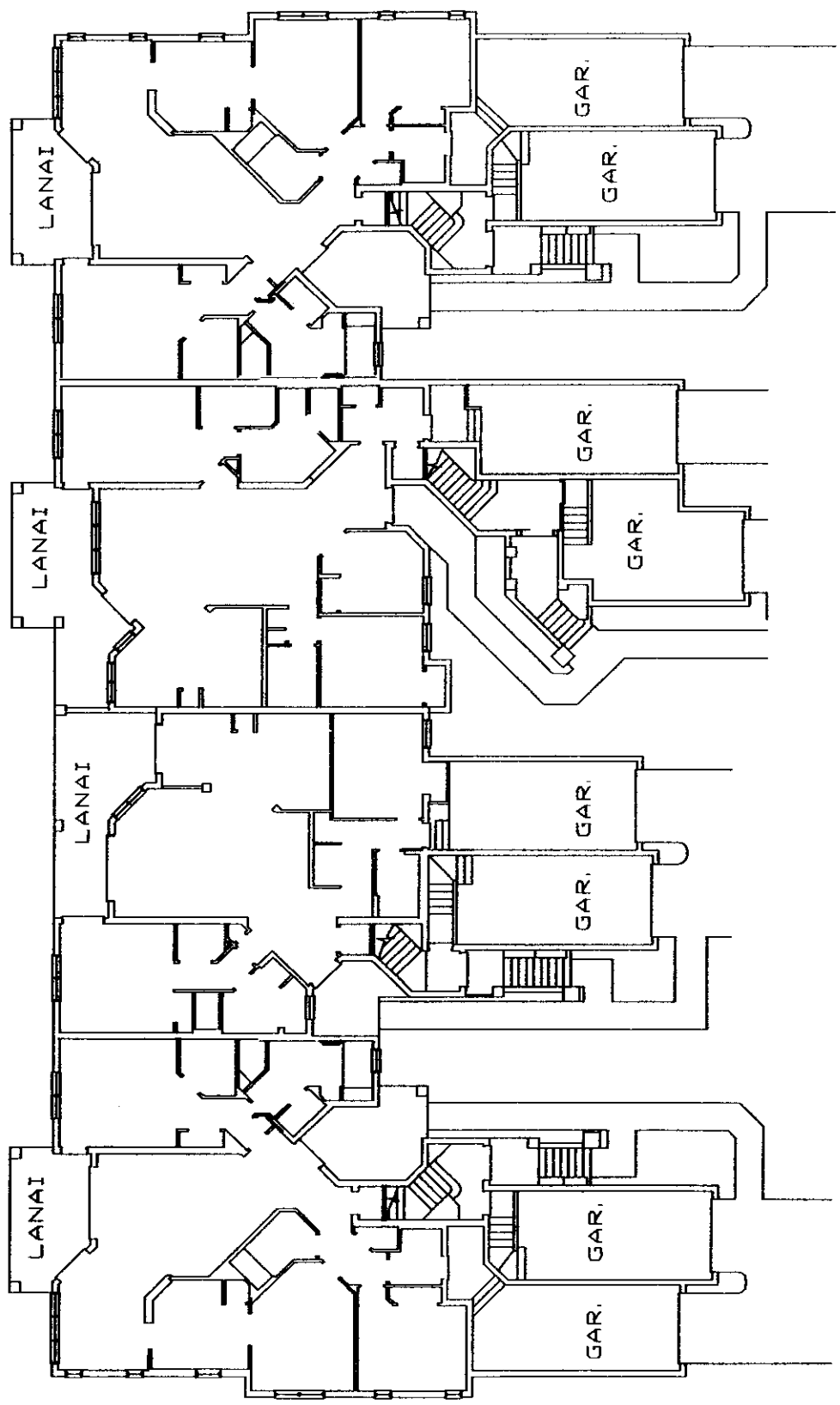
Exhibit "A"  
 Page 5 of 17

BOUNDARY SKETCH SHEET 2 of 2  
 PARCELS 1 AND 2  
 WEDGEWOOD AT LEXINGTON, CONDOMINIUM NO. 2  
 AND 18 OF LEXINGTON COUNTRY CLUB (PB 56 PGS 59-68)  
 N 9, TOWNSHIP 46 SOUTH, RANGE 24 EAST



OR2788 P 2989

EXHIBIT 2



BUILDING TYPE ONE - FIRST FLOOR PLAN

"LANAIS, GARAGES AND DRIVEWAYS ARE LIMITED COMMON ELEMENTS."

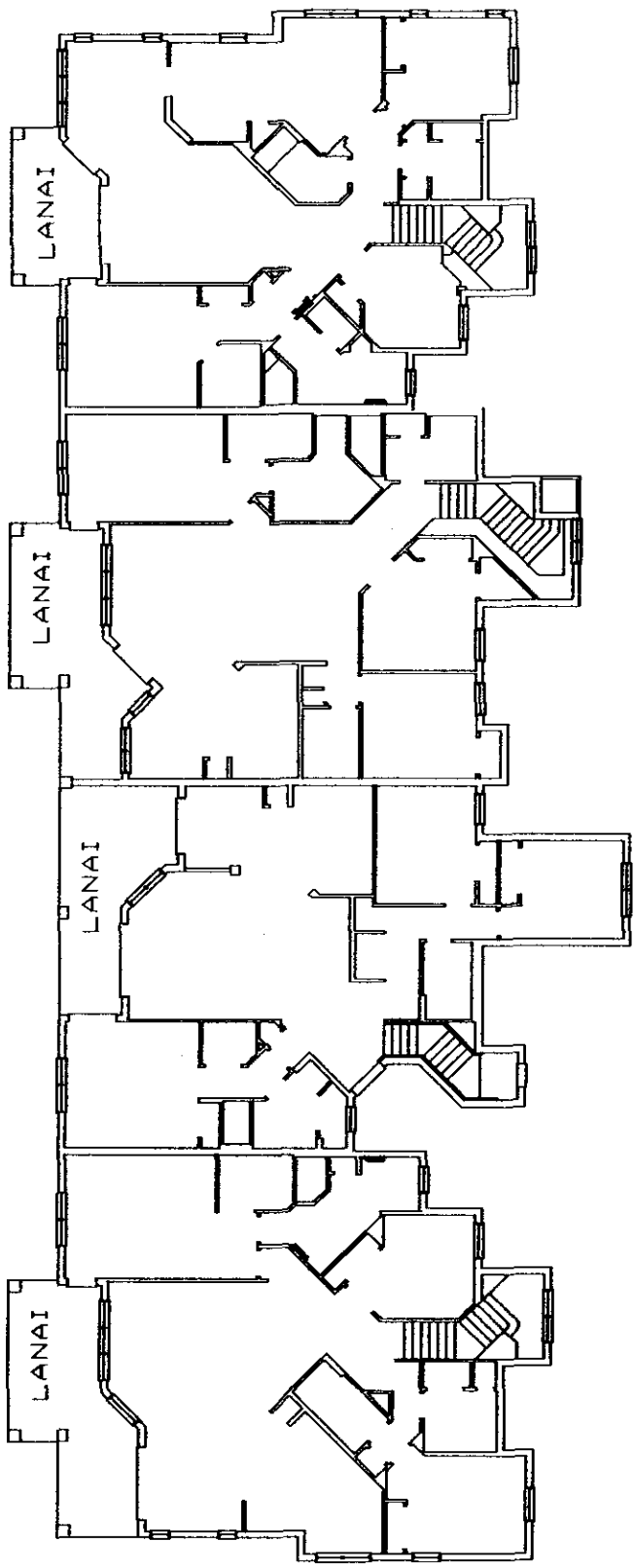
WEDGEWOOD AT LEXINGTON,  
CONDOMINIUM No. 2

COMMUNITY ENGINEERING SERVICES, INC.  
Civil Engineering • Planning • Project Management  
8200 Beville Beach Road, Suite 209  
Beville Springs, Florida 32823



OR2788 PG2990

EXHIBIT 2



BUILDING TYPE ONE - SECOND FLOOR PLAN

"LANAIS, GARAGES AND DRIVEWAYS ARE LIMITED COMMON ELEMENTS."

WEDGEWOOD AT LEXINGTON,  
CONDOMINIUM No. 2

COMMUNITY ENGINEERING SERVICES, INC.

Civil Engineering • Planning • Project Management

8200 Benito Beach Road, Suite 208  
Bonita Springs, Florida 33823  
Telephone (813) 488-0000 Fax (813) 488-7034

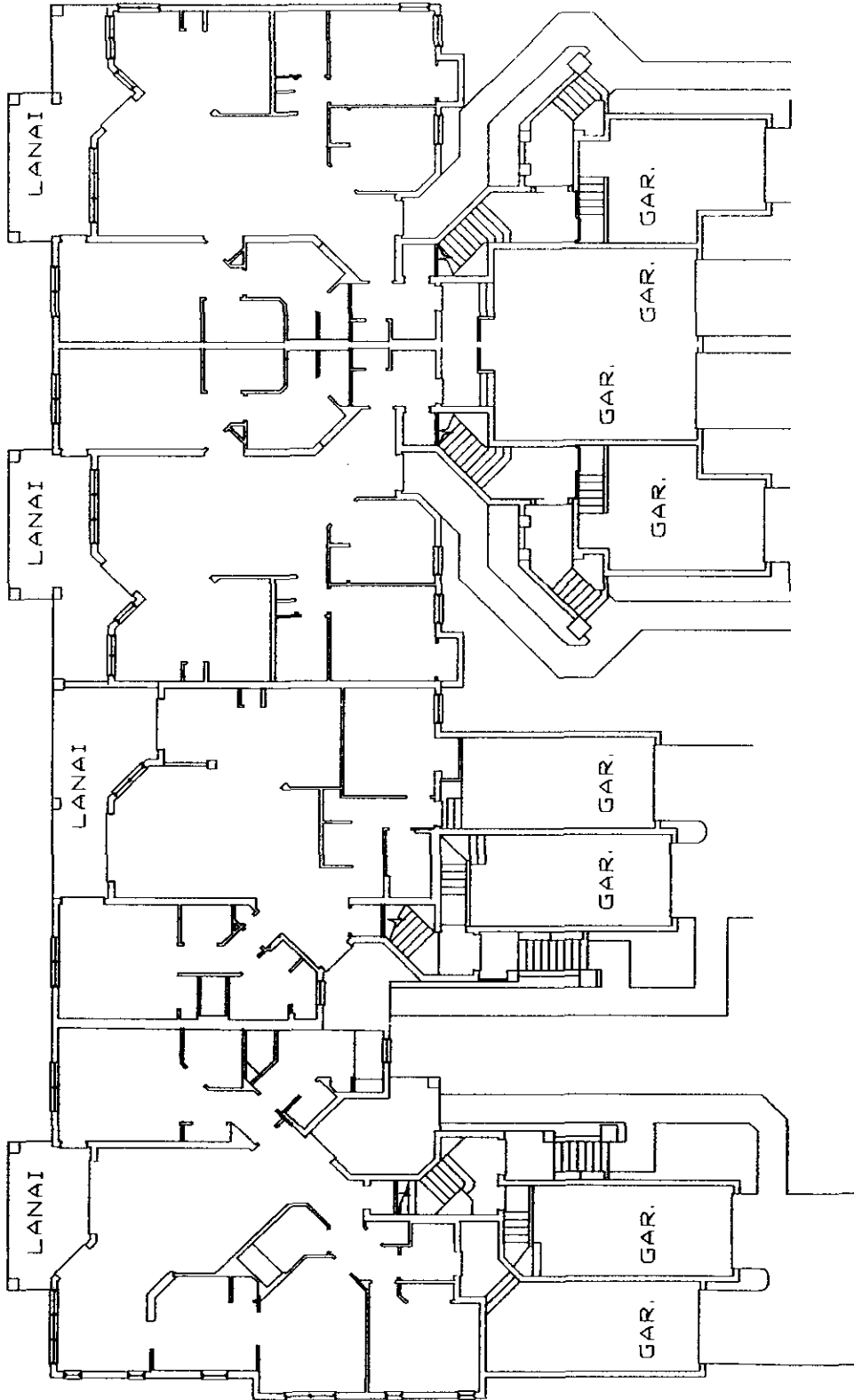


DATE: 03/09/96

SHFFT 2 of A

0R2788 PG2991

EXHIBIT 2



BUILDING TYPE TWO - FIRST FLOOR PLAN

"LANAIS, GARAGES AND DRIVEWAYS ARE LIMITED COMMON ELEMENTS."

Exhibit "A"  
Page 9 of 17

WEDGEWOOD AT LEXINGTON,  
CONDOMINIUM No. 2

COMMUNITY ENGINEERING SERVICES, INC.  
Civil Engineering • Planning • Project Management  
8200 Benito Beach Road, Suite 209  
Benito Springs, Florida 33823  
Telephone (813) 488-0808 Fax (813) 488-7934

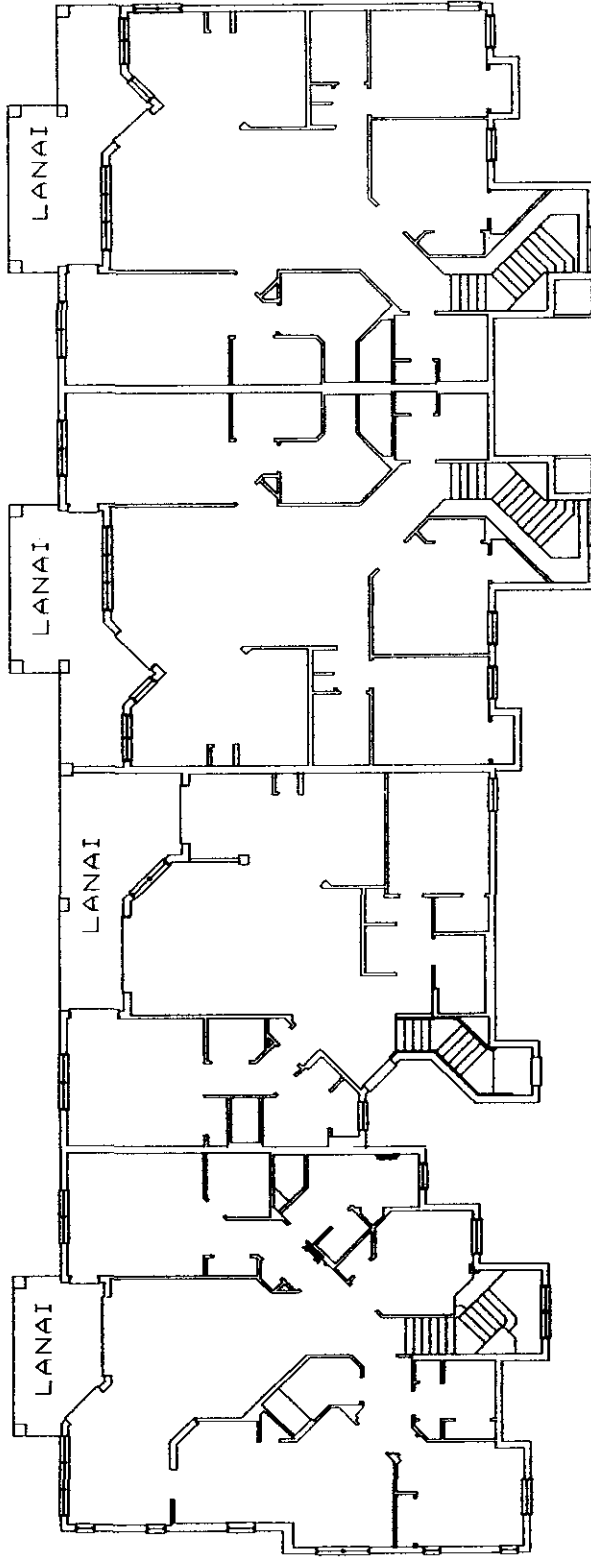


DATE: 03/9/96

SHEET 3 of 6

OR2788 PG2992

EXHIBIT 2



BUILDING TYPE TWO - SECOND FLOOR PLAN

"LANAIS, GARAGES AND DRIVEWAYS ARE LIMITED COMMON ELEMENTS."

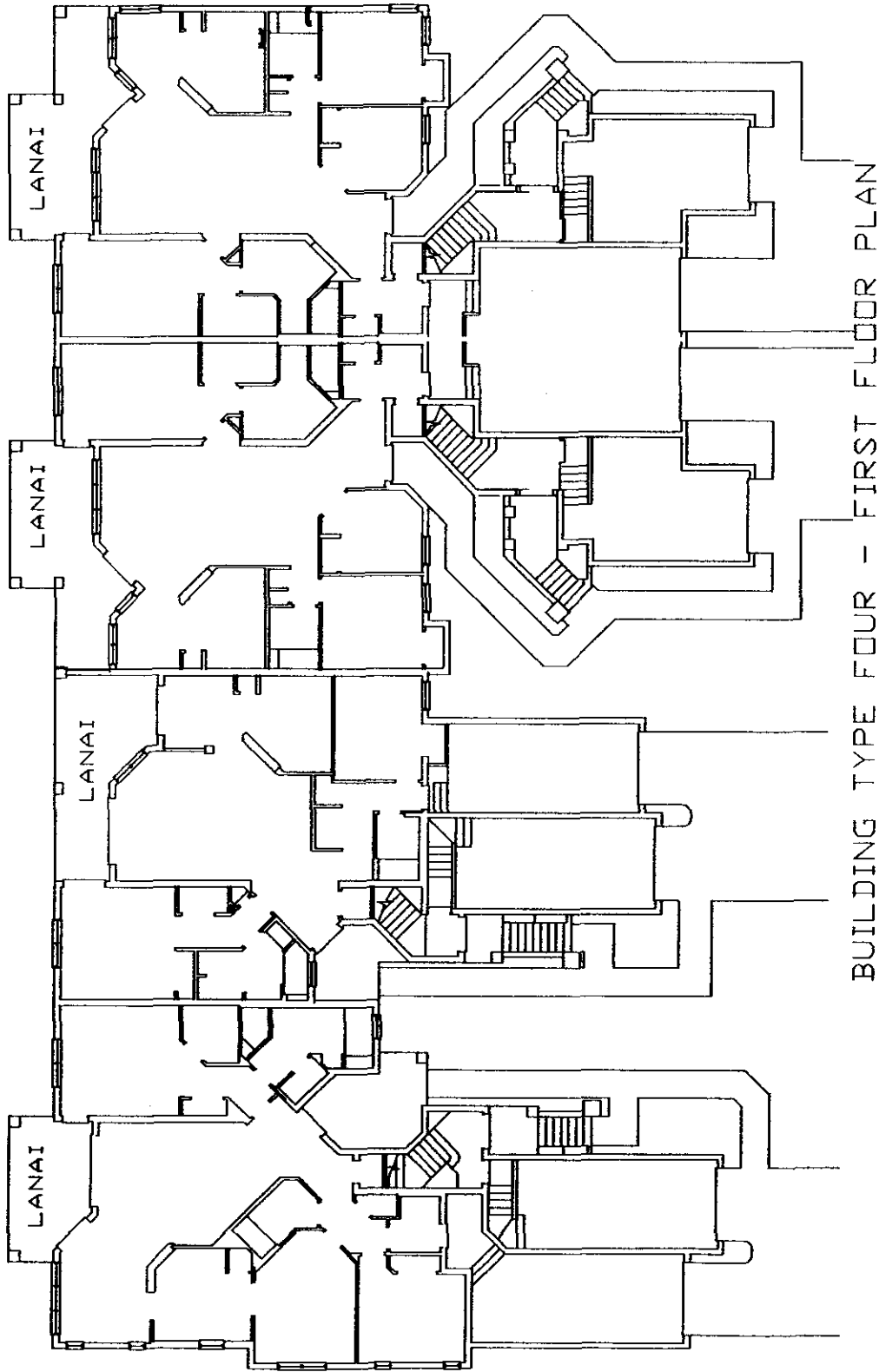
WEDGEWOOD AT LEXINGTON, CONDOMINIUM No. 2

COMMUNITY ENGINEERING SERVICES, INC. Civil Engineering • Planning • Project Management 9200 Bonita Beach Road Suite 200 Bonita Springs, Florida 33923



DR2788 PG2993

EXHIBIT 2



BUILDING TYPE FOUR - FIRST FLOOR PLAN

"LANAIS, GARAGES AND DRIVEWAYS ARE LIMITED COMMON ELEMENTS."

Exhibit "A"  
Page 11 of 17

COMMUNITY ENGINEERING SERVICES, INC.  
Civil Engineering • Planning • Project Management  
9200 Benito Beach Road Suite 209  
Benito Springs, Florida 33623  
Telephone (813) 485-0068 Fax (813) 485-7834



DATE: 03/9/96

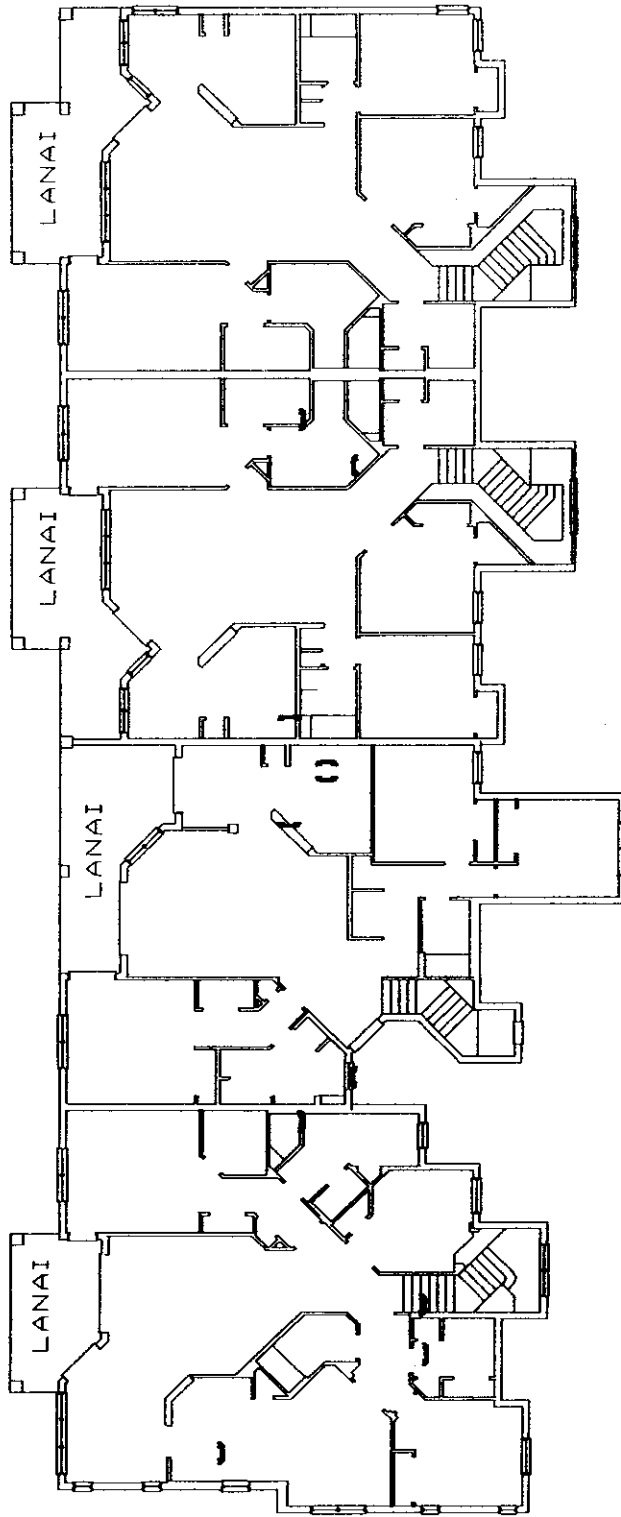
WEDGEWOOD AT LEXINGTON,  
CONDOMINIUM No. 2

SHEET 5 of 6



OR2788 PG. 194

EXHIBIT 2



BUILDING TYPE FOUR - SECOND FLOOR PLAN

"LANAIS, GARAGES AND DRIVEWAYS ARE LIMITED COMMON ELEMENTS."

Exhibit "A"  
Page 12 of 17

WEDGEWOOD AT LEXINGTON,  
CONDOMINIUM No. 2

COMMUNITY ENGINEERING SERVICES, INC.  
Civil Engineering • Planning • Project Management  
9200 Bonita Beach Road, Suite 209  
Bonita Springs, Florida 33923  
Telephone (813) 485-0008 Fax (813) 485-7934



DATE: 03/9/96

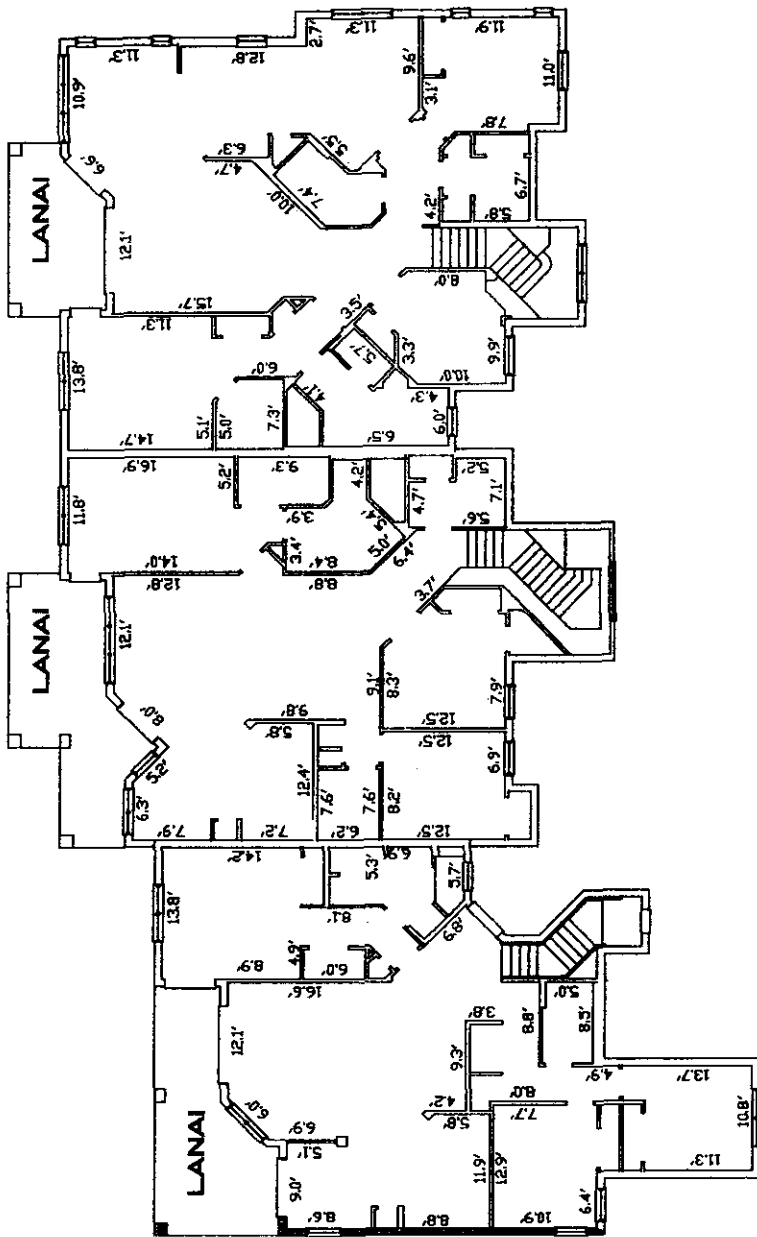
SHEET 6 of 8



UNIT A3

UNIT B2

UNIT D1



BUILDING TYPE THREE - SECOND FLOOR PLAN

LANAIS, GARAGES AND DRIVEWAYS ARE LIMITED COMMON ELEMENTS.

COMMUNITY ENGINEERING SERVICES, INC.  
 Civil Engineering • Planning • Project Management  
 8200 Benita Beach Road, Suite 209  
 Benita Springs, Florida 33923  
 Telephone (813) 488-0006 Fax (813) 482-7934



WEDGEWOOD AT LEXINGTON,  
A CONDOMINIUM No. 2

EXHIBIT #2

SHEET 8 of 8

OR2788 PG2997

SHEET 1 of 2

WEDGEWOOD AT LEXINGTON  
CONDOMINIUM NO. 2  
BUILDING ELEVATIONS

COMMUNITY ENGINEERING SERVICES, INC.  
Civil Engineering - Planning - Project Management  
9200 Bonita Beach Road, Suite 209  
Bonita Springs, Florida 33623  
Telephone: (813) 485-0008 Fax: (813) 485-7934



DATE: 03/4/96

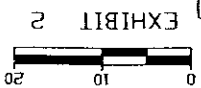
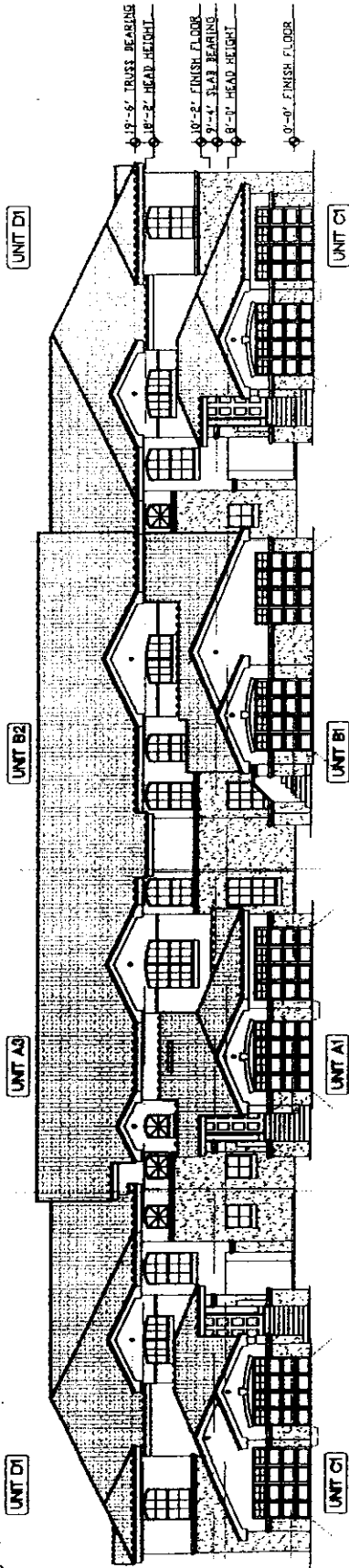
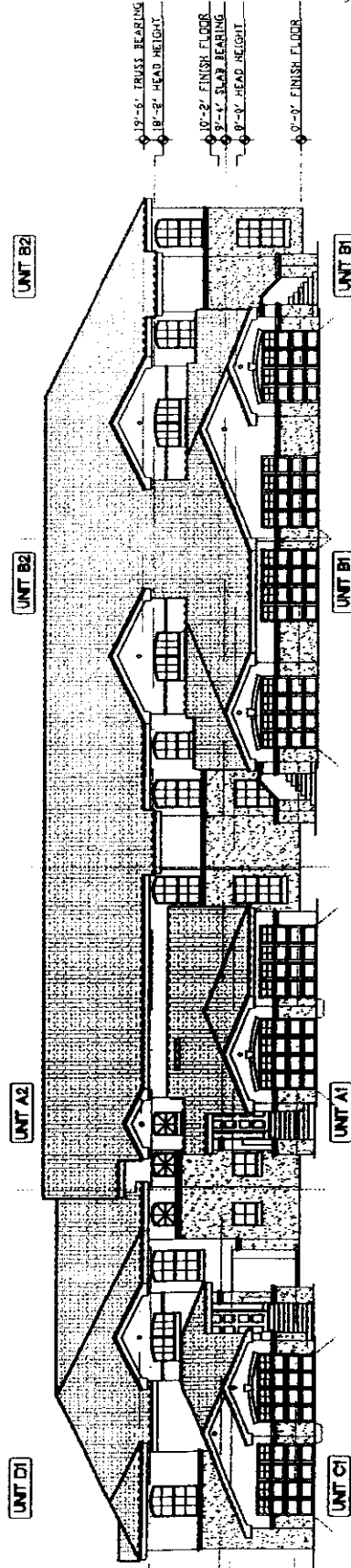


EXHIBIT 2



BUILDING TYPE ONE - FRONT ELEVATION



BUILDING TYPE TWO - FRONT ELEVATION

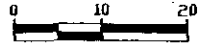
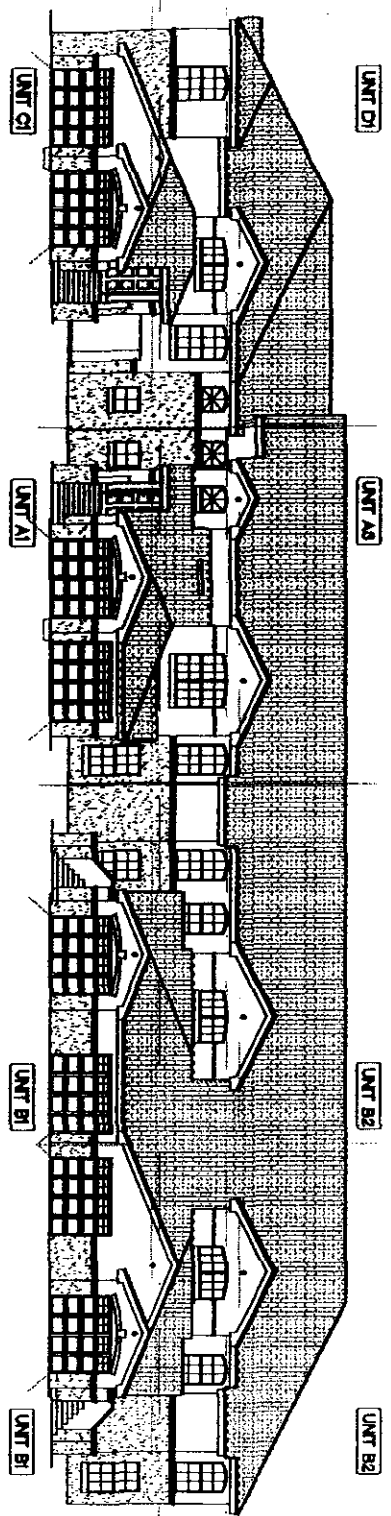


EXHIBIT 2

BUILDING TYPE FOUR - FRONT ELEVATION



- 0'-0" FINISH FLOOR
- 9'-0" HEAD HEIGHT
- 10'-0" FINISH FLOOR
- 9'-0" SLAB BEARING
- 19'-6" TRUSS BEARING
- 18'-0" HEAD HEIGHT

DATE: 03/4/96



**COMMUNITY ENGINEERING SERVICES, INC.**  
 Civil Engineering • Planning • Project Management  
 9200 Bonita Beach Road Suite 200  
 Bonita Springs, Florida 33923  
 Telephone (813) 465-0009 Fax (813) 465-7034

**WEDGEWOOD AT LEXINGTON,  
 CONDOMINIUM No. 2**  
 BUILDING ELEVATIONS

SHEET 2 of 2

Exhibit "A"  
Page 16 of 17

UKZ/88 R62988

**WEDGEWOOD AT LEXINGTON CONDOMINIUM NO. 2**

The following Survey Certificates of Substantial Completion are incorporated by reference:

<b>Building Number(s)</b>	<b>Recording Information</b>	<b>Recording Date</b>
Buildings 11 – 21	O.R. Book 3323, Page 901 – 924 of the Public Records of Lee County, Florida	November 3, 2000

**AMENDED AND RESTATED**  
**DECLARATION OF CONDOMINIUM**  
**OF**  
**WEDGEWOOD AT LEXINGTON CONDOMINIUM NO. 3**

**RECITALS:**

In a Declaration of Condominium recorded at O.R. Book 2760, Page 2311, *et seq.* of the Lee County Public Records on 5<sup>th</sup> day of November 1996, the Condominium Developer did submit to condominium ownership pursuant to Chapter 718, Florida Statutes, known as the Condominium Act, that property situated in Lee County, Florida, more particularly described as follows:

THREE PARCELS OF LAND SITUATED IN SECTION 9, TOWNSHIP 46 SOUTH, RANGE 24 EAST, LEE COUNTY FLORIDA, SAID PARCELS BEING PART OF TRACTS 17 AND 19 OF THE LANDS PLATTED AS "LEXINGTON COUNTRY CLUB" AS RECORDED IN PLAT BOOK 56, PAGES 59 - 68, IN LEE COUNTY FLORIDA, AND BEING MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS;

**PARCEL #1 (A-1)** PART OF TRACT 17 AS DESIGNATED IN THE PLAT OF LEXINGTON COUNTRY CLUB, PLAT BOOK 56 PAGES 59 – 68, IN LEE COUNTY FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT MARKING THE SOUTHWEST CORNER OF THE AFOREMENTIONED TRACT 17, THENCE; NORTH 00 D 43'59" EAST, A DISTANCE OF 605.50 FT TO A POINT, THENCE; NORTH 12 D 35'46" WEST, A DISTANCE OF 14.60 FT TO A POINT, THENCE; NORTH 80 D 54'14" EAST, A DISTANCE OF 138.24 FT TO A POINT, THENCE AROUND A CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 10 D 24'47" AN ARC DISTANCE OF 115.68 FT, A CHORD BEARING SOUTH 04 D 18'41" EAST, A DISTANCE OF 115.52 FT TO A POINT, THENCE; SOUTH 00 D 53'43" WEST, A DISTANCE OF 494.97 FT TO A POINT THENCE AROUND A CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 88 D 07'48", AN ARC DISTANCE OF 46.14 FT, A CHARD BEARING OF SOUTH 44 D 57'37" WEST, A DISTANCE OF 41.73 FT TO A POINT THENCE; SOUTH 89 D 01'31" WEST, A DISTANCE OF 112.54 FT TO A POINT AND THE POINT OF BEGINNING.

AND CONTAINING 2.049 ACRES MORE OR LESS.

**PARCEL #2 (A-2)** PART OF TRACT 19 AS DESIGNATED IN THE PLAT OF LEXINGTON COUNTRY CLUB, PLAT BOOK 56 PAGES 59 – 68, IN LEE COUNTY FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT MARKING THE NORTHWEST CORNER THE AFORESAID TRACT 19, THENCE; SOUTH 89 D 06'17" EAST, A DISTANCE OF 138.98 FT TO A POINT, THENCE; SOUTH 00 D 46'18" WEST, A DISTANCE OF 360.18 FT TO A POINT, THENCE; SOUTH 22 D 12'34" WEST, A DISTANCE OF 81.50 FT TO A POINT, THENCE AROUND A CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 23 D 11'04", AN ARC DISTANCE OF 47.55 FT, A CHORD BEARING OF

Amended and Restated Declaration of Condominium  
(Page 1 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

NORTH 79D 22'57" WEST, A DISTANCE OF 47.22 FT TO A POINT, THENCE; SOUTH 89 D 01'31" WEST, A DISTANCE OF 32.63 FT TO A POINT, THENCE AROUND A CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 9 D 52'12", AN ARC DISTANCE OF 48.10 FT A CHORD BEARING OF NORTH 45 D 02'23" WEST, A DISTANCE OF 43.11 FT TO A POINT, THENCE; NORTH 00 D 53'43" EAST, A DISTANCE OF 399.21 FT TO A POINT AND THE POINT OF BEGINNING.

AND CONTAINING 1.349 ACRES MORE OR LESS.

**REVISED PARCEL #3 (A-3) PART OF TRACT 19 LEXINGTON COUNTRY CLUB, PB 56 PG 59 – 68, IN THE OFFICIAL RECORDS OF LEE COUNTY FL.**

TRACT 19 REVISED IN "LEXINGTON LAKES" A REPLAT (TO BE RECORDED).

COMMENCING AT A POINT BEING THE SOUTHEAST CORNER OF TRACT 19, LEXINGTON COUNTRY CLUB (PB 56 PGS 59-68) THENCE N 00 D 56'33" E A DISTANCE OF 5.0' TO A POINT, AND THE TRUE POINT OF BEGINNING, BEING FURTHER DESCRIBED AS THE REVISED SOUTHEAST CORNER OF TRACT 19, REPLATTED IN "LEXINGTON LAKES", (TO BE RECORDED)

CONTINUING AT THE POINT OF BEGINNING; THENCE N 00 D 56'33" E A DISTANCE OF 136.33' TO A POINT; THENCE N 88 D 52'13" W A DISTANCE OF 200.47' TO A POINT; THENCE S 86 D 47'58" W A DISTANCE OF 26.76' TO A POINT; THENCE N 88 D 52'13" W A DISTANCE OF 173.67' TO A POINT; THENCE S 82 D 23'56" W A DISTANCE OF 27.00' TO A POINT; THENCE N 88 D 52'13" W A DISTANCE 171.56' TO A POINT; THENCE S 87 D 15'24" W A DISTANCE OF 402.39 TO A POINT; THENCE N 74 D 23'26" W A DISTANCE OF 15.37' TO A POINT; THENCE S 00 D 44'56" E A DISTANCE OF 138.39' TO A POINT; THENCE N 89 D 15'04" E A DISTANCE OF 387.75' TO A POINT; AROUND A CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 04 D 35'25" AN ARC DISTANCE OF 78.71' A CHORD BEARING OF N 86 D 57'21" E A DISTANCE OF 78.69' TO A POINT; AROUND A CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 06 D 28'09" AN ARC DISTANCE OF 226.58' A CHORD BEARING OF N 87 D 53'43" E A DISTANCE OF 226.46' TO A POINT; THENCE S 88 D 52'13" E A DISTANCE OF 282.46' TO A POINT; AROUND A CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 00 D 42'40" AN ARC DISTANCE OF 36.77' A CHORD BEARING OF S 89 D 13'32" E A DISTANCE OF 36.77' TO A POINT; THE POINT OF BEGINNING.

CONTAINING 140467 SQUARE FEET OR 3.22 ACRES MORE OR LESS

Said Declaration was subsequently amended as follows:

Amendment recorded at O.R. Book 2771, Page 903, *et seq.*, Lee County Public Records;

Amendment recorded at O.R. Book 2771, Page 907, *et seq.*, Lee County Public Records;

Amendment recorded at O.R. Book 3162, Page 2360, *et seq.*, Lee County Public Records; and

Amendment recorded at Instrument No. 2012000156334, Lee County Public Records;

The submission of the land to the condominium form of ownership by that document is and will remain effective. By adoption of this Amended and Restated Declaration of Condominium

Amended and Restated Declaration of Condominium  
(Page 2 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707



(hereinafter "Declaration"), the Association Members hereby adopt certain amendments to the Declaration of Condominium and amendments thereof and hereby restate the Declaration in its entirety. By adoption of this Declaration, the Members of the Association ratify governance of the property described above and in Exhibit "A" hereto under the condominium form of ownership and the provisions of the Condominium Act, as defined in Article 1.1 hereof.

**1. DEFINITIONS.** As used herein or elsewhere in the Condominium Documents, unless otherwise provided, the terms used shall be as defined in the Act and as herein provided:

**1.1 "Act" or "Condominium Act"** means the Condominium Act (Chapter 718, Florida Statutes, 2012), as it now exists or as it may be amended from time to time, including the definitions therein contained.

**1.2 "Articles"** means the Articles of Incorporation as attached hereto as Exhibit "B", as they may be amended from time to time.

**1.3 "Assessment"** means a share of the funds required for the payment of Common Expenses, which from time to time is assessed against the Units.

**1.4 "Association"** means WEDGEWOOD AT LEXINGTON CONDOMINIUM ASSOCIATION, INC., a Florida Corporation Not For Profit, the entity responsible for the operation of the Wedgewood at Lexington Condominium No. 1, Wedgewood at Lexington Condominium No. 2 and Wedgewood at Lexington Condominium No. 3.

**1.5 "Association Property"** means all property owned by the Association for the use and benefit of the Unit Owners. The two recreation areas which serve the Condominiums are intended to be Association Property.

**1.6 "Board of Directors" or "Board" or "Directors"** means the representative body which is responsible for the administration of the Association's affairs, and which is the same body that is sometimes referred to in the Condominium Act as the "Board of Administration."

**1.7 "Building"** means the structures in which the Units and portions of the Common Elements are located.

**1.8 "Bylaws"** mean the Bylaws of the Association as attached hereto as Exhibit "C", as they may be amended from time to time.

**1.9 "Casualty"** for the purposes of this Declaration, and not for the purpose of construing coverage between any insurer and insured, means an event which causes damage to the Condominium Property due to some sudden, fortuitous cause, including (but not limited to) fire, flood, hail, wind, rain, vandalism, explosion, or bursting pipes, but does not include progressive decay or corrosion, or slow or continuous leaks.

Amended and Restated Declaration of Condominium

(Page 3 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

**1.10 “Charge”** means any legal or equitable indebtedness or sums owed to or due to the Association, incurred by, or on behalf of, a Unit Owner, other than Assessments for Common Expenses. Said obligations may arise by oral or written contract, by law or in equity, or may be created by these Condominium Documents.

**1.11 “Common Elements”** means and includes:

**1.11.1** The portions of the Condominium Property not included within the Units.

**1.11.2** Easements through Units for conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility and other services to Units and the Common Elements.

**1.11.3** An easement of support in every portion of a Unit which contributes to the support of the Building, including but not limited to all load bearing interior walls within the Units.

**1.11.4** The property and installations required for the furnishing of utilities and other services to more than one Unit or to the Common Elements and for the furnishing of wastewater treatment (sewer) services to the Units, provided that such properties and installations are located within the Condominium Property.

**1.11.5** Any other parts of the Condominium Property designated as Common Elements in this Declaration.

**1.12 “Common Expenses of the Association”** means those expenses for which all Unit Owners are liable to the Association, including but not limited to expenses of administration, maintenance, and operation of the Association and such other expenses as may be declared Common Expenses of the Association either by this Declaration, the Articles of Incorporation, the Bylaws or by the Board of Directors. Maintenance and repair of all Association Property is a Common Expense of the Association. Bulk interior pest control for Units, if provided by the Association, is a Common Expense of the Association. Common Expenses of the Association include, but are not limited to, such items as cost of premiums for public liability insurance, pool service, operation, maintenance, and management of the two recreation areas serving the Condominiums, accounting and legal fees, and wages and fees for managerial and other services. Legal fees regarding the rights, liabilities, interests or affairs of the Association as an entity shall be a Common Expense of the Association. The expenses of communications services as defined in Chapter 202, information services, or Internet services, are specifically considered a Common Expense of the Association, if so designated by the Board. Common Expenses of the Association also include reasonable insurance for directors and officers, commonly used road maintenance and operation expenses, security services and other expenses which are reasonably related to the general benefit of the Unit Owners of the several Condominiums even if such expenses do not attach to the property or the Condominiums of the Association.

Amended and Restated Declaration of Condominium

(Page 4 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

Common Expenses of the Association shall be shared 74/238 by Condominium No. 1 Owners, 84/238 by Condominium No. 2 Owners, and 80/238 by Condominium No. 3 Owners. Determining the allocation of the Common Expenses of the Association as opposed to Common Expenses of the Condominium shall be in the sole discretion of the Board of Directors of the Association.

**1.13 “Common Expenses of the Condominium”** means those expenses for which Unit Owners in the individual Condominiums are liable to the Association. Expenses pertaining to the maintenance, repair, and replacement of the Common Elements of the individual Condominiums is Common Expense of the Condominium. By way of example, but not limitation, building painting, roof repair, exterior ground maintenance, and casualty insurance are Common Expenses of the Condominium. Legal fees involving the interests of the physical property within a particular Condominium, including but not limited to assessment collection matters, shall be a Common Expense of the Condominium. Determining the allocation of the Common Expenses of the Condominium as opposed to Common Expenses of the Association shall be in the sole discretion of the Board of Directors of the Association. When the Association receives a single billing for an item that is declared a Common Expense of the Condominium (e.g., lawn maintenance, casualty insurance, etc.) the Board may allocate segments of said invoices to the individual Condominiums as the Board in its sole discretion deems fair and equitable. Common Expenses of the Condominium shall be shared by Condominium No. 1 Unit Owners on a 1/74 basis, by Condominium No. 2 Unit Owners on a 1/84 basis, and by Condominium No. 3 Unit Owners on a 1/80 basis. Reserves required by the Act and the Condominium Documents are a Common Expense of the Condominium.

**1.14 “Common Surplus”** means the excess of all receipts of the Association, including, but not limited to, Assessments, rents, profits and revenues on account of the Common Elements, above the amount of the Common Expenses. Common Surplus shall be determined in the same manner as Common Expenses.

**1.15 “Community Association”** means Lexington Community Association, Inc., a Florida corporation not for profit, being the entity responsible for the administration of the Community Declaration.

**1.16 “Community Covenants”** means the Declaration of Covenants for Lexington recorded in the Public Records of Lee County, Florida, which Declaration encumbers, *inter alia*, the Condominium Property, and when the context permits, shall also mean the Articles of Incorporation and By-Laws of the Community Association, all as now or hereafter amended, modified or supplemented.

**1.17 “Condominium Documents”** means this Declaration; the Surveyor’s Plat and Site Plans, hereinafter collectively referred to as “the Plat” or “Condominium Plat”, copies of which are attached hereto as Exhibit “A”; Articles of Incorporation of Wedgewood at Lexington Condominium Association, Inc. attached hereto as Exhibit “B”; Bylaws attached hereto as

Amended and Restated Declaration of Condominium  
(Page 5 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

Exhibit "C"; and Rules and Regulations. The Rules and Regulations need not (but may) be recorded in the County Public Records in order to be valid.

**1.18 "Condominium Parcel"** means a Unit together with the undivided share in the Common Elements which is appurtenant to said Unit and when the context permits, the term includes all of the appurtenances to the Unit.

**1.19 "Condominium Property"** means the land and property interests subjected to condominium ownership under this Declaration, all improvements on the land as depicted in the Surveyor's Plat, or replacement thereof of like kind and quality, and alterations or additions made to the Common Elements or Association Property by the Association and all easements and rights appurtenant thereto intended for use in connection with the Condominium. Additions or alterations made to the Units or Common Elements by Unit Owners (or their predecessors in title) are not part of the Condominium Property. References in the Condominium Documents to Condominium Property shall include Association Property, unless indicated otherwise.

**1.20 "County"** means the County of Lee, State of Florida.

**1.21 "Declaration" or "Declaration of Condominium"** means this instrument, and as it may be amended from time to time.

**1.22 "Domestic Partners"** means two adults who have chosen to share their lives in a committed relationship that includes a mutual and exclusive commitment to each other's well-being, wherein each partner shares the same permanent address, have no blood relationship that would preclude marriage in the State of Florida, are of the age of legal majority, are jointly responsible for each other's common welfare, share financial interdependence and mutual obligation akin to those of marriage. Domestic Partners shall be considered as married individuals for the purpose of the Declaration.

**1.23 "Family" or "Single Family"** shall refer to any one of the following:

**1.23.1** One natural person, his spouse or Domestic Partner, if any, and their custodial children, if any.

**1.23.2** Not more than two natural persons not meeting the requirement of Article 1.23.1 above, but who customarily and continuously reside together as a single housekeeping Unit, and the custodial children of said parties, if any.

**1.23.3** The reference to "natural" herein is intended to distinguish between an individual and a corporation or other artificial entity. "Family member" is a person who resides in a Unit as part of the Owner's Family, but is not a title holder.

**1.24 "Fractional Ownership" or "Unit Sharing"** means any arrangement (whether written or verbal) whereby multiple individuals, artificial entities, or other combinations acquire

Amended and Restated Declaration of Condominium

(Page 6 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

title to a Unit (or any other possessory or use right in a Unit) with the intention of allocating use rights among legal or beneficial owners, whether pursuant to verbal or written agreements, regarding the sharing of use and possession rights for a Unit.

**1.25 “Guest”** means any person who is not the Unit Owner or a Tenant or a member of the Owner’s or Tenant’s Family, who is physically present in, or occupies the Unit on a temporary basis at the invitation of the Owner or other legally permitted occupant, without the payment of consideration.

**1.26 “Insurable Improvements”** shall mean the “Buildings” as defined in Article 1.7 of this Declaration, less upgrades or additions by Unit Owners (or their predecessors in title) and those portions of the Condominium Property required by the Act to be insured by the Association. If a Unit Owner has replaced any glass with impact glass which meets the applicable code at the time of such replacement, such glass and its related framework shall be considered part of the Insurable Improvements, unless prohibited by law.

**1.27 “Invitee”** a person or persons allowed entry for the purpose of conducting business with a Unit’s occupant, or otherwise entering the Condominium Property on a temporary basis at the express or implied consent of the Unit Owner, including contractors, workmen, delivery persons, domestic assistants and health care assistants.

**1.28 “Lease,”** when used in the context of the renting of Units, means the grant by a Unit Owner of a right of use of the Owner’s Unit for consideration.

**1.29 “Lien for Charges”** means a lien which is recorded to secure a Charge.

**1.30 “Limited Common Elements”** means those Common Elements which are reserved for the use of a certain Unit or Units to the exclusion of all other Units, as specified in the Declaration. References herein to Common Elements shall include all Limited Common Elements, unless the context would prohibit or it is otherwise expressly provided. Whenever a portion of the Condominium Property naturally and exclusively services a particular Unit, and where the area in question lies outside of the boundaries of the Unit, the delegation of maintenance responsibility for the area (by way of example, but not limitation, air conditioning compressors) shall serve to define the area as a Limited Common Element.

**1.31 “Limited Common Expenses”** means those expenses affiliated with the maintenance, repair, replacement, or reconstruction after Casualty of a Limited Common Element, the costs of which are assessed only against the benefiting Unit Owner(s), as authorized by Section 718.113(1) of the Act, and if so provided in this Declaration.

**1.32 “Member”** means the record Owner(s) of legal title to a Unit.

Amended and Restated Declaration of Condominium  
(Page 7 of 46)

**1.33 “Occupant”** when used in connection with a Unit, means a person who is physically present in a Unit on two or more consecutive days, including staying overnight for one night.

**1.34 “Person”** means any individual or representative of an entity, including Unit Owners, Family members, Tenants, Guests, and Invitees. Whenever the word “Person” is used to require or prohibit certain conduct, it is the intention that the Owner of the Unit with which such Person is affiliated shall be responsible for ensuring such Person’s compliance with the Condominium Documents.

**1.35 “Primary Occupant”** means a natural person designated for occupancy of a Unit when title to the Unit is held in the name of two or more persons who are not husband and wife, or Domestic Partners, or by a trustee or a corporation or other entity which is not a natural person, except where the content clearly indicates otherwise, the term “Owner” shall include “Primary Occupant”.

**1.36 “Rules and Regulations”** means those rules and regulations promulgated by the Board of Directors, governing the use, occupancy, alteration, maintenance, transfer and appearance of Units, Common Elements and Limited Common Elements, and the operation and administration of the Association, subject to any limits set forth in the Declaration of Condominium.

**1.37 “Tenant” or “Lessee”** means a person occupying a Unit, other than the Owner, whether pursuant to a verbal or written agreement, where said occupancy by the non-owner involves consideration, the payment of money, the exchange of goods and services, etc. The term “Tenant” shall be used interchangeably with “Lessee”.

**1.38 “Unit”** means a part of the Condominium Property subject to exclusive ownership.

**1.39 “Unit Owner” or “Owner”** means the record Owner of a Condominium Parcel.

**1.40 “Utility Services”** as used in the Condominium Act and as construed with reference to this Condominium, and as used in the Declaration and Bylaws, shall include but not be limited to electric power, gas, hot and cold water, heating, refrigeration, air conditioning and garbage and sewage disposal.

**1.41 “Voting Interests of the Association”** means and refers to the arrangement established in the Condominium Documents by which the Owners of each Unit collectively are entitled to one vote in the Association matters. There are 238 Units, so the total number of Voting Interests of the Association is 238. Matters affecting the entire Association (all Condominiums), as determined by the Board of Directors, shall be decided by the Voting Interests of the Association. By way of example, but not limitation, the election of Directors, the recall of Directors, the waiver of financial reporting requirements, alterations of Association

Amended and Restated Declaration of Condominium  
(Page 8 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

Property, certain alterations of Common Elements, certain amendments to the Declaration of Condominium, amendments to the Articles of Incorporation, and amendments to the Bylaws, are decided by the Voting Interests of the Association. Determining whether a voting item involves the Voting Interests of the Association as opposed to the Voting Interests of the Condominium, shall be determined in the sole discretion of the Board of Directors of the Association.

**1.42 "Voting Interests of the Condominium"** means those voting items which are to be considered for vote by the Unit Owners in individual Condominiums in accordance with the Class Quorum and Voting procedures specified in Article 2.11 of the Bylaws. By way of example, but not limitation, certain material alterations of Common Elements, certain amendments to the Declaration of Condominium, and the waiver or reduction of reserve funding shall be based upon the Voting Interests of the Condominium. Determining whether a voting item is a matter involving the Voting Interests of the Condominium, as opposed to Voting Interests of the Association shall be determined in the sole discretion of the Board of Directors of the Association.

**2. STATEMENT OF CONDOMINIUM DECLARATION.** Worthington Communities, Inc. submitted the property described in Exhibit "A" hereto and as described above to condominium ownership in accordance with Florida Statutes.

**3. CONDOMINIUM NAME.** The name by which this Condominium is identified is "Wedgewood at Lexington Condominium No. 3".

**4. UNIT IDENTIFICATION.** The identification of each Unit shall be by number and shall be as indicated on the Plat, Exhibit "A."

**5. SURVEY AND GRAPHIC DESCRIPTION.** A survey of the land previously submitted to condominium ownership and a plat thereof describing each Unit, Common Elements and their relative location and the approximate dimensions of each Unit are as shown on the Plat which is attached as Exhibit "A".

**6. VOTING RIGHTS; OWNERSHIP OF COMMON ELEMENTS.** The voting rights of the Owner of each Unit shall be  $1/238^{\text{th}}$  (one Voting Interest per Unit) for Association matters and  $1/80^{\text{th}}$  for individual Condominium voting issues. Voting rights may be suspended pursuant to the terms of the Condominium Documents and/or Florida Law. The sharing of Common Expenses and ownership of Common Elements and Common Surplus shall be on a  $1/80^{\text{th}}$  basis for Common Expenses of the Condominium and  $1/238^{\text{th}}$  basis for Common Expenses of the Association. Suspension of voting rights shall not affect the basis for which Common Expenses are shared or Common Elements and Common Surplus owned. However, suspended Voting Interests shall be subtracted from the total number of votes required when calculating any required vote or quorum during the period for which said Voting Interest is suspended. The undivided share of ownership of the Common Elements and Common Surplus appurtenant to a Unit cannot be conveyed or separately hypothecated. As long as the Condominium exists, the Common Elements cannot be

Amended and Restated Declaration of Condominium  
(Page 9 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

partitioned. The shares in the funds and assets of the Association cannot be assigned by a Unit Owner, pledged or transferred except as an appurtenance to the Units.

## 7. EASEMENTS.

**7.1 Easements.** Each of the following easements and easement rights is reserved through the Condominium Property and is a covenant running with the land of the Condominium, and notwithstanding any of the other provisions of this Declaration, may not be revoked and shall survive the exclusion of any land from the Condominium, unless released in connection with termination of the Condominium. None of these easements may be encumbered by any leasehold or lien other than those on the Condominium Parcels. Any lien encumbering these easements shall automatically be subordinate to the rights of the Unit Owners with respect to such easements.

**7.2 Support.** Each Unit shall have an easement of support and of necessity and shall be subject to an easement of support and necessity in favor of all other Units and the Common Elements.

**7.3 Utility and Other Services; Drainage.** Easements are reserved under, through and over the Condominium Property as may be required from time to time for utility, cable television, communications and security systems, and other services and drainage in order to serve the Condominium. The Association shall have the right of access to each Unit during reasonable hours when necessary for maintenance, repair or replacement of any Common Elements or of any portion of a Unit to be maintained by the Association pursuant to the Declaration or as necessary to prevent damage to the Common Elements or to a Unit or Units.

**7.4 Encroachments.** If (a) any portion of the Common Elements encroaches upon any Unit; (b) any Unit encroaches upon any other Unit or upon any portion of the Common Elements; or (c) any encroachment shall hereafter occur as a result of (i) construction of the Improvements; (ii) settling or shifting of the Improvements; (iii) any alteration or repair to the Common Elements made by or with the consent of the Association; or (iv) any repair or restoration of the Improvements (or any portion thereof) or any Unit after damage by fire or other casualty or any taking by condemnation or eminent domain proceedings of all or any portion of any Unit or the Common Elements, then, in any such event, a valid easement shall exist for such encroachment and the maintenance of the same so long as the Improvement shall stand.

**7.5 Ingress and Egress.** A non-exclusive easement shall exist in favor of each Unit Owner and Occupant, their respective Guests, Tenants, and Invitees for pedestrian traffic over, through, and across sidewalks, streets, paths, walks, and other portions of the Common Elements as from time to time may be intended and designated for such purpose and use, and for vehicular and pedestrian traffic over, through, and across such portion of the Common Elements as from time to time may be paved or intended for such purposes, and for purposes of ingress and egress to the public ways.

Amended and Restated Declaration of Condominium  
(Page 10 of 46)

LAW OFFICES  
BECKER & POJAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707



**7.6 Other Condominiums; Community Association.** The Community Association shall have all easements provided it in the Community Covenants including, without limitation, those over "Lots" (as defined therein). Additionally, the Community Association shall have a perpetual easement over the Common Elements to perform the maintenance, repair and replacement functions described in this Declaration.

Any recreation or other commonly-used facilities located within the Condominium Property shall be subject to a perpetual, non-exclusive easement in favor of the Owners of Units in any other Condominium operated by the Association, provided that (i) the use of such easement shall be subject to a reasonable regulation by the Association and (ii) such Unit Owners shall share in the expenses of such facilities in the manner provided in herein.

Each Owner and Occupant, and the Guests and Invitees thereof, if any Unit in a Condominium operated by the Association shall also have a perpetual easement of ingress and egress for vehicular and pedestrian use over all portions of the Common Elements reasonably suited for such purposes.

**7.7 Additional Easements.** The Association, by and through the Board of Directors on behalf of all Unit Owners (each of whom hereby appoints the Association as its attorney-in-fact for this purpose), shall have the right to grant such additional general ("blanket") and specific electric, gas or other utility, cable television, security systems, communications or service easements (and appropriate bills of sale for equipment, conduits, pipes, lines and similar installations pertaining thereto), or relocated any such existing easements or drainage facilities, in any portion of the Condominium Property, and to grant access easements or relocate any existing access easements in any portion of the Condominium Property, as the Association shall deem necessary or desirable, provided that such easements or the relocation of existing easements will not prevent or unreasonably interfere with the reasonable use of the Units for dwelling purposes.

**8. CONDOMINIUM UNITS AND APPURTENANCES.** The Land has constructed thereon the Building, consisting of ten (10) buildings containing eight (8) Units each for a total of eighty (80) Units. Each such Unit is identified by a separate numerical designation. The designation of each of such Units is set forth on Exhibit "A" attached hereto. Exhibit "A" consists of a survey of the Land, a graphic description of the Improvements located thereon, including, but not limited to, the Building in with the Units are located, and a plot plan thereof. Said Exhibit "A", together with this Declaration, is sufficient in detail to identify the Common Elements and Each Unit and their respective locations and dimensions.

There shall pass with a Unit as appurtenances thereto (a) an undivided share in the Common Elements and Common Surplus; (b) the exclusive right to use such portion of the Common Elements as may be provided in this Declaration, including the applicable Limited Common Element garage; (c) an exclusive easement for the use of the airspace occupied by the Unit as it exists at any particular time and as the Unit may lawfully be altered or reconstructed from time to time, provided that an easement in airspace which is vacated shall be terminated automatically; (d)

Amended and Restated Declaration of Condominium  
(Page 11 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

membership in the Association with the full voting rights appurtenant thereto; and (e) other appurtenances as may be provided by this Declaration or the Act.

**8.1 Unit Boundaries.** Each Unit shall include that part of the Condominium Property containing the Unit that lies within the following boundaries:

**8.1.1 Upper and Lower Boundaries.** The upper and lower boundaries of the Unit shall be the following boundaries extended to their planar intersections with the perimetrical boundaries:

**8.1.1.1 Upper Boundaries.** The horizontal plane of the unfinished lower surface of the ceiling of the Unit.

**8.1.1.2 Lower Boundaries.** The horizontal plane of the unfinished upper surface of the floor of the Unit.

**8.1.1.3 Interior Divisions.** Except as provided in subsections 8.1.1.1 and 8.1.1.2 above, no part of the floor of the top floor, ceiling of the bottom floor, stairwell adjoining the two-floors or nonstructural interior walls shall be considered a boundary of the Unit.

**8.2 Perimetrical Boundaries.** The perimetrical boundaries of the Unit shall be the vertical planes of the unfinished interior surfaces of the walls bounding the Unit extended to their planar intersections with each other and with the upper and lower boundaries.

**8.3 Apertures.** Where there are apertures in any boundary, including, but not limited to, windows, doors, bay windows and skylights, such boundaries shall be extended to include the windows, doors and other fixtures located in such apertures, including all frameworks thereof; provided, however, that exterior surfaces made of glass or other transparent material, and the exterior of doors, shall not be included in the boundaries of the Unit and shall therefore be Common Elements.

**8.4 Exceptions.** In cases not specifically covered above, and/or in any case of conflict or ambiguity, the survey of the Units set forth in Exhibit "A" hereto shall control in determining the boundaries of a Unit, except that the provisions of Section 8.3 above shall control unless specifically depicted otherwise on such survey.

**8.5 Limited Common Elements.** Each Unit may have, to the extent applicable and subject to the provisions of this Declaration, as Limited Common Elements appurtenant thereto:

**8.5.1 Lanais.** Any lanai (and all improvements thereto) as to which direct and exclusive access shall be afforded to any particular Unit or Units to the exclusion of others shall be a Limited Common Element of such Unit(s). The boundaries of same shall be (i) lower: the upper unfinished surface of the slab of the lanai, (ii) upper: the lower unfinished surface of any overhanging slab, (iii) perimetrical: the exterior surface of any adjoining Common Element wall

Amended and Restated Declaration of Condominium  
(Page 12 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

or, where there is no wall on a first floor lanai, the edge of the concrete slab facing the lanai and (iv) other perimetrical: any sliding glass door(s) or fixed glass panel(s) abutting the lanai.

**8.5.2 Garages.** Each Unit is hereby assigned the exclusive right to use the garage adjacent to the Unit, same being a Limited Common Element thereof. The boundaries of a garage Limited Common Element shall be determined in the same manner as those of a Unit, provided that the upper boundary shall be the unfinished lower surface of the roof or slab located over the Unit so that any overhead storage area (and the ceiling structure) shall be a part of the Limited Common Elements.

Each Unit is also hereby assigned the exclusive right to use the driveway immediately adjacent to the aforesaid garage, same to be a Limited Common Element of the Unit As well.

**8.6 Conveyance of a Unit.** A conveyance of a Unit shall automatically include all Limited Common Elements appurtenant to that Unit unless otherwise specified in the instrument of such conveyance.

**8.7 Miscellaneous Areas, Equipment.** Any fixtures or equipment (e.g., an air conditioning unit located adjacent to the Unit and related lines and equipment) serving a Unit or Units exclusively and any area upon/within which such fixtures or equipment are located shall be Limited Common Elements of such Unit(s).

**9. MAINTENANCE, ALTERATION AND IMPROVEMENTS.** Responsibility for the maintenance of the Condominium Property, and restrictions upon the alteration and improvement thereof, shall be as follows:

**9.1 Association Maintenance, Repair and Replacement Obligation.** The maintenance, repair and replacement of all Common Elements (except those Limited Common Elements for which this Declaration delegates responsibility to the Unit Owner) and Association Property shall be performed by the Association, and the cost is a Common Expense, except as may otherwise be specifically noted with respect to Limited Common Elements. Maintenance, repair and replacement of outside stair railings to second floor Units is the responsibility of the Association.

**9.1.1 General Exterior Maintenance.** The Association's maintenance, repair and replacement responsibility shall include, but not be limited to, exterior painting, roofing, maintenance of parking facilities (except as otherwise provided herein to the contrary), and general exterior maintenance, but shall not include maintenance, repair and replacement of railings, screens and screen enclosures, nor any alteration or addition to the Condominium Property made by a Unit Owner or his predecessors in title, nor any portions of the Condominium Property exposed to the elements for which this Declaration delegates responsibility to the Unit Owner.

Amended and Restated Declaration of Condominium  
(Page 13 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

**9.1.2 Plumbing and Electrical.** The Association's maintenance, repair and replacement responsibility includes, except as may be specifically otherwise provided to the contrary, without limitation, all electrical conduits and installations located from (but not including) the circuit breaker outward; electrical conduits and installations located within or outside a Unit for the furnishing of utilities to another Unit, more than one Unit, or the Common Elements; plumbing fixtures and installations located within or outside a Unit for the furnishing of utilities to another Unit, more than one Unit, or the Common Elements. The Association's maintenance, repair and replacement responsibility does not include electrical fixtures, switches or receptacles, plumbing fixtures, or other electrical, plumbing or mechanical installations located within the Unit and serving only that Unit.

**9.1.3 Incidental Damage.** If, in connection with the discharge of its maintenance, repair or replacement responsibilities, the Association must remove, disassemble, or destroy portions of the Condominium Property which the Unit Owner is required to maintain, repair, or replace, the Association shall be responsible for reinstallation or replacement of that item, including cabinetry, drywall and moldings, to its unfinished state, and excluding floor coverings, wall coverings, ceiling coverings, paint, wallpaper, paneling, and other finishes, provided that the Association's obligations are limited to the replacement of items that were part of the Condominium Property as originally installed by the Developer, or replacements thereof of like kind and quality, and except in cases of Casualty repair, or repair of damage caused by a covered cause of loss under the Association's applicable insurance policy, which shall be governed by Article 13 of this Declaration. Repair or replacement of all upgrades or additions, even if made by a predecessor in title, shall be the responsibility of the Unit Owner, specifically including but not limited to hurricane shutters which the Association must remove in connection with the maintenance of the Building, although the Association may have shutter reinstallation work performed by its contractor, and the Unit Owner will be responsible for reimbursement to the Association as a Charge.

**9.2 Unit Owner Maintenance, Repair and Replacement Obligation.** Each Unit Owner is responsible, at his own expense, for all maintenance, repair, and replacement of his own Unit and those Limited Common Elements serving his Unit, if so provided herein, whether ordinary or extraordinary including, without limitation:

**9.2.1 Windows.** The Unit Owner shall maintain, repair and replace the window installations originally installed by the Developer or subsequent replacement thereof. Same includes the window frame and encasement, the plate glass, and all caulking thereof. The Unit Owner shall be responsible for interior window locking and opening mechanisms, the windowsill and glass breakage. The Association shall be responsible for exterior caulking around the window frames.

**9.2.2 Screens, Screen Frames, and Railings.** The Unit Owner shall maintain, repair and replace all window screens, screen doors or lanai screens, including hardware and framing, and including lanai railings. The second floor, outside stair railings are the responsibility of the Association.

Amended and Restated Declaration of Condominium  
(Page 14 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

**9.2.3 Drywall.** The Unit Owner shall maintain, repair and replace all drywall within the Unit, the finishes thereof (including trim), and the structural framing related thereto, including studs and insulation, except that the Association shall maintain, repair and replace drywall on the interior side of the exterior boundary walls, and the drywall on the ceiling of the Units, if any.

**9.2.4 Electrical.** The Unit Owner shall maintain, repair and replace all electrical fixtures/facilities located within the Unit, which service only the individual Unit plus all electrical fixtures, apparatus or installations from and including the circuit breaker inward, which service only that Unit.

**9.2.5 Sliding Glass Doors.** The Unit Owner shall maintain, repair and replace sliding glass doors and the structural components thereof (including frames and fixed panels), including trim and caulking.

**9.2.6 Unit Front Entry Doors.** The Unit Owner shall maintain the interior of the Unit front entry door and the Association shall maintain the exterior of said door, and be responsible for the repair and replacement of said door (excluding locks and hardware, which shall be the Unit Owner's responsibility).

**9.2.7 Other Doors.** The Unit Owner shall maintain, repair and replace all other doors and the framing and structural components thereof (including trim, caulking, locks and hardware) within or servicing the Unit.

**9.2.8 Hurricane Shutters.** The Unit Owner shall maintain, repair and replace hurricane shutters and the structural components thereof.

**9.2.9 Plumbing and Mechanical.** The Unit Owner shall maintain, repair and replace the electrical, mechanical and plumbing fixtures and outlets (including connections) within a Unit and serving only that Unit including sinks, toilets, tubs, showers, shower pans, and all related fixtures and installations.

**9.2.10 Appliances.** The Unit Owner shall maintain, repair and replace appliances.

**9.2.11 Heating and Air Conditioning Equipment; Ductwork.** The Unit Owner shall maintain, repair and replace all portions of the heating and air conditioning equipment (including compressors, air handlers, ductwork, freon lines and discharge lines), dryer vents to the point of termination (even if exterior to the Unit), air conditioner discharge lines to the point of termination or connection to another discharge (even if exterior to the Unit).

**9.2.12 Floor Coverings.** The Unit Owner shall maintain, repair and replace carpeting and other floor covering (including lanai areas).

Amended and Restated Declaration of Condominium  
(Page 15 of 46)

**9.2.13 Hardware and Locks.** The Unit Owner shall maintain, repair and replace door and window hardware and locks.

**9.2.14 Other Facilities and Fixtures.** The Unit Owner shall maintain, repair and replace all other facilities or fixtures located or contained entirely within a Unit which serve only that Unit.

**9.2.15 Plumbing (Incoming).** The Unit Owner shall maintain, repair and replace all incoming plumbing from (and including) the shut-off valve (at hot water) inward.

**9.2.16 Plumbing (Outgoing).** The Unit Owner shall maintain, repair and replace outbound plumbing until the point of exit from the Unit boundary. Provided, however, that the Unit Owner is responsible for the remediation of clogged pipes or drains, where the source of blockage or obstruction originates from the Unit, even if the area where the blockage or obstruction is located is outside of the Unit boundary.

**9.2.17 Garages.** The Unit Owner shall be responsible for the maintenance, repair and replacement of garage doors (and all affiliated hardware and mechanisms) and garage door openers (and affiliated controls and electronics).

Any of the above-described areas that are to be maintained, repaired or replaced by the Unit Owner, or by the Association at the expense of the benefiting Unit(s), if located outside of the boundaries of the Unit, are declared Limited Common Elements. Responsibility for maintenance, repair and replacement of Condominium Property may not coincide with obligation for insurance of Condominium Property, nor its repair after Casualty, or damage from covered cause of loss under the Association's applicable insurance policy, which are governed by Article 12 and Article 13 hereof, respectively.

**9.3 Unit Owner Obligations In Connection with Maintenance, Repair and Replacement.** In connection with his maintenance, repair and replacement obligations, the Unit Owner shall have the responsibility to obtain the prior written approval of the Association, through the Board of Directors, before performing any maintenance, repair or replacement which requires: changes or alterations to the physical appearance of the Condominium Property visible from any exterior vantage; excavation; or access to a Building roof.

Nothing shall preclude the Association from acting as the Owner's agent and obtaining the services of contractors to perform Unit Owner maintenance responsibilities in the event of an emergency, or in non-emergency situations, provided that in non-emergency situations, the Association and the Owner so agree, or absent such agreement when such work is deemed necessary, as determined by the Board to facilitate projects involving the Association's maintenance of the Condominium Property. In all such cases the Unit Owner shall be deemed to consent to reimbursement of expenses incurred, secured by such rights as exist for collecting Common Expenses under these Condominium Documents through a Lien for Charges. Unit Owners shall at all times be responsible to ensure, whether or not Association approval is

Amended and Restated Declaration of Condominium  
(Page 16 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

required for work being done within the Unit, that all contractors and other persons performing services for the Unit Owner are properly licensed and insured, including required Worker's Compensation insurance, and that the Condominium Property is kept free from liens. The Unit Owner shall hold the Association harmless from any claim of any nature arising out of failure to comply with these requirements.

**9.4 Lanais.** The Unit Owner who owns or has the right to the exclusive use of a lanai shall be responsible for the maintenance, repair and replacement of: lanai floor coverings (the Board may prohibit certain types of floor coverings or require the removal of existing coverings when necessary for the structural preservation of the Building); storm shutters and other enclosures; fixed and/or sliding glass doors and affiliated framing and hardware thereof; the wiring, electrical outlet(s) and fixture(s) on or servicing the lanai; ceiling fans; and the replacement of light bulbs. The Association shall be responsible for structural maintenance, repair and replacement of lanai floors, and ceilings, and also the Building walls enclosed by the lanais.

**9.5 Unit Floor Coverings.** All Units above the first living floor shall always have the floors covered with wall-to-wall carpeting, except in kitchens, bathrooms, lanais, foyers, and utility or laundry rooms, except as provided below. Owners of Units above the first living floor who wish to install or replace hard floor surfaces (tile, marble, wood, etc.) in any area of the Unit are required to also install an approved sound-deadening material. The Board has the authority to adopt specifications for minimum sound proofing material that will be approved.

**9.6 Modifications or Alterations by Unit Owners.** No Owner may make or permit the making of any modifications or alterations to any portion of his Unit visible from the exterior, or in any manner change the appearance of any portion of the Common Elements, or undertake any structural work or undertake any structural modification or alteration, without first obtaining the written consent of the Board of Directors, which consent shall be denied if the Board determines that the proposed modifications or alterations would adversely affect, or in any manner be detrimental to, the Condominium in part or whole. "Structural" modifications or alterations include, but are not limited to: relocation of existing electrical, plumbing, ductwork, air conditioning or heating installations; relocation of existing fixtures or appliances such as toilets, sinks, tubs, showers, dishwashers, refrigerators, or ranges; the removal or modification of any partition, door, window or screen; raising ceilings; or relocating kitchen or bathroom cabinetry. For purposes of this provision, the term "structural" work shall also include the addition, removal, or relocation of any duct work, plumbing line or fixture, any electrical line or fixture, or the removal, modification or creation of any interior partition. Replacement of cabinetry, appliances and fixtures, with substantially equivalent installations, in the same location, shall not be deemed "structural" and shall not require approval of the Association, unless a building or other permit is required. Further, "structural" modifications or alterations shall include any and all work that requires a building permit, an electrical permit, a plumbing permit, a mechanical permit, or similar permit from the appropriate governmental agency, whether or not mentioned above.

Amended and Restated Declaration of Condominium  
(Page 17 of 46)

The Board may, in appropriate circumstances, require sealed plans from an Architect or Professional Engineer licensed to practice in Florida as a condition of reviewing any requested structural modification, alteration or addition to the Condominium Property. The Board, in reaching its decision, may take into account uniformity of appearance, compatibility with architecture in Wedgewood at Lexington Condominiums and the Lexington Community, the quality of the proposed alteration, objections of neighboring residents, and such other criteria as the Board may reasonably adopt in reaching its decision. If the Board determines to permit any modification or alteration which is visible from the exterior of the premises, from any vantage, said modification or alteration must also be approved by the Unit Owners in the manner provided in Article 9.8 of this Declaration, regardless of the cost or expense of such modification or alteration. If any Unit Owner requests approval of any structural modification or alteration, the Association may permit such modification or alteration if same would not materially affect or interfere with the utility services constituting Common Elements, if any, located therein, the structural integrity of the Building or create a nuisance or disturbance to neighboring Units.

Approval by the Association shall not constitute approval of the Community Association, which may be separately required by the Community Covenants. Once the Unit Owner has obtained the Board's consent, such consent must be forwarded to the Community Association, together with the requested addition, alterations and improvement and any additional information, for review by the Architectural Review Committee as provided in the Community Covenants. The proposed additions, alterations and improvements by the Unit Owners shall be made in compliance with all laws, rules, ordinances and regulations of all governmental authorities having jurisdiction, and with any conditions imposed by the Association with respect to design, structural integrity, aesthetic appeal, construction details, lien protection or otherwise. A Unit Owner making or causing to be made any such additions, alterations or improvements agrees, and shall be deemed to have agreed, for such Owner, and his heirs, personal representatives, successors and assigns, as appropriate, to hold the Association and its Board of Directors, the Community Association and members of the Architectural Review Committee and all other Unit Owners harmless from and to indemnify them for any liability or damage to the Condominium Property and expenses arising therefrom, and shall be solely responsible for the maintenance, repair and insurance thereof from and after that date of installation or construction thereof as may be required by the Association.

**9.7 Additional Unit Owner Responsibility for Modifications or Alterations.** If a Unit Owner (or his predecessors in title) makes, or has made any modifications or alterations to the interior or exterior of the Unit, Common Elements, or Limited Common Elements, the Unit Owner (and his heirs, successors in title and assigns) shall be financially responsible for the insurance, maintenance, care, preservation, reconstruction, repair or replacement of the modification or alteration and shall execute such documents as the Association may promulgate, if any, accepting said financial responsibility. Any modification or alteration to the Condominium Property made by a Unit Owner may be required to be removed in connection with the Association's maintenance of the Condominium Property. In such cases, the Unit Owner who installed the modification or alteration (and/or their successors in title) shall be

Amended and Restated Declaration of Condominium  
(Page 18 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707



obligated to reimburse the Association for any costs affiliated with removal and/or re-installation of the item, with said obligation being secured by a right of Lien for Charges of equal dignity to the Common Expense lien created by this Declaration, or alternatively, said Owner may be required to remove and reinstall said modification or alteration, if so determined by the Board of Directors. Further, the Association, its contractors and agents, shall not be liable for any damage to the item arising out of its removal and/or reinstallation, unless occasioned by the gross negligence or willful misconduct of the Association or its contractor or agent, although the Association may provide for stricter liability standards in contracts with contractors.

**9.8 Material Alterations by Association. Material Alterations by Association.**

There shall be no material alterations or substantial additions to the Common Elements or real property which is Association Property by the Association, except as authorized by the Board of Directors. Provided, however, that if any such alteration or addition to real property which is Association Property requires the expenditure of more than ten percent (10%) of the Association's total budget for the fiscal year in which the work is authorized, including reserves, the Board shall obtain approval of a two-thirds (2/3) of Voting Interests present (in person or by proxy) and voting at an Association meeting at which a quorum has been obtained, or by written agreement of two-thirds (2/3) of the entire Voting Interests of the Association. Material alterations or substantial additions to the Common Elements of individual Condominiums shall be authorized as follows. The Board of Directors may authorize any alteration or addition which does not exceed ten percent (10%) of the total budget for the Condominium for which the alteration or addition is proposed. Any material alteration of or substantial addition to Common Elements of a Condominium exceeding that amount shall be approved by two-thirds (2/3) of the Voting Interests of the Condominium present (in person or by proxy) and voting at a meeting of the Association at which a Class Quorum has been obtained. Necessary maintenance of the Common Elements, or Association Property regardless of the level of expenditure, is the responsibility of the Board of Directors. Cellular antennae and similar apparatus and apparatus to provide communication or internet services as provided in Article 1.12, may be placed on the Condominium Property as authorized by the Board.

**9.9 Enforcement of Maintenance.** If, after reasonable notice, the Owner of a Unit fails to maintain the Unit or other portions of the Condominium Property as required by this Declaration, the Association shall have, without waiver of other remedies, the right to enter the Owner's Unit or Common Element (including Limited Common Elements) and perform or cause performance of the necessary work, and/or institute legal proceedings at law or in equity to enforce compliance, and/or to take any and all other lawful actions to remedy such violation, in which event the Unit Owner shall be charged for the costs of such activities (including attorney's fees incurred by the Association) by the Association which shall be secured by a Lien for Charges.

**9.10 Damage Caused by Conditions of the Condominium Property.** Each Unit Owner shall be liable to the Association and/or other Unit Owners for the expenses of any maintenance, repair or replacement of the Condominium Property, made necessary by his

Amended and Restated Declaration of Condominium  
(Page 19 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

intentional act or negligence, or by that of any member of his Family or his or their Occupants, Guests, Tenants or Invitees. If any condition, defect or malfunction existing within a Unit or Common Elements which the Unit Owner is obligated to insure, maintain, repair, or replace if caused by the Owner's (or his Family member's, Occupant's, Guest's, Tenant's or Invitee's) acts, negligence, or failure to comply with the Condominium Documents or applicable law, shall cause damage to the Common Elements, Association Property, or to other Units, the Owner of the offending Unit shall be liable to the person or entity responsible for repairing the damaged areas for all costs of repair or replacement not paid by insurance (including the deductible) and without waiver of any insurer's subrogation rights, provided that such responsibility shall be conditioned on the neighboring Unit(s) being adequately insured based on local standards and conditions. Further, any claim of a Unit Owner against the Association or another Unit Owner relative to damage to the Condominium Property, to the extent the Association or other Unit Owner might otherwise be liable pursuant to the Condominium Documents or applicable law, shall be predicated upon the Unit Owner making the claim being adequately insured based on local standards and conditions, whether or not individual Unit Owner insurance is mandated by the Act. Should any Unit Owner fail to maintain such insurance, any claim will be reduced to the extent such Unit Owner's insurance, if obtained pursuant to the above-described standards, would have provided coverage or compensation for the loss and without waiving any other remedy of the Association regarding Unit Owner insurance requirements. The requirement that the individual Unit Owner obtain insurance shall not be construed to confer any additional liability or responsibility on the Association or other Unit Owners (without limitation, the Association shall not be obligated to obtain proof of Unit Owner insurance), but is intended to require Unit Owners and the Association to respectively insure risks that are customarily experienced in condominiums located in Florida's coastal communities, condominiums in general, including but not limited to damages occasioned by windstorms, hurricanes, tornadoes, floods, rainstorms, bursting pipes, water seepage and leakage, and mold and mildew, regardless of whether such insurance is legally required. If one or more of the Units involved is not occupied at the time a damage incident is discovered (regardless of the cause), the Association may enter the Unit(s) without prior notice to the Owner(s) and take reasonable action to mitigate damage or prevent its spread, at the Unit Owner's expense. The Association may, but is not obligated to, repair the damage without the prior consent of the Owner, in the event of an emergency, and the Owner shall be responsible for reimbursement of the Association, with the cost being secured by a Lien for Charges. Unit Owners are required to shut off all water valves when the Unit will be unoccupied on an overnight basis, and failure to do so will create a presumption of negligence.

Unit Owners are also required to ensure that electricity, and if separately metered, water and sewer, are always available to service the Unit. If Unit Owner fails to maintain Utility Services to Unit, the Association shall have, without waiver of other remedies, the right to enter into the Owner's Unit and Limited Common Element and take any and all lawful actions to make the utilities available to service the Unit, in which event the Unit Owner shall be charged for such activities (including attorneys' fees incurred by the Association) by the Association which shall be secured by a Lien for Charges.

Amended and Restated Declaration of Condominium  
(Page 20 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

**9.11 Combination of Units.** Units may not be combined in to a single living space.

**9.12 Hurricane Protection.** The Board of Directors shall adopt hurricane shutter specifications for the Condominium which shall include color, style, and other factors deemed relevant by the Board. All specifications adopted by the Board shall comply with the applicable building code. The Board may adopt the Master Association Hurricane Shutter Specifications as those applicable to the Association.

**10. ASSESSMENTS AND CHARGES.** Assessments against Owners shall be made by the Board of Directors of the Association, in the manner provided in the Bylaws and as follows, and shall be borne by the Unit Owners on the basis set forth in Article 6 and elsewhere in these Condominium Documents.

**10.1 Liability for Assessments and Charges.** A Unit Owner, regardless of how title is acquired, including a purchaser at a judicial sale, shall be liable for all Assessments and Charges coming due while he/she is the Unit Owner. Except as provided in Article 10.5, any person or entity which acquires title to a Unit shall be jointly and severally liable with their predecessor in title for all unpaid Assessments and Charges against the predecessor for his/her share of the Charges and Assessments, including interest, late fees, attorney's fees and other costs and expenses of collection incurred by the Association up to the time of the transfer, without prejudice to any right the transferee may have to recover from the transferor the amounts paid by the transferee. The liability for Assessments or Charges may not be avoided by waiver of the use or enjoyment of any Common Elements or by the abandonment of the Unit for which the Assessments or Charges are made.

**10.2 Default in Payment of Assessments for Common Expenses or Charges.** Assessments and installments thereof not paid within ten (10) days from the date when they are due shall incur a late fee and bear interest in an amount as determined by the Board of Directors which, unless otherwise specified, shall be the maximum allowed by law. The Board may accelerate unpaid Assessments in the manner prescribed by law. The Association has a lien on each Condominium Parcel for any unpaid Assessments on such parcel, with interest, late fees and for reasonable attorney's fees, as well as costs and expenses of collection incurred by the Association incident to the collection of the Assessment or enforcement of the lien. If prohibited by the Act, no lien may be filed by the Association against a Condominium Unit until thirty (30) days after the date on which a notice of intent to file a lien has been delivered to the Owner pursuant to Section 718.121(4) of the Act. The Association may also accelerate all Assessments or Charges which are accrued, but not yet due, in the manner provided by law. The Association's lien is in effect until all sums secured by it have been fully paid or until barred by law. A claim of lien shall be signed and acknowledged by an Officer or agent of the Association. Upon recording, the Association's claim of lien shall relate back to the date of the filing of the original Declaration of Condominium. Upon payment in full, the Condominium Parcel is entitled to a satisfaction of the lien. The Association may bring an action in its name to foreclose a lien for Assessments or Charges in the manner that a mortgage of real property is foreclosed

Amended and Restated Declaration of Condominium  
(Page 21 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

and may also bring an action to recover a money judgment for the unpaid Assessments or Charges without waiving any claim of lien.

**10.3 Notice of Intention to Foreclose Lien.** So long as required by law, no foreclosure judgment may be entered until at least thirty (30) days after the Association gives written notice to the Unit Owner of its intention to foreclose its lien to collect the unpaid Assessments or Charges. If this notice is not given at least thirty (30) days before the foreclosure action is filed, and if the unpaid Assessments or Charges, including those which have been accelerated (if applicable) and those coming due after the claim of lien is recorded, are paid before the entry of a final judgment or foreclosure, the Association shall not recover attorney's fees or costs. The notice must be given by delivery of a copy of it to the Unit Owner or by certified mail, return receipt requested, addressed to the Unit Owner. If after diligent search and inquiry the Association cannot find the Unit Owner or a mailing address at which the Unit Owner will receive the notice, the court may proceed with the foreclosure action and may award attorney's fees and costs as permitted by law. The notice requirements of this provision are satisfied if the Unit Owner records a Notice of Contest of Lien as provided in the Act.

**10.4 Attachment of Rental Income When Unit is Delinquent.** Notwithstanding any other remedy available to the Association under this Declaration, the Bylaws, or applicable law, the Association shall have the following options when payment of Assessments or Charges are in default (more than ten days in arrears). The Association may, without order of the Court, direct rental income (by written notice to the Tenant with copy to Unit Owner) from Units in default to be paid directly to the Association until all outstanding Assessments, Charges, other monetary obligations, interest, late fees, costs, collection expenses, attorney's fees and receiver's fees, if applicable, are paid in full. As an alternative, the Association may apply to a Court of competent jurisdiction, either in connection with a foreclosure suit, a personal suit, or otherwise, to have rental proceeds paid on account of a Unit in default paid directly to the Association, the court registry, or a receiver, as the Court may direct. The Association may choose any of these courses of action, or other remedies as may be prescribed by law or elsewhere in the Condominium Documents, as the Board deems appropriate, without same constituting a waiver or election of remedies.

**10.5 First Mortgagee.** The priority of the Association's lien and the obligation for payment of past due Assessments or other sums due in relation to first mortgagees who obtain title as a result of foreclosure or deed in lieu of foreclosure, shall be determined by the Act.

**10.6 Certificate of Unpaid Assessments or Charges.** Any Unit Owner has the right to require from the Association a certificate showing the amount of unpaid Assessments or Charges against him/her with respect to his/her Unit. The Association, its agents, and counsel shall be entitled to charge a fee for preparing such information, in amounts established by the Board, or in a management agreement between the Association and a Community Association Management Firm, or based on reasonable and customary fees charged by legal counsel.

Amended and Restated Declaration of Condominium  
(Page 22 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

**10.7 Lien for Charges.** There is created by this Declaration a common law and contractual lien to secure payment for any service which the Association provides for an individual Unit Owner or expenses which the Association incurs in regard to a Unit Owner and which is not otherwise secured by the statutory lien for Common Expenses. By way of example, but not limitation, a Lien for Charges exists to secure repayment to the Association when it must remove or reinstall Unit Owner alterations or items of Unit Owner insurance, maintenance, repair or replacement responsibility in connection with the Association's discharge of its Common Element maintenance responsibilities, or address emergency situations, such as water extraction from a Unit. The Lien for Charges shall be of equal priority to, shall accrue interest and late fees, and shall be foreclosed in the same manner as the Common Expense lien, including the right to recover attorney's fees, costs and expenses of collection.

**10.8 Other Remedies.** The Board of Directors shall have the authority to impose such other remedies or sanctions permitted by the Act pertaining to non-payment of monetary obligations to the Association. Without limitation, same include suspension of use rights in Common Elements and Association Property; suspension of voting rights; suspension of the right to serve on the Board; the attachment of rental income; denial of lease approval requests; and acceleration.

**11. ADMINISTRATION AND MANAGEMENT OF CONDOMINIUM.** The administration and management of the Condominium shall be by the Association, which shall have by and through its Officers and Directors, such powers, authority and responsibilities as are vested in the Officers and Directors of a corporation not-for-profit under the laws of the State of Florida, including but not limited to those set forth more specifically elsewhere in the Condominium Documents. The Association shall have authority to enter into management and other agreements concerning the matters of common interest through its Officers. The management of the Association and election of the Members to the Board of Directors shall be as set forth in the Bylaws. Without limiting the foregoing, the Association shall have the following rights and powers:

**11.1 Access.** The irrevocable right of access to each Unit and its appurtenant Limited Common Elements during reasonable hours as may be necessary for the maintenance, repair or replacement of any Common Elements or of any portion of a Unit to be maintained by the Association pursuant to this Declaration, or as necessary to prevent damage to the Common Elements or to any other Unit or Units, or to determine compliance with the terms and provisions of this Declaration, the exhibits annexed hereto, and the Rules and Regulations adopted pursuant to such documents, as the same may be amended from time to time. A pass key must be provided by the Unit Owner to the Association for each Unit entry door, and as may be applicable air conditioning or utility room or closet, and storage unit. The Association may utilize a master key system. When a Unit Owner must maintain, repair or replace portions of the Condominium Property as provided herein, and which requires access to another Unit for said purpose, the Unit Owner shall have reasonable right of access which shall be administered

Amended and Restated Declaration of Condominium  
(Page 23 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

through the Association. The Unit Owner upon whose behalf access has been obtained shall be obligated for the expense of repairing any damage to the Condominium Property.

**11.2 Assessments and Charges.** The power to make and collect regular and special Assessments and other Charges against Unit Owners and to lease, maintain, repair, and replace the Common Elements and Association Property.

**11.3 Delegation.** The power to enter into contracts with others, for valuable consideration, for maintenance and management of the Condominium Property and Association Property and in connection therewith, or to its Officers and agents, to delegate the powers and rights herein contained, including, without limitation, the making and collecting of Assessments and other Charges against Unit Owners, and perfecting liens for non-payment thereof.

**11.4 Regulations.** The power to adopt and amend Rules and Regulations covering the details of the operation of the Association and use of the Condominium Property and Association Property.

**11.5 Acquisition or Transfer of Real Property; Leasing Common Elements and Association Property.** The power to acquire real property and transfer real property owned by the Association or otherwise convey and mortgage real property for the use and benefit of its Members with the same approval of two-thirds (2/3rds) of the Voting Interests of the Association present (in person or by proxy) and voting at a duly noted meeting of the Association where a quorum is present. No Unit Owner approval shall be required to acquire, purchase, or mortgage a Unit in connection with foreclosure of a lien or deed in lieu of foreclosure, nor to dispose of such Unit. No Unit Owner approval shall be required to accept title to properties in connection with resolving title defects or effectuating the intent of the original Condominium Documents. By way of example, but not limitation, the Board of Directors may authorize acceptance of title to the recreational facilities serving the Condominiums without need for approval of the Unit Owners. Leasing of Units, Common Elements or Association Property may be approved by the Board of Directors, as well as the lease fees, use fees, and other fees permitted by the Act or the Condominium Documents.

**11.6 Membership Agreements.** The power to enter into agreements to acquire leaseholds, memberships, and other possessory or use interests in lands or facilities such as country clubs, golf courses, marinas, and other recreational facilities with the approval of two-thirds (2/3rds) of the Voting Interests of the Association present (in person or by proxy) and voting at a duly noted meeting of the Association where a quorum is present.

**11.7 Fees for Use of Common Elements; Other Fees and Deposits.** The power to set fees, pursuant to Section 718.111(4) of the Act, the Board of Directors shall have the authority to set use fees for private use of Common Elements or Association Property, as well as the regulations and policies pertaining to such use. The Board of Directors may also establish other fees and deposits determined necessary by the Board. Without limitation, same include: clubhouse/meeting room deposits, use fees and/or clean-up fees; fees for the issuance of parking

Amended and Restated Declaration of Condominium  
(Page 24 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

passes or decals; fees for architectural/engineer review of renovation/alteration plans; contractor damage deposits; and internet service, facsimile service and other services using Association equipment. Nothing in this Declaration shall be construed as obligating the Association to provide any of the aforementioned services.

**11.8 Lease of Association Property or Common Elements.** The power to lease Association Property or Common Elements, as authorized by the Board of Directors, including, but not limited to, the lease of Building roof areas and other Common Elements for antennas or other telecommunications and similar equipment. No use fee may be charged against a Unit Owner for use of the Common Elements or Association Property except fees set by the Board pertaining to an Owner having exclusive use of the Common Elements or Association Property, or as agreed by the Association and the party leasing Association Property or Common Elements, pursuant to an oral or written Lease agreement, or fees authorized by this Declaration.

**11.9 Limitation Upon Liability of Association.** Notwithstanding the duty to maintain, repair, replace, insure or reconstruct parts of the Condominium Property, the Association is not liable to Unit Owners or any other person for injury or damage, other than for the cost of maintenance and repair of items for which the Association is otherwise responsible, caused by any latent or unknown condition of the Condominium Property. Further, the Association shall not be liable for any such injury or damage caused by defects in design or workmanship or any other reason connected with any alterations or improvements done by or on behalf of any Unit Owners, regardless of whether or not same shall have been approved by the Association pursuant to the provisions hereof.

Notwithstanding anything contained herein or in the Condominium Documents or any other document governing or binding the Association, the Association shall not be liable or responsible for, or in any manner be a guarantor or insurer of, the health, safety or welfare of any Owner, occupant or user of any portion of the Condominium Property, including, without limitation, residents and their Families, Guests, Tenants, Invitees or for any property of any such persons. Without limiting the generality of the foregoing:

**11.9.1** It is the express intent of the Condominium Documents that the various provisions thereof which are enforceable by the Association, and which govern or regulate the use of the Condominium Property, have been written, and are to be interpreted and enforced, for the sole purpose of enhancing and maintaining the enjoyment of the Condominium Property and the value thereof; and

**11.9.2** The Association is not empowered, and has not been created, to act as an entity which enforces or ensures the compliance with the laws of the United States, State of Florida, Lee County, and/or any other jurisdiction or the prevention of tortious or criminal activities; and

**11.9.3** Any provisions of the Condominium Documents setting forth the uses of Assessments which relate to health, safety and or welfare shall be interpreted and applied only as

Amended and Restated Declaration of Condominium  
(Page 25 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

limitations on the uses of Assessment funds and not as creating a duty of the Association to protect or further the health, safety or welfare of any person(s), even if Assessment funds are chosen to be used for any such reason.

Each Unit Owner and each other person having an interest in or lien upon, or making any use of, any portion of the Condominium Property shall be bound by this provision and shall be deemed to have automatically waived any and all rights, claims, demands and causes of action against the Association arising from or connected with any matter for which the liability of the Association has been disclaimed in this provision.

As used in this section, "Association" shall include within its meaning all of the Association's Directors, Officers, Committee Members and other persons the Association may be required to indemnify, to the extent and limit of such indemnity, and without waiving, reducing or otherwise modifying coverage obligations or subrogation rights of any insurer.

**11.10 Disclaimer, Waiver, and Release of Claims Regarding Mold and Mildew.** Each Unit Owner acknowledges that the Condominium is located in a hot, humid climate, which is conducive to the growth of mold and/or mildew. The Board of Directors shall have the authority to adopt reasonable Rules and Regulations regarding maximum or minimum temperatures for Units and/or recommend that the air conditioning to the Units be set within certain temperature and/or humidity ranges and may require Owners to take such further actions as the Board deems advisable to control humidity and mold and/or mildew growth.

The Association shall not be responsible for the prevention of mold and/or mildew or any damages, including, but not limited to any special or consequential damages, property damages, personal injury, loss of income, emotional distress, death, loss of use, loss of income diminution or loss of value of the Unit, economic damages, and adverse health effects relating to, arising from or caused by mold and/or mildew accumulation regardless of the cause of said mold/or mildew.

Each Unit Owner and each other person having an interest in or lien upon, or making any use of, any portion of the Condominium Property shall be bound by this provision and shall be deemed to have automatically waived any and all claims, obligations, demands, damages, causes of action, liabilities losses and expenses, whether now known or hereafter known, foreseen or unforeseen, that such person has, or may have in the future, in law or in equity against the Association, its Officers, Directors, and Committee Members, or any person or entity the Association is obligated to indemnify (and without waiving, reducing or otherwise modifying coverage obligations or subrogation rights of any insurer) arising out of, relating to, or in any way connected with indoor air quality, moisture, or the growth, release, discharge, dispersal or presence of mold and/or mildew or any chemical or toxin secreted therefrom.

**11.11 Restraint Upon Assignment of Shares in Assets.** The share of a Unit Owner in the funds and assets of the Association cannot be assigned, hypothecated, or transferred in any manner except as an appurtenance to his/her Unit.

Amended and Restated Declaration of Condominium  
(Page 26 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707



**12. INSURANCE.** The insurance which shall be carried upon the Condominium Property, including the Units, Common Elements, and Association Property shall be as follows:

**12.1 Authority to Purchase Insurance.** All insurance policies shall be purchased by the Association for the benefit of the Association and the Unit Owners and their mortgagees as their respective interests may appear.

**12.2 Coverage.**

**12.2.1 Property Insurance.** Except as otherwise provided herein, the Association shall obtain and maintain fire, wind, general property and extended coverage insurance with a responsible insurance company upon all of the Insurable Improvements of the entire Condominium, including Association Property, the Common Elements (including Limited Common Elements), the Units, and the personal property of the Association, for the replacement value thereof, including coverage for changes in building codes, if reasonably available and determined commercially practicable by the Board, and less a commercially reasonable deductible as determined by the Board, provided the Board may exclude landscaping and exterior improvements not customarily insured by condominium associations in the locality, and foundation and excavation costs, in its discretion. The Association shall determine the replacement value of the Insurable Improvements through independent appraisal, at least every 36 months, so long as required by the Act. The Board shall establish deductibles, at a duly noticed meeting of the Board, and shall give notice of such meeting, and determine the deductibles, as required by the Act, so long as required by the Act. Notwithstanding the foregoing requirement, the Association, through its Board of Directors, will have fulfilled its duty to obtain insurance coverage if it obtains and maintains such insurance coverage as may be reasonably available from time to time given market and economic conditions, provided such coverage shall always meet the minimum level of adequate coverage required by Section 718.111(11) of the Act. The original policy of insurance shall be held by the Association, and mortgagees shall be furnished, upon request, mortgage endorsements covering their respective interests. The word "Building" or "Insurable Improvement" in every property insurance policy issued to protect a Condominium building does not include: personal property in the Unit or Limited Common Elements; Unit floor, wall, or ceiling coverings; Unit or lanai electrical fixtures; appliances; water heaters; water filters; built-in cabinets or countertops; window treatments, including curtains, drapes, blinds, hardware and similar window treatment components; and replacements of any of the foregoing, which are located within the boundaries of a Unit and serve only one Unit. Whenever the Act is amended to shift insurance responsibility for insurance of components from the Association to the Unit Owner, or vice-versa, this Declaration shall be deemed amended accordingly, so as to coincide with the Act. The Unit Owners shall also be responsible to insure all alterations, modifications or additions made to the Unit, Limited Common Elements, or Common Elements by said Unit Owner, or his predecessor in interest or title.

**12.2.2 Flood.** The Association shall use its best efforts to obtain and maintain adequate flood insurance, for replacement value, less a commercially reasonable deductible as

Amended and Restated Declaration of Condominium  
(Page 27 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

determined by the Board, and less foundation and excavation costs if determined by the Board. The Association will have discharged its responsibility to use its "best efforts" to obtain "adequate" flood insurance if it is able to purchase flood insurance through the National Flood Insurance Program (NFIP), or through any similar federally-sponsored or related program, or through private carriers with similar coverage, for premium rates that are generally commensurate with flood insurance premium rates for condominiums in the local area.

**12.2.3 Liability Insurance.** The Association shall obtain and maintain public liability insurance covering all of the Common Elements and Association Property and insuring the Association and the Unit Owners as their interest may appear in such amount as the Board of Directors may deem appropriate. The Board of Directors shall have authority to compromise and settle all claims against the Association or upon insurance policies held by the Association. The Unit Owners shall have no personal liability upon such claims, except as may be otherwise provided by law, and nothing herein contained shall in any way be construed as imposing upon the Association a duty to assess Unit Owners for the purpose of raising sufficient funds to discharge any liability in excess of insurance coverage.

**12.2.4 Fidelity Bond.** The Association shall obtain and maintain insurance or fidelity bonding of all persons who control or disburse funds of the Association. The insurance policy or fidelity bond must cover the maximum funds that will be in the custody of the Association or its management agent at any one time. As used in this paragraph, the term "persons who control or disburse funds of the association" includes, but is not limited to, those individuals authorized to sign checks on behalf of the Association, and the President, Secretary, and Treasurer of the Association.

**12.2.5 Worker's Compensation.** Such worker's compensation coverage as may be required by law, or deemed advisable by the Board.

**12.2.6 Other Insurance.** Such other insurance as the Board of Directors may from time to time deem to be necessary, including but not limited to Errors and Omissions Officers and Directors Liability insurance coverage and insurance for the benefit of its employees.

**12.3 Deductible and Other Insurance Features.** The Board of Directors shall establish the amount of the deductible under the insurance policies, and other features (including but not limited to exclusions), as it deems desirable and financially expedient, in the exercise of its business judgment, and in the method provided by the Act. The deductible and other features shall be consistent with industry standards and prevailing practice for communities of similar size and age, and having similar construction and facilities in the locale where the Condominium Property is situated.

Where appropriate and obtainable, each of the foregoing policies shall waive the insurer's right to: (i) subrogation against the Association and against the Unit Owners individually and as a group, (ii) to pay only a fraction of any loss in the event of coinsurance or if other insurance

Amended and Restated Declaration of Condominium  
(Page 28 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

carriers have issued coverage upon the same risk, and (iii) avoid liability for a loss that is caused by an act of the Board of Directors of the Association, a member of the Board of Directors of the Association, a Committee of the Board of Directors or members of any such Committee, one or more Unit Owners or as a result of contractual undertakings (including duties performed in connection with the Association's obligations to the Community Association as set forth in the Community Covenants). Additionally, each policy shall provide that any insurance trust agreement will be recognized, that the insurance provided shall not be prejudiced by any act or omission of the individual Unit Owners that are not under the control of the Association, and that the policy shall be primary, even if a Unit Owner has other insurance that covers the same loss.

**12.4 Premiums.** Premiums upon insurance policies purchased by the Association shall be paid by the Association as a Common Expense of the Condominium or Common Expense of the Association, as applicable.

**12.5 Insurance Shares or Proceeds.** Insurance proceeds of policies purchased by the Association covering property losses shall be paid to the Association, and all policies and endorsements thereon shall be deposited with the Association. The duty of the Association shall be to receive such proceeds as are paid and to hold and disburse the same for the purposes stated herein and for the benefit of the Unit Owners and their mortgagees in the following shares:

**12.5.1 Common Elements; Proceeds On Account Of Damage To Common Elements.** An undivided share for each Unit Owner, such share being the same as the undivided share in the Common Expenses of the Condominium appurtenant to the Unit.

**12.5.2 Unit; Proceeds On Account Of Damage To Units Shall Be Held In The Following Undivided Shares.**

**12.5.2.1 Surplus.** It shall be presumed that the first monies disbursed in payment of costs of reconstruction and repair shall be from insurance proceeds. If there is a balance in a construction fund after payment of all costs relating to the reconstruction and repair for which the fund is established, such balance shall be distributed in the manner elsewhere stated.

**12.5.2.2 When The Condominium Building Is To Be Restored.** For the Owners of damaged Units in proportion to the costs of repairing the damage suffered by each Unit Owner, which cost shall be determined by the Association.

**12.5.2.3 When The Condominium Building Is Not To Be Restored.** An undivided share for each Unit Owner, such share being the same as the undivided share in the Common Expenses of the Condominium appurtenant to the Unit.

**12.5.2.4 Common Elements and Units.** When both Common Elements and those portions of the Unit insured by the Association are damaged by a common occurrence, the proceeds of insurance shall be allocated between damage to Common Elements,

Amended and Restated Declaration of Condominium  
(Page 29 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

Limited Common Elements, and Units as the Board of Directors shall determine. It shall be presumed that when there are insurance proceeds received on account of a common Casualty or covered cause of loss under the Association's applicable insurance policy, but insufficient proceeds for Casualty or covered cause of loss repair (including but not limited to shortfalls occasioned by the existence of a deductible), that such shortfalls shall first be applied to Common Elements damage, and then to damage to Units and Limited Common Elements, it being the intent of this provision that when there is a common Casualty loss or covered cause of loss under the Association's applicable insurance policy causing significant damage to the premises, the shortfalls occasioned by deductibles shall be first apportioned to all Unit Owners in proportion to their share of the Common Elements and not applied first to Unit damage.

**12.5.3 Mortgages.** In the event a mortgage endorsement has been issued as to a Unit, the share of that Unit Owner shall be held in trust for the mortgagee and the Unit Owner as their interests may appear; provided, however, that no mortgagee shall have any right to determine or participate in the determination as to whether or not any damaged property shall be reconstructed or repaired, and no mortgagee shall have any right to apply or have applied to the reduction of a mortgage debt any insurance proceeds.

**12.6 Distribution of Proceeds.** Proceeds of insurance policies received by the Association shall be distributed in the following manner:

**12.6.1 Reconstruction or Repair.** If the damage for which the proceeds are paid is to be repaired or reconstructed, the proceeds shall be paid to defray the cost thereof as elsewhere provided. Any proceeds remaining after defraying such costs shall be distributed to the Unit Owners, or, at the option of the Board, may be deposited in the reserve fund kept on behalf of the Condominium.

**12.6.2 Failure to Reconstruct or Repair.** If it is determined in the manner elsewhere provided that the damage for which the proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be distributed in accordance with the Plan of Termination approved pursuant to Article 18.

**12.7 Association as Agent.** The Association is irrevocably appointed agent for each Unit Owner and for each Owner of a mortgage or other lien upon any Unit and for each Owner of any other interest in the Condominium Property or any property in which the Association owns an interest, to adjust all claims arising under insurance policies by the Association, and to execute and deliver releases upon the payment of such claim.

**13. RECONSTRUCTION AFTER CASUALTY.** If any part of the Condominium Property shall be damaged by Casualty or covered cause of loss under the Association's applicable insurance policy, whether or not it shall be reconstructed or repaired shall be determined in the following manner:

Amended and Restated Declaration of Condominium  
(Page 30 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

**13.1 Common Elements.** If the damaged improvement is any of the Common Elements, the damaged Common Element shall be reconstructed or repaired, unless the Condominium is to be terminated as provided elsewhere herein.

**13.2 The Building.**

**13.2.1 Lesser Damage.** If the damage renders less than 50% of the Units in the Condominium uninhabitable, as determined by the Board of Directors or governmental agencies of jurisdiction, the damaged property shall be reconstructed or repaired.

**13.2.2 Major Damage.** If the damage renders more than 50% of the Units in the Condominium uninhabitable, as determined by the Board of Directors or governmental agencies of jurisdiction, the damaged property will be reconstructed or repaired, unless 75% of the entire Voting Interests in the Condominium agree in writing that such reconstruction or repair shall not take place. The decision whether or not to reconstruct or repair shall be made within one hundred eighty (180) days after the Casualty or covered cause of loss under the Association's applicable insurance policy, provided however that the Board of Directors shall have the authority to extend this period for decision-making, not to exceed three (3) years, to deal with exigencies in communication with Unit Owners caused by natural disasters or other significant casualties, or to deal with delays in obtaining information regarding reconstruction costs or insurance proceeds available for reconstruction.

**13.2.3 Plans and Specifications.** Any reconstruction or repair must be substantially in accordance with the plans and specifications for the original Building, as set forth in the plans and specifications for the Building, or if not, then according to plans and specifications approved by the Board of Directors, regardless of whether it is a material alteration or substantial addition as described in Article 9.8 and no vote of the Unit Owners shall be required.

**13.2.4 Definition of "Uninhabitable".** For purposes of this Declaration, "uninhabitable" shall mean that the Board of Directors has concluded that the Condominium Property which the Association is required to insure cannot be restored to the condition (or a better condition) in which it existed prior to the Casualty or covered cause of loss under the Association's applicable insurance policy through available insurance proceeds, plus a special assessment against each Unit Owner not to exceed 10% of the average fair market value of the Units, as determined by the Board. This calculation shall not include costs affiliated with those items the Unit Owner is obligated to repair or replace, at the Unit Owner's expense. A governmental agency's declaration or order that the Condominium Property may not be occupied for a defined period of time due to safety concerns shall not conclusively establish that Units are uninhabitable, provided that the Units can be made safe for occupancy pursuant to the standards set forth above. In the event of a dispute as to whether or not Units are "habitable", a resolution enacted by the Board shall be binding on all parties, unless wholly arbitrary or contrary to law.

Amended and Restated Declaration of Condominium  
(Page 31 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

**13.3 Responsibility.** All reconstruction work after a Casualty or covered cause of loss under the Association's applicable insurance policy for damaged items that the Association insures shall be undertaken by the Association, except that a Unit Owner may undertake reconstruction work on portions of the Unit with the prior written consent of the Board of Administration. However, such work, and the disbursement of insurance proceeds, may be conditioned upon the approval of the repair methods, the qualifications of the proposed contractor, the contract that is used for that purpose, and reasonable verification of appropriate steps to ensure that the work is done and that the contractor is paid for the performance of said work. Unit Owners shall be responsible for reconstructing those items that the Unit Owners are required to insure. All required governmental permits and approvals must be obtained prior to commencing reconstruction. Assessments for the cost of the work shall be set forth in Article 13.5 below. If an Owner fails to repair and reconstruct those items that the Unit Owner is responsible for under this Declaration, the Association shall have, without waiver of other remedies, the right to proceed in accordance with Article 9.9, in which event the Unit Owner shall be charged for the costs of such activities (including attorney's fees incurred by the Association) by the Association which shall be secured by such rights as exist for collecting Common Expenses under these Condominium Documents i.e., a Lien for Charges.

**13.4 Estimates of Costs.** After a determination is made to rebuild or repair damage to property for which the Association or Unit Owner has the responsibility of reconstruction and repair, the Association or Unit Owner shall obtain promptly reliable and detailed estimates of the cost to rebuild or repair.

**13.5 Assessments.** The cost of reconstruction after Casualty for those portions of the Condominium Property required to be insured by the Association shall be considered a Common Expense of the Condominium, pursuant to Section 718.111(11)(j) of the Act. However, any cost of repair, reconstruction or replacement of portions of the Condominium Property that is not caused by a Casualty or covered cause of loss under the Association's applicable insurance policy, as determined by the Board of Directors, shall be repaired, and said costs allocated pursuant to the general maintenance, repair, and replacement provisions of this Declaration.

**13.6 Damage Caused By Wear and Tear of the Condominium Property.** Damage to the Condominium Property that is not caused by a Casualty as defined in Article 1.9 or covered cause of loss under the Association's applicable insurance policy, shall be repaired or replaced in accordance with the provisions of Article 9 and shall not be subject to this Article 13. To the extent legally required, it is the intention of this Article 13.6 to "opt out" of the provisions of Section 718.111(11)(j) of the Act as pertains to damage not covered by Casualty.

**13.7 Termination of Condominium if Not Reconstructed.** If the Owners vote not to reconstruct the Condominium by vote described in Article 13.2.2 hereof, the Condominium shall be terminated in accordance with the procedures set forth in Article 18 hereof.

Amended and Restated Declaration of Condominium  
(Page 32 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

**13.8 Additional Board Authority.** In addition to Board authority granted by law and the Condominium Documents, the Board shall have the following power and authority in connection with emergency conditions:

**13.8.1** To determine after a Casualty whether the Units can be safely occupied, which decision shall not be conclusive as to the determination of habitability in Article 13.2. Such decision shall be based upon the advice of emergency management officials or a licensed professional.

**13.8.2** To declare any portion of the Condominium Property or Association Property unavailable for occupation by Owners, Family members, Tenants, or Guests after a Casualty, including during the rebuilding process. Such decision by the Board shall be based upon the advice of emergency management officials or a licensed professional (such as an engineer) and can be made only if necessary to protect the health, safety, or welfare of the Association, Owners, Family members, Tenants, or Guests.

**13.8.3** To mitigate damage and take action to prevent the spread of fungus (including but not limited to mold and mildew) by tearing out wet drywall and carpet (even if the Unit Owner is obligated to insure and/or replace those items) and to remove personal property from the Unit and dispose of damaged property or store such property onsite or at an offsite location, with Owners responsible for reimbursing the Association for items for which the Owner is responsible but which may be necessary to prevent further damage. The Association shall bear no liability for such actions, if taken in good faith.

**13.8.4** To contract on behalf of Unit Owners, with said Owners responsible to reimburse the Association, for items for which the Owner is responsible but which may be necessary to prevent further damage. Without limitation, this includes debris removal, dry-out of Units and replacement of damaged air conditioners when necessary to provide climate control in the Units. The Unit Owner shall be responsible to reimburse the Association within ten (10) days of the Association's invoice. The Association's right to payment shall be secured by a Common Expense Lien as provided in the Act and actions to collect such sums shall entitle the Association to recover interest, late fees, attorney's fees, and other costs and expenses of collection.

**13.8.5** To implement a disaster plan prior to, during or after an impending disaster including, but not limited to, shutting down elevators, electricity, security systems, and air conditioners.

**13.8.6** To adopt, by Board action, emergency assessments with such notice deemed practicable by the Board.

**13.8.7** To adopt emergency Rules and Regulations governing the use and occupancy of the Units, Common Elements, Limited Common Elements, and Association property, with notice given only to those Directors with whom it is practicable to communicate.

Amended and Restated Declaration of Condominium  
(Page 33 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL. 33966  
TELEPHONE (239) 433-7707

**13.8.8** To enter into agreements with local counties and municipalities to assist counties and municipalities with debris removal.

**13.8.9** To exercise all emergency powers set forth in the Act.

**14. USE RESTRICTIONS.** Use of the property submitted for condominium ownership shall be in accordance with the following use restrictions and reservations:

**14.1 Occupancy of Units; Single Family Residence.** A Condominium Unit shall be used only as a Single Family residence. As used in the Condominium Documents, "Single Family" means one natural person, a group of two or more natural persons who customarily reside together as a Single Family housekeeping Unit, each of whom is related to each of the others by blood, marriage (or domestic partnership) or adoption, or not more than two persons not so related, who customarily reside together as a single housekeeping Unit. No more than two (2) persons per bedroom and one (1) person per den may permanently occupy a Unit, unless otherwise approved by the Board of Directors. For purposes of these Condominium Documents, "permanently occupy" means to sleep in the Unit for more than thirty (30) nights during a calendar year. No Unit may be divided or subdivided into a smaller Unit nor any portion sold or otherwise transferred. No person may occupy a Unit as a Unit Owner, Tenant, or Family member thereof (i.e., occupy the Unit on an overnight basis for more than thirty (30) days in a calendar year) unless said person's occupancy has been specifically approved by the Association, through the Board of Directors. Any person who occupies a Unit for more than thirty (30) days in a calendar year shall not be considered a Guest. Units may not be used for commercial or business purposes. Unit Owners (and their Family members and Tenants) may use Units for "home office" or "telecommuting" purposes, provided that such uses do not involve customers or clients coming onto the Condominium Property, the posting of any signage in the Condominium, the storage of equipment, products, or materials in the Condominium, nor more than two regular deliveries per day of correspondence or similar items from customary express delivery services.

**14.2 Nuisance.** The Condominium Property shall not be used for any immoral, improper or unlawful purpose and no use or behavior shall be allowed which will create a public or private nuisance, nor which shall unreasonably interfere with the quiet possession or enjoyment of the Condominium Property, nor which becomes a source of annoyance to the Condominium residents, or which will increase insurance rates. All property shall be kept in a neat and orderly manner. The Common Elements shall be used for the purpose of furnishing services and facilities as herein provided for the welfare and enjoyment of such residents. The Condominium Property shall be used in accordance with all federal, state, and local laws and ordinances.

**14.3 Garages.** Garages shall be used only for the storage of the Unit Owner's or Tenant's primary vehicle, the storage of a golf cart (which shall be kept only in the garage) and the storage of other property of the Owner thereof.

Amended and Restated Declaration of Condominium  
(Page 34 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707



**14.4 Children.** Children shall be permitted to reside in Units, subject to the provisions of Article 14.1.

**14.5 Pets.** Each Unit may maintain two (2) domestic dogs or cats in total (two dogs, two cats, or one cat and one dog). No pet shall be kept, bred or maintained for any commercial purpose, shall not become a nuisance or annoyance to neighbors. All pets must be registered with the Association. No reptiles, "exotic" pets or wildlife shall be kept in or on the Condominium Property (including Units), as no animal, other than dogs, cats, one bird, or fish are permitted to be kept on the Condominium Property. Unit Owners must pick-up all solid wastes of their pets and dispose of such wastes appropriately. All pets (including cats) must be kept on a leash or otherwise manually restrained at all times when outside the Unit and shall not be permitted on outdoor recreational areas (e.g., pool decks). No pets may be kept in or on lanais when the Owner is not in the Unit. Without limiting the generality of Article 20 hereof, a violation of the provisions of this paragraph shall entitle the Association to all rights and remedies, including, but not limited to, the right to fine Unit Owners (as provided in any applicable rules and regulations) and/or to require any pet to be permanently removed from the Condominium Property. This Article shall not prohibit the keeping of fish in aquariums or up to one (1) caged household-type bird in a Unit, provided that the bird is not kept on Limited Common Elements and does not become a nuisance or annoyance to neighbors.

**14.6 Alterations.** Without limiting the generality of Article 9 hereof, and subject to the proviso contain therein as to hurricane shutters, no Unit Owner shall cause or allow improvements or changes to any Unit, Limited Common Elements appurtenant thereto or Common Elements, including, but not limited to, painting or other decorating of any nature (other than to the interior of the Unit), installing any electrical wiring, television antenna, machinery, or air conditioning units or in any manner changing the appearance of any portion of the Building, without obtaining the prior written consent of the Association, in the manner specified in Article 9 hereof.

**14.7 Use of Common Elements.** The Common Elements shall be used only for furnishing of the services and facilities for which they are reasonably suited and which are incident to the use and occupancy of Units.

**14.8 No Improper Uses.** No improper, offensive, hazardous or unlawful use shall be made of the Condominium Property or any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereover shall be observed. Violations of laws, orders, rules, regulations or requirements of any governmental agency having jurisdiction thereover, relating to any portion of the Condominium Property, shall be corrected by, and at the sole expense of, the party obligated to maintain or repair such portion of the Condominium Property, elsewhere herein set forth. Notwithstanding the foregoing and any provisions of this Declaration, the Articles of Incorporation or By-Laws, the Association shall not be liable to any person(s) for its failure to enforce the provisions of this Article 14.8.

Amended and Restated Declaration of Condominium  
(Page 35 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

**14.9 Hurricane Protection.** No type of hurricane protection may be installed in or around the Units other than hurricane shutters meeting the specifications (including as to location) adopted by the Board of Directors as required by the Act.

**14.10 Exterior Improvements; Landscaping.** Without limited the generality of other Articles of this Declaration, but subject to any provision of this Declaration specifically permitting same, no Unit Owner shall cause anything to be affixed or attached to, hung, displayed or placed on the exterior walls, doors, lanais or windows of the Buildings (including, but not limited to, awnings, signs, storm shutters, screens, window tinting, furniture, fixtures and equipment), nor to plant or grow any type of shrubbery, flower, tree, vine, grass or other plant life outside his Unit, without the prior written consent of the Association.

**14.11 Commercial/Recreational Vehicle and Trailers.** Except as permitted below, no trucks, other commercial vehicles, campers, mobile homes, recreational vehicles, motorcycles or boat or other trailers shall be kept on the Condominium Property. For purposes of the foregoing, "commercial vehicles" shall mean those not designed or used for customary personal/family purposes. The absence of commercial-type lettering or graphics on a vehicle shall not be dispositive as to whether the same is a commercial vehicle. The foregoing shall not prohibit, however, (i) the parking of otherwise prohibited vehicles on the Condominium Property in the course of providing services to the Condominium Property, the Occupants thereof or the Association, (ii) unmarked pick-up trucks of less than a three-quarter (3/4) ton capacity or (iii) vans with windows which contain seating for at least four (4) persons, provided that such vans and trucks shall not bear commercial-type lettering or graphics. A non-commercial vehicle may, however, be kept if (i) it is the Unit Owner's or Occupant's primary vehicle and (ii) it is kept in a garage. All vehicles kept on the Condominium Property shall be operational and in good condition. In the event of doubt or dispute as to whether a vehicle is prohibited by this Section, the good-faith determination of the Board of Directors shall be binding and conclusive. Golf carts shall be permitted, subject to regulations by the Association.

All persons are hereby advised to consult with the Association and the Community Association (which may have its own vehicle restrictions) prior to bringing any vehicle upon the Condominium Property.

**14.12 Relief by Association.** The Association shall have the power (but not the obligation) to grant relief in particular circumstances from the provisions of specific restrictions contained in this Article 14 for good cause shown.

**14.13 Changes in Permitted Uses.** No amendments to this Article 14, any other provision of this Declaration governing the use of Units or the Common Elements or to any rules and regulations of the Association shall operate to prohibit the keeping of a pet, parking of a vehicle or leasing or occupancy of a Unit where the same was (i) permitted prior to the effectiveness of the amendment, (ii) being conducted in reliance on such permissibility and (iii) is continuing with the same pet, vehicle, lessee or occupant as existed prior to the effectiveness of the amendment. Likewise, no improvement made to or about any Unit (e.g., the installation of

Amended and Restated Declaration of Condominium  
(Page 36 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

hurricane shutters) which was permitted at the time of its making shall be required to be removed by virtue of a change in the permissibility of such types of improvements.

**14.14 Additional Restrictions.** Additional use restrictions are contained in the Rules and Regulations, which may be amended from time to time by the Board of Directors. Amendments to the Rules and Regulations may, but need not be recorded in the Public Records. Additional use restrictions are also contained elsewhere in the Condominium Documents.

**15. LEASING.** The lease of a Unit is defined as occupancy of the Unit by any person other than the Unit Owner, whether pursuant to verbal or written agreement, where said occupancy by the non-owner involves consideration (the payment of money, the exchange of goods or services, or any other exchange of value). The term "leasing" and "renting" shall be used interchangeably for the purpose of this Declaration. The term "Tenant" and "Lessee" shall likewise be used interchangeably. All leases must be in writing. Should a Unit Owner wish to lease his Unit, he shall comply with the approval requirements of the Community Association. No individual rooms may be rented and no transient tenants may be accommodated. "Rent-sharing" and subleasing are prohibited. All leases shall be for a minimum period of thirty (30) days. Leases may be extended or renewed, subject to Board approval. This section shall apply to all Unit Owners, regardless of when the Unit was purchased or title acquired.

**15.1** When checking in with the Community Association Administration, the Lessee must sign a statement that they are aware that in the event the Owner is delinquent, the Association shall have the authority to direct that all rental income related to the Unit be paid to the Association until all past due and current obligations of the Association have been paid in full, and that they have been provided with and will comply with the Rules and Regulations of the Association and the Community Association.

**16. MAINTENANCE OF COMMUNITY INTERESTS.** In order to maintain a community of congenial Unit Owners who are financially responsible, and thus protect the value of the Units, the use and transfer of Units by any Owner shall be subject to the following provisions as long as the Condominium exists upon the land, which provisions each Unit Owner covenants to observe:

**16.1 Forms of Ownership:**

**16.1.1 Ownership by Individuals.** A Unit may be owned by one natural person who has qualified and been approved as elsewhere provided herein.

**16.1.2 Co-Ownership.** Co-ownership of Units may be permitted. If the co-owners are other than husband and wife or Domestic Partners, the Board shall condition its approval upon the designation of one approved natural person as "Primary Occupant." The use of the Unit by other persons shall be as if the Primary Occupant was the only actual Owner. Any changes in the Primary Occupant shall be treated as a transfer of ownership by sale or gift subject to the provisions of the Condominium Documents. No more than one change in Primary

Amended and Restated Declaration of Condominium  
(Page 37 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

Occupant will be approved in any calendar year. No time share estates may be created. "Unit Sharing" by multiple families and "Fractional Ownership" are prohibited.

**16.1.3 Ownership by Corporations, Partnerships, Limited Liability Companies, Trusts, or Other Artificial Entities.** A Unit may be owned in trust, or by a corporation, partnership, limited liability company, or other entity which is not a natural person, if approved in the manner provided elsewhere herein. The intent of this provision is to allow flexibility in estate, financial, or tax planning, and not to create circumstances in which the Unit may be used as a short-term or transient accommodations for several entities, individuals or families as a timeshare, a shared Unit, fractional ownership, or used as Guest accommodations for employees, customers, or Guests of Units owned by business entities, religious, or charitable organizations, and the like. The approval of a partnership, trustee, corporation, limited liability company, or other entity as a Unit Owner shall be conditioned upon designation by the Owner of one natural person to be the "Primary Occupant." The use of the Unit by other persons shall be as if the Primary Occupant were the only actual Unit Owner. The Primary Occupant shall be the person entitled to vote on behalf of the Unit, and exercise rights of membership. Any change in this Primary Occupant shall be treated as a transfer of ownership by sale or gift subject to the provisions of the Condominium Documents. No more than one change in designation of Primary Occupant will be approved in any twelve (12) month period.

**16.1.4 Life Estate.** A Unit may be subject to a life estate, either by operation of law or by a voluntary conveyance approved as provided below. In that event, the life tenant shall be the only Member from such Unit, and occupancy of the Unit shall be as if the life tenant were the only Owner. Upon termination of the life estate, the holders of the remainder interest shall have no occupancy right unless separately approved by the Association. The life tenant shall be liable for all Assessments and Charges against the Unit. Any vote, consent, or approval required by the Condominium Documents or law may be given by the life tenant alone, and the vote, consent or approval of the holders of the remainder interest shall not be required. If there is more than one life tenant, they shall be treated as co-owners for purposes of determining voting and occupancy rights.

**16.2** A copy of the deed or other instrument of conveyance must be provided to the Association within ten (10) days of the date such instrument was recorded.

**17. METHOD OF AMENDMENT OF DECLARATION.** Except as elsewhere provided otherwise, this Declaration may be amended in the following manner:

**17.1 Proposal of Amendments.** An amendment may be proposed by the President of the Association, a majority of the Directors, or by twenty-five percent (25%) of the entire Voting Interests.

**17.2 Proposed Amendment Format.** Proposals to amend the existing Declaration of Condominium shall contain the full text of the article to be amended. New words shall be underlined and words to be deleted shall be ~~lined through~~ with hyphens. If the proposed change

Amended and Restated Declaration of Condominium  
(Page 38 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

is so extensive that this procedure would hinder rather than assist understanding, a notation must be inserted immediately preceding the proposed amendment saying, "SUBSTANTIAL REWORDING OF DECLARATION OF CONDOMINIUM. SEE ARTICLE NUMBER FOR PRESENT TEXT."

**17.3 Notice.** The subject matter of proposed amendments shall be included in the notice of any meeting at which a proposed amendment is to be considered or in connection with documentation for action without a meeting.

**17.4 Adoption of Amendments.** A resolution for the adoption of a proposed amendment may be adopted by a vote of two-thirds (2/3<sup>rds</sup>) of the Voting Interests of the Association present (in person or by proxy) and voting at a duly noticed meeting at which a quorum is present, or by the written agreement of two-thirds (2/3<sup>rds</sup>) of the entire Voting Interests. Amendments correcting errors, omissions or scrivener's errors may be executed by the Officers of the Association, upon Board approval, without need for Association membership vote.

**17.5 Effective Date.** An amendment when adopted shall become effective after being recorded in the Lee County Public Records according to law.

**17.6 Automatic Amendment.** Whenever the Act, Chapter 617, Florida Statutes, or other applicable statutes or administrative regulations, as amended from time to time, are amended to impose procedural requirements less stringent than set forth in this Declaration, the Board may operate the Association pursuant to the less stringent requirements without the need to change this Declaration. The Board of Directors without a vote of the Owners, may also adopt by majority vote, amendments to this Declaration as the Board deems necessary to comply with such operational changes as may be enacted by future amendments to Chapters 607, 617, and the Act, or such other statutes or administrative regulations as required for the operation of the Association, all as amended from time to time.

**17.7 Proviso.** No amendments to Article 14 or any other provision of this Declaration governing the use of Units or the Common Elements or to any rules and regulations of the Association shall operate to prohibit the keeping of a pet, parking of a vehicle or leasing or occupancy of a Unit where the same was (i) permitted prior to the effectiveness of the amendment, (ii) being conducted in reliance on such permissibility and (iii) is continuing with the same pet, vehicle, lessee or occupant as existed prior to the effectiveness of the amendment. Likewise, no improvement made to or about any Unit (e.g., the installation of hurricane shutters) which was permitted at the time of its making shall be required to be removed by virtue of a change in the permissibility of such types of improvements. No amendment shall change the configuration of any Unit or the share in the Common Elements appurtenant to it, or increase the Owner's proportionate share of the Common Expenses, unless the record Owner of the Unit concerned and all record Owners of the mortgages on such apartment shall join in the execution of the amendment, and all other Unit Owners approve the amendment.

Amended and Restated Declaration of Condominium  
(Page 39 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

## 18. TERMINATION.

18.1 The Condominium may be terminated under any one of the following alternatives:

### 18.1.1 Termination Because of Economic Waste or Impossibility.

Notwithstanding anything to the contrary in this Declaration, the condominium form of ownership may be terminated by a plan of termination approved by the percentage of Voting Interests necessary to amend the Declaration when:

- the total estimated cost of repairs necessary to restore the improvements to their former condition or bring them into compliance with applicable laws or regulations exceeds the combined fair market value of all Units in the Condominium after completion of the repair; or
- it becomes impossible to operate or reconstruct the Condominium in its prior physical configuration because of land use laws or regulations.

It is the intent of this provision to incorporate Section 718.117(2) of the Act.

**18.1.2 Optional Termination.** Except as provided in Article 18.1.1, the condominium form of ownership may be terminated pursuant to a plan of termination approved by at least eighty percent (80%) of the total Voting Interests of the Condominium if not more than ten percent (10%) of the total Voting Interests of the Condominium have rejected the plan of termination by negative vote or by providing written objections thereto. It is the intent of this provision to incorporate the provisions of Section 718.117(3) of the Act.

**18.1.3 Very Substantial Damage.** If the Condominium suffers major damage as defined in Article 13, which shall mean that more than one-half the Units in the Condominium are rendered uninhabitable as determined in the sole discretion of the Board of Directors, the Condominium may be terminated if seventy-five percent (75%) of the total Voting Interests in the Condominium vote to approve a plan of termination.

**18.1.4 Mortgage Lienholders.** Notwithstanding any provision to the contrary in this Declaration or Chapter 718, approval of a plan of termination by the holder of a recorded mortgage lien affecting a Condominium Parcel is not required unless the plan of termination would result in less than the full satisfaction of the mortgage lien affecting the Condominium Parcel. If such approval is required and not given, a holder of a recorded mortgage lien who objects to a plan of termination may contest the plan as provided in Section 718.117(16) of the Act.

**18.2 Procedures for Termination and Sale.** The termination of the Condominium via either of the methods set forth in 18.1.1 through 18.1.3 herein shall be as set forth in Section 718.117(4) – (20) of the Act.

Amended and Restated Declaration of Condominium  
(Page 40 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

**18.3 Amendment.** This Article 18 may be amended in the same manner in which this Declaration may be amended generally, as set forth in Article 17.

**19. CONDEMNATION.**

**19.1 Awards.** The taking of all or any part of the Condominium Property by condemnation or eminent domain shall be deemed to be a Casualty to the portion taken, and the awards for that taking shall be deemed to be proceeds from insurance on account of the Casualty. Even though the awards may be payable to Unit Owners, the Unit Owners shall deposit the awards with the Association, and if any fail to do so, a special assessment shall be made against a defaulting Unit Owner in the amount of this award, or the amount of the award shall be set off against any sums payable to that Owner.

**19.2 Determination Whether to Continue Condominium.** Whether the Condominium will be continued after condemnation will be decided in the same manner as repair after Casualty as set forth in Article 13 hereof.

**19.3 Distribution of Funds.** If the Condominium is terminated after condemnation, the proceeds of all awards and special assessments will be owned and distributed in the manner provided for insurance proceeds when the Condominium is terminated after a Casualty. If the Condominium is not terminated after condemnation, the size of the Condominium may be reduced. The Owners of condemned Units, if any, will share in awards and special assessments as provided below.

**19.4 Association as Agent.** The Association is hereby irrevocably appointed as each Unit Owner's attorney-in-fact for purposes of negotiating or litigating with the condemning authority for the purpose of realizing just compensation for the taking.

**19.5 Units Reduced but Habitable.** If the taking reduces the size of a Unit and the remaining portion of the Unit can be made habitable, the awards for the taking of a portion of that Unit shall be used for the following purposes in the order stated, and the following changes shall be effected in the Condominium.

**19.5.1 Restoration of Unit.** The Unit shall be made habitable. If the cost of the restoration exceeds the amount of the award, the additional funds required shall be assessed against the Owner of the Unit.

**19.5.2 Distribution of Surplus.** The balance of the award, if any, shall be distributed to the Owner of the Unit and to each mortgagee of the Unit, the remittance being made payable jointly to the Owner and mortgagees.

**19.5.3 Adjustment of Shares in Common Elements.** If the floor area of a Unit is reduced by the taking, the number representing the share in the Common Elements appurtenant to the Unit shall be reduced in the proportion by which the floor area of the Unit is

Amended and Restated Declaration of Condominium  
(Page 41 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

reduced by the taking, and then the shares of all Unit Owners in the Common Elements shall be restated as percentages of the total of the numbers representing their original shares as reduced by the taking.

**19.6 Units Not Habitable.** If the taking of any entire Unit or so reduces the size of the Unit that it cannot be made habitable, the award for the taking of the Unit shall be used for the following purposes in the order stated, and the following changes shall be effected in the Condominium:

**19.6.1 Payment of Award.** The condemnation award immediately prior to the taking shall be paid to the Owner of the Unit and to each mortgagee of the Unit, the remittance being made payable jointly to the Owner and mortgagee(s).

**19.6.2 Addition to Common Elements.** If possible and practical, the remaining portion of the Unit shall become a part of the Common Elements and shall be placed in condition for use by all Unit Owners in the manner approved by the Board of Directors.

**19.6.3 Assessments.** If the amount of the award for the taking is not sufficient to pay the fair market value of the condemned Unit to the Unit Owner and to recondition the remaining portion of the Unit, the amount required for those purposes shall be raised by special assessment against all of the Unit Owners who will continue as Owners of any Unit after the changes in the Condominium effected by the taking. The Assessments shall be made in proportion to the shares of those Owners in the Common Expenses after the changes effected by the taking.

**19.7 Taking of Common Elements.** Awards for the taking of Common Elements shall be used to make the remaining portion of the Common Elements usable in the manner approved by the Board of Directors. The balance of such awards, if any, may be returned to the Unit Owners or used by the Association as the Board may determine.

**19.8 Amendment of Declaration.** The changes in Units, in the Common Elements and in the ownership of the Common Elements that are necessitated by condemnation shall be evidenced by an amendment of the Declaration of Condominium that need be approved only by a majority of all Directors of the Board.

## **20. COMPLIANCE AND DEFAULT.**

**20.1 Duty to Comply; Right to Sue.** Each Unit Owner, his Family, Tenants, Guests, Invitees and all Unit Occupants and the Association shall be governed by and shall comply with the provisions of the Condominium Act and the Condominium Documents. Actions for damages or for injunctive relief, or both, for failure to comply may be brought by the Association or by a Unit Owner against:

**20.1.1** The Association;

Amended and Restated Declaration of Condominium  
(Page 42 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL. 33966  
TELEPHONE (239) 433-7707



**20.1.2** A Unit Owner; or

**20.1.3** Anyone who occupies a Unit as a Unit Owner, Family member, Tenant, Occupant or Guest. Unit Owners shall be jointly and severally liable for violations of the Condominium Documents by their Family members, Tenants, Guests, Invitees and Unit Occupants.

**20.2 Attorney's Fees.** In any legal proceeding arising out of an alleged failure of a Unit Owner, Family member, Tenant, Guest, Invitee Unit Occupant or the Association to comply with the requirements of the Condominium Act or the Condominium Documents, as they may be amended from time to time, the prevailing party shall be entitled to recover the costs and expenses of the proceeding and a reasonable attorney's fee before trial, at trial and on appeal.

**20.3 No Election of Remedies.** All rights, remedies and privileges granted to the Association or Unit Owners under any terms, provisions, covenants, or conditions of the Condominium Documents shall be deemed to be cumulative, and the exercise of any one or more shall not be deemed to constitute an election of remedies, nor shall it preclude the party from exercising such other additional rights, remedies, or privileges as may be granted by the Condominium Documents, or at law or in equity.

**20.4 Waiver of Application of Condominium Documents.** The Association shall have the right to waive the application of one or more of the covenants or restrictions of the Condominium Documents, or to permit a deviation from said covenants or restrictions, as to any Unit where, in the discretion of the Board, hardship circumstances exist which justify such waiver or deviation. In the event of any such waiver or permitted deviation, or in the event the Association fails to enforce violation of said covenants or restrictions, such actions or inactions shall not be deemed to prohibit nor restrict the right of the Association, or any other person having the right to enforce said covenants or restrictions, from insisting upon strict compliance with respect to all other Units, nor shall any such actions be deemed a waiver of any of the covenants or restrictions contained in the Condominium Documents as same may be applied in the future.

**20.5 Notice of Lien or Suit.**

**20.5.1 Notice of Lien.** A Unit Owner shall give to the Association written notice of every lien upon his Unit other than for permitted first mortgages, taxes, and special assessments, within five (5) days after the Unit Owner receives actual notice of the attachment thereof.

**20.5.2 Notice of Suit.** A Unit Owner shall give notice, in writing, to the Association of every suit or other proceeding which may affect the title to his Unit, or impose liability on the Association, such notice to be given five (5) days after the Unit Owner receives actual knowledge thereof.

Amended and Restated Declaration of Condominium  
(Page 43 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

**20.5.3 Failure to Comply.** Failure of an Owner to comply with this Article 20.5 will not affect the validity of any judicial suit; however, the failure may render the Owner liable to any party injured by such failure.

**21. THE COMMUNITY ASSOCIATION.** Lexington Community Association, Inc. (same being defined herein as the "Community Association") has been created to administer the Community Covenants and, generally, to operate, administer, regulate the use of, and maintain and repair the "Common Areas" of all types under the Community Covenants. In addition to the Unit Owners, Owners of other residential units (and possibly other parties) will be members of the Community Association and, as such, shall have the right of access to and use of the Common Areas. The following provisions have been included herein, and shall be interpreted and enforced, in order to further the purposes of the Community Association and the Community Covenants:

**21.1 Maintenance.** The Community Association shall, per the Community Covenants, maintain the following portions of, or installations with, the Common Elements: grass and landscaping, pavement (including painting thereon), curbs and parking bumpers (if any), the common irrigation system, street lights and directional and identifying signage.

**21.2 Assessments and Collections.** Assessments levied by the Community Association shall be the responsibility of the Unit Owners individually and not Common Expenses hereunder. However, the Association may enter into an agreement with the Community Association whereunder the Association may collect the Assessments of the Community Association for Unit Owners, or vice versa.

**21.3 Amendments.** Notwithstanding anything contained in this Declaration or the Articles of Incorporation, Bylaws or rules and regulations of the Association to the contrary, no amendment to any of said documents shall be effective as against the Community Association if same alters, impairs or prohibits the rights of the Community Association or its Members unless the Community Association consents thereto.

**21.4 Non-Discrimination.** Neither the provisions of this Declaration nor those of the Articles of Incorporation, Bylaws or rules and regulations of the Association shall be interpreted or enforced in a manner which discriminates against the Community Association or its members (particularly, but without limitation, its members who are not Unit Owners) or Members of the Association entitled to use any portion of the Common Elements.

## **22. MISCELLANEOUS PROVISIONS.**

**22.1 Covenants Running with the Land.** The covenants and restrictions as herein contained, or forming a part of the Condominium Documents, shall be deemed to run with the land and shall run perpetually unless terminated or amended as provided herein.

Amended and Restated Declaration of Condominium  
(Page 44 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

**22.2 Savings Clause.** If any provision of the Condominium Documents hereto, as the same now exist or as may be later amended or any portion thereof, shall be held invalid by any Court, or other governmental agency with proper authority to so hold, the validity of the remainder of said Condominium Documents shall remain in full force and effect.

**22.3 Heirs, Successors and Assigns.** These Condominium Documents shall be binding upon the heirs, nominees, successors, administrators, executors and assigns of all Unit Owners.

**22.4 Notices.** All notices shall be given as provided in the Bylaws. Anything contained to the contrary notwithstanding, the Association shall not be responsible to any mortgagee or lienor of any Unit hereunder, and may assume the Unit is free of any such mortgages or liens, unless written notice of the existence of such mortgage or lien is received by the Association.

**22.5 Compliance with Fair Housing Laws.** There shall be no limitation upon sale, lease, or occupancy of any Unit based upon race, creed, color, sex, religion, national origin, handicap, or familial status. The Association may make reasonable accommodations, including reasonable waiver of the covenants and restrictions of the Condominium Documents, when necessary to afford handicapped individuals the opportunity to enjoy the Condominium premises, or to comply with other legal requirements.

**22.6 Conflicts.** In the event of a conflict between any provision of the Condominium Documents and the Condominium Act, the Condominium Act shall control, except in cases where the Act permits the Condominium Documents to regulate the subject, in which case the Condominium Documents will control. In the event of a conflict between this Declaration and the other Condominium Documents, same shall be governed as provided in the Bylaws.

**22.7 Interpretation.** The Board of Directors shall be responsible for interpreting the provisions of the Condominium Documents. The Board's interpretations shall be binding upon all parties unless wholly unreasonable. A written opinion rendered by Association's legal counsel that an interpretation adopted by the Board is not wholly unreasonable shall conclusively establish the interpretation is valid.

**22.8 Captions and Headings.** The headings and captions used in the Condominium Documents are solely for convenience sake and shall not be considered a limitation of any nature in interpreting the Condominium Documents.

**22.9 Waiver.** No provisions contained in the Condominium Documents shall be deemed to have been waived because of any failure to enforce the same, irrespective of the number of violations or breaches, which may occur.

Amended and Restated Declaration of Condominium  
(Page 45 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

**22.10 Plurality; Gender.** Wherever the context so permits, the singular shall include the plural, the plural shall include the singular, and the use of any gender shall be deemed to include all or no genders.

ACTIVE: 4330138\_2

Amended and Restated Declaration of Condominium  
(Page 46 of 46)

LAW OFFICES  
BECKER & POLIAKOFF, P.A.  
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966  
TELEPHONE (239) 433-7707

MARCH 06, 1996  
JOB NO. 2000

EXHIBIT 1

**LEGAL DESCRIPTION**  
*WEDGEWOOD AT LEXINGTON, CONDOMINIUM NO.3*  
SECTION 9, TOWNSHIP 46 SOUTH, RANGE 24 EAST

OR2760 PG2356

**THREE PARCELS OF LAND** SITUATED IN SECTION 9, TOWNSHIP 46 SOUTH, RANGE 24 EAST, LEE COUNTY FLORIDA, SAID PARCELS BEING PART OF TRACTS 17 AND 19 OF THE LANDS PLATTED AS "LEXINGTON COUNTRY CLUB" AS RECORDED IN PLAT BOOK 56, PAGES 59 - 68, IN LEE COUNTY FLORIDA, AND BEING MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS;

**PARCEL #1 (A-1)**... PART OF TRACT 17 AS DESIGNATED IN THE PLAT OF LEXINGTON COUNTRY CLUB, PLAT BOOK 56 PAGES 59-68, IN LEE COUNTY FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

Beginning at a point marking the southwest corner of the aforementioned Tract 17,  
thence; NORTH 00d 43'59" EAST, a distance of 605.50 FT to a point,  
thence; NORTH 12d 35'46" WEST, a distance of 14.60 FT to a point,  
thence; NORTH 80d 54'14" EAST, a distance of 138.24 FT to a point,  
thence around a curve to the right, through a central angle of 10d 24'47" an arc distance of 115.68 FT, a chord bearing of SOUTH 04d 18'41" EAST, a distance of 115.52 FT to a point,  
thence; SOUTH 00d 53'43" WEST, a distance of 494.97 FT to a point  
thence around a curve to the right, through a central angle of 88d 07'48" , an arc distance of 46.14 FT, a chord bearing of SOUTH 44d 57'37" WEST, a distance of 41.73 FT to a point  
thence; SOUTH 89d 01'31" WEST, a distance of 112.54 FT to a point and the POINT OF BEGINNING.

and containing 2.049 acres more or less.

**PARCEL #2 (A-2)**... PART OF TRACT 19 AS DESIGNATED IN THE PLAT OF LEXINGTON COUNTRY CLUB, PLAT BOOK 56 PAGES 59-68, IN LEE COUNTY FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

Beginning at a point marking the Northwest corner the aforementioned Tract 19,  
thence; SOUTH 89d 06'17" EAST, a distance of 138.98 FT to a point,  
thence; SOUTH 00d 46'18" WEST, a distance of 360.18 FT to a point,  
thence; SOUTH 22d 12'34" WEST, a distance of 81.50 FT to a point,  
thence around a curve to the left, through a central angle of 23d 11'04" , an arc distance of 47.55 FT,  
a chord bearing of NORTH 79d 22'57" WEST, a distance of 47.22 FT to a point,  
thence; SOUTH 89d 01'31" WEST, a distance of 32.63 FT to a point,  
thence around a curve to the right, through a central angle of 91d 52'12" , an arc distance of 48.10 FT  
a chord bearing of NORTH 45d 02'23" WEST, a distance of 43.11 FT to a point,  
thence; NORTH 00d 53'43" EAST, a distance of 399.21 FT to a point and the POINT OF BEGINNING.



OR2760 PG2357

and containing 1.349 acres more or less.

PARCEL #3 (A-3)... PART OF TRACT 19 AS DESIGNATED IN THE PLAT OF LEXINGTON COUNTRY CLUB, PLAT BOOK 56 PAGES 59-68, IN LEE COUNTY FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

Beginning at a point marking the Southeast corner of the aforementioned Tract 19, thence; NORTH 00d 56'33" EAST, a distance of 141.33 FT to a point, thence; NORTH 88d 52'13" WEST, a distance of 200.47 FT to a point, thence; SOUTH 86d 47'58" WEST, a distance of 26.76 FT to a point, thence; NORTH 88d 52'13" WEST, a distance of 173.67 FT to a point, thence; SOUTH 82d 23'56" WEST, a distance of 27.00 FT to a point, thence; NORTH 88d 52'13" WEST, a distance of 171.56 FT to a point, thence; SOUTH 87d 15'24" WEST, a distance of 402.39 FT to a point, thence; NORTH 74d 23'26" WEST, a distance of 15.37 FT to a point, thence; SOUTH 00d 44'56" EAST, a distance of 143.39 FT to a point, thence; NORTH 89d 15'04" EAST, a distance of 387.69 FT to a point, thence around a curve to the left, through a central angle of 04d 35'25", an arc distance of 78.71 FT, a chord bearing of NORTH 86d 57'21" EAST, a distance of 78.69 FT to a point, thence around a curve to the right, through a central angle of 06d 20'18", an arc distance of 226.57 FT a chord bearing of NORTH 87d 53'43" EAST, a distance of 226.46 FT to a point, thence; SOUTH 88d 52'13" EAST, a distance of 282.46 FT to a point, thence around a curve to the left, through a central angle of 00d 42'34", an arc distance of 36.68 FT, a chord bearing of SOUTH 89d 13'30" EAST, a distance of 36.68 FT to a point and the POINT OF BEGINNING.

and containing 3.341 acres more or less.

(SEE ATTACHED "BOUNDARY SKETCH")

I hereby certify that this BOUNDARY DESCRIPTION was made under my supervision in accordance with the minimum technical standards set forth by the Florida Board of Professional Land Surveyors in Chapter 61G17, F.A.C. pursuant to section 472.027 Florida Statutes.

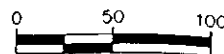
(Not valid unless embossed with surveyors seal)

  
ROGER H. HARRAH STATE OF FLORIDA LS#5294

DATE SIGNED: 03-06-96

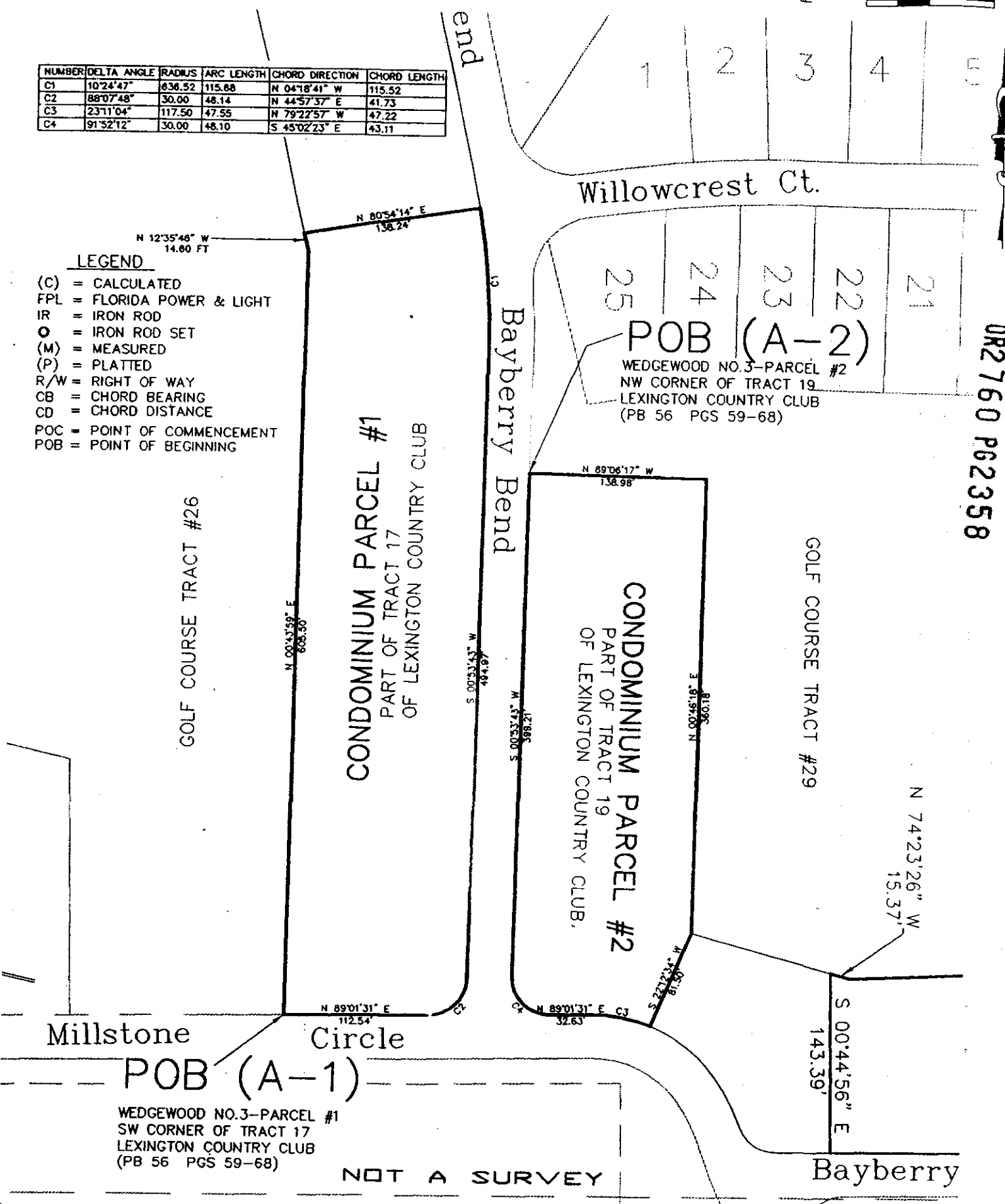
SEE ATTACHED LEGAL DESCRIPTION

EXHIBIT 1



NUMBER	DELTA ANGLE	RADIUS	ARC LENGTH	CHORD DIRECTION	CHORD LENGTH
C1	10°24'47"	636.52	115.68	N 04°18'41" W	115.52
C2	88°07'48"	30.00	46.14	N 44°57'37" E	41.73
C3	23°11'04"	117.50	47.55	N 79°22'57" W	47.22
C4	91°52'12"	30.00	46.10	S 45°02'23" E	43.11

- LEGEND**
- (C) = CALCULATED
  - FPL = FLORIDA POWER & LIGHT
  - IR = IRON ROD
  - = IRON ROD SET
  - (M) = MEASURED
  - (P) = PLATTED
  - R/W = RIGHT OF WAY
  - CB = CHORD BEARING
  - CD = CHORD DISTANCE
  - POC = POINT OF COMMENCEMENT
  - POB = POINT OF BEGINNING



NOT A SURVEY

DATE: 03/06/96

**CES** COMMUNITY ENGINEERING SERVICES, INC.  
 Civil Engineering • Planning • Project Management  
 9200 Bonita Beach Road Suite 212  
 Bonita Springs, Florida 33923  
 Telephone (941) 495-0009 Fax (941) 491

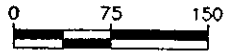
WEDGEWOOD AT LEXINGTON, CONDOMINIUM No. 3  
 BOUNDARY SKETCH OF AREA 1 AND AREA 2  
 TRACTS 17 & 19 OF LEXINGTON COUNTRY CLUB  
 PLAT BOOK 56 PAGES 59-68) SHEET 1 of 2

Exhibit "A"  
 Page 3 of 13

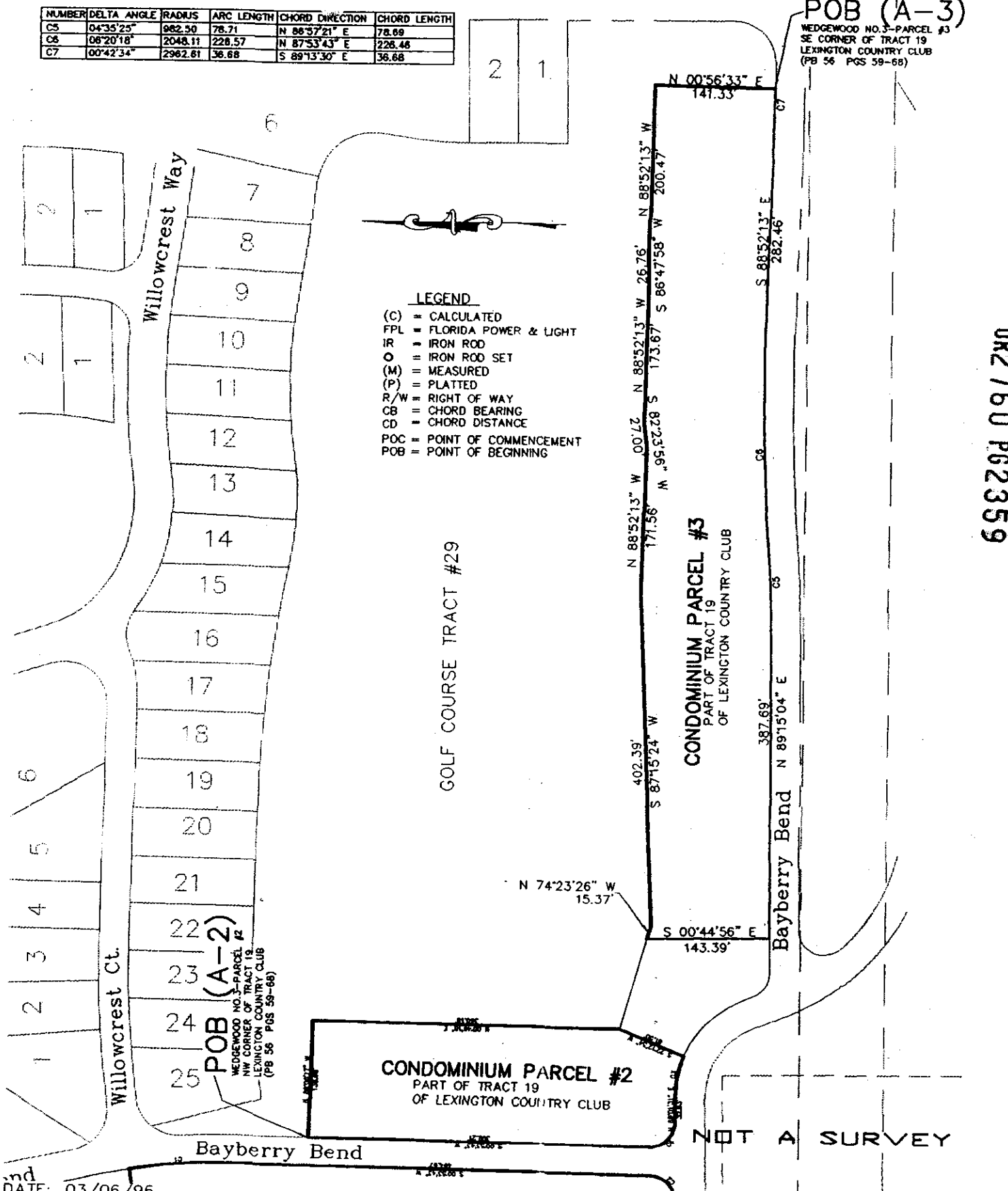
DR2760 P62358

SEE ATTACHED LEGAL DESCRIPTION

EXHIBIT 1



NUMBER	DELTA ANGLE	RADIUS	ARC LENGTH	CHORD DIRECTION	CHORD LENGTH
C5	04°35'25"	982.50	78.71	N 88°57'21" E	78.69
C6	08°20'18"	2048.11	228.57	N 87°53'43" E	228.46
C7	00°42'34"	2962.81	36.68	S 89°13'30" E	36.68



OR2760 P62359

DATE: 03/06/96

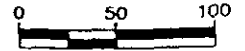
**CES** COMMUNITY ENGINEERING SERVICES, INC.  
Civil Engineering • Planning • Project Management  
9200 Bonita Beach Road, Suite 209  
Bonita Springs, Florida 33923  
Telephone (813) 495-0009 Fax (813) 495-1

WEDGEWOOD AT LEXINGTON, CONDOMINIUM No. 3  
BOUNDARY SKETCH OF AREA #3  
TRACT 19 OF LEXINGTON COUNTRY CLUB  
LAT BOOK 56 PAGES 59-68 SHEET 2 of 2

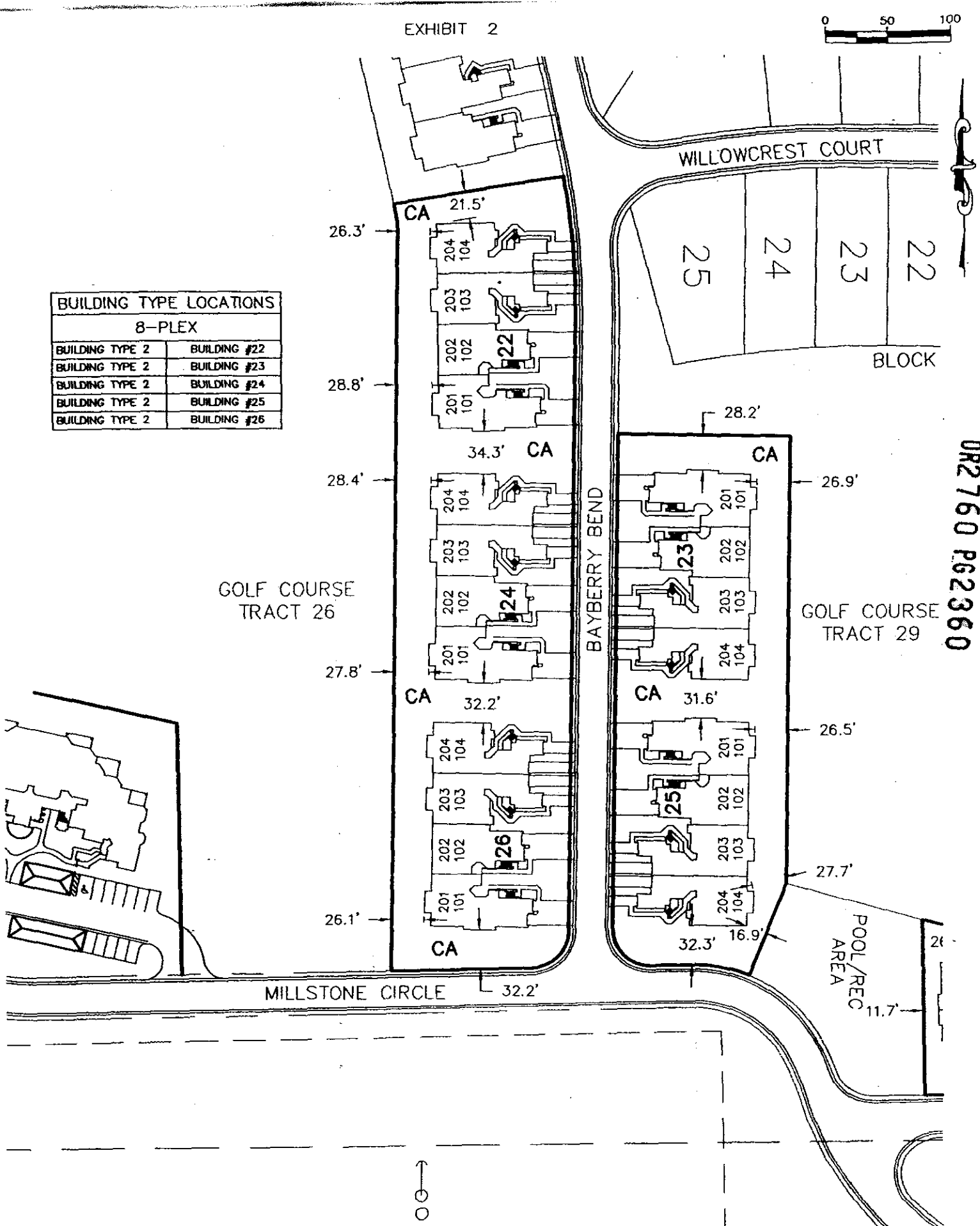
Exhibit "A"  
Page 4 of 13



EXHIBIT 2



BUILDING TYPE LOCATIONS	
8-PLEX	
BUILDING TYPE 2	BUILDING #22
BUILDING TYPE 2	BUILDING #23
BUILDING TYPE 2	BUILDING #24
BUILDING TYPE 2	BUILDING #25
BUILDING TYPE 2	BUILDING #26



DR2760 PG2360

DATE: 3/6/96



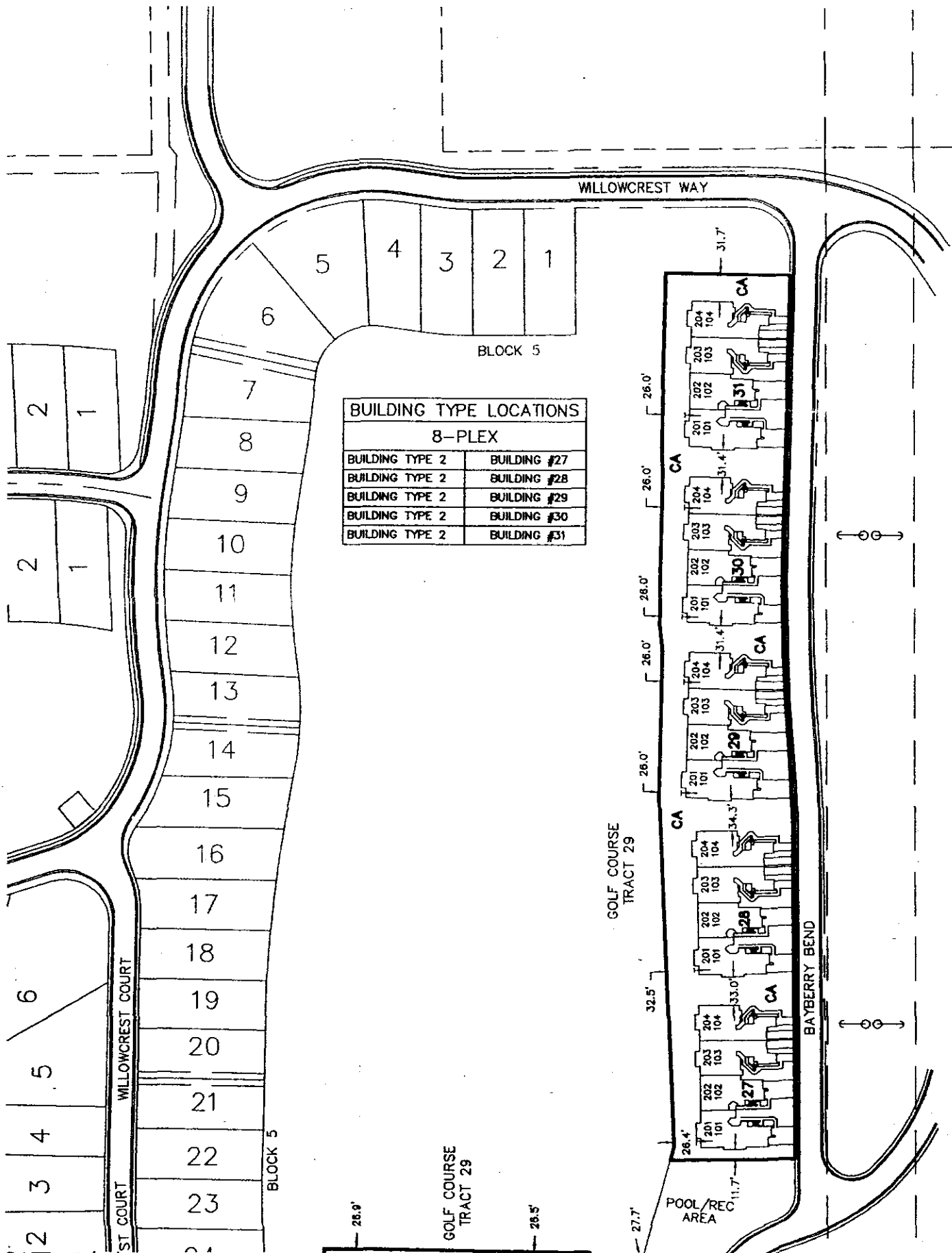
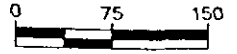
**COMMUNITY ENGINEERING SERVICES, INC.**  
 Civil Engineering • Planning • Project Management  
 9200 Bonita Beach Road Suite 200  
 Bonita Springs, Florida 33923  
 Telephone (813) 495-0009 Fax (813) 495-

WEDGEWOOD AT LEXINGTON, CONDOMINIUM No. 3

Exhibit "A"  
 Page 5 of 13

TE PLAN AREA #1: AREA #2  
 OF TRACTS 17 & 19  
 CLUB PLAT BOOK 58 PAGE 59-68 SHEET 1 of 2

EXHIBIT 2



BUILDING TYPE LOCATIONS	
8-PLEX	
BUILDING TYPE 2	BUILDING #27
BUILDING TYPE 2	BUILDING #28
BUILDING TYPE 2	BUILDING #29
BUILDING TYPE 2	BUILDING #30
BUILDING TYPE 2	BUILDING #31

DR2 760 PB23611

DATE: 3/6/96



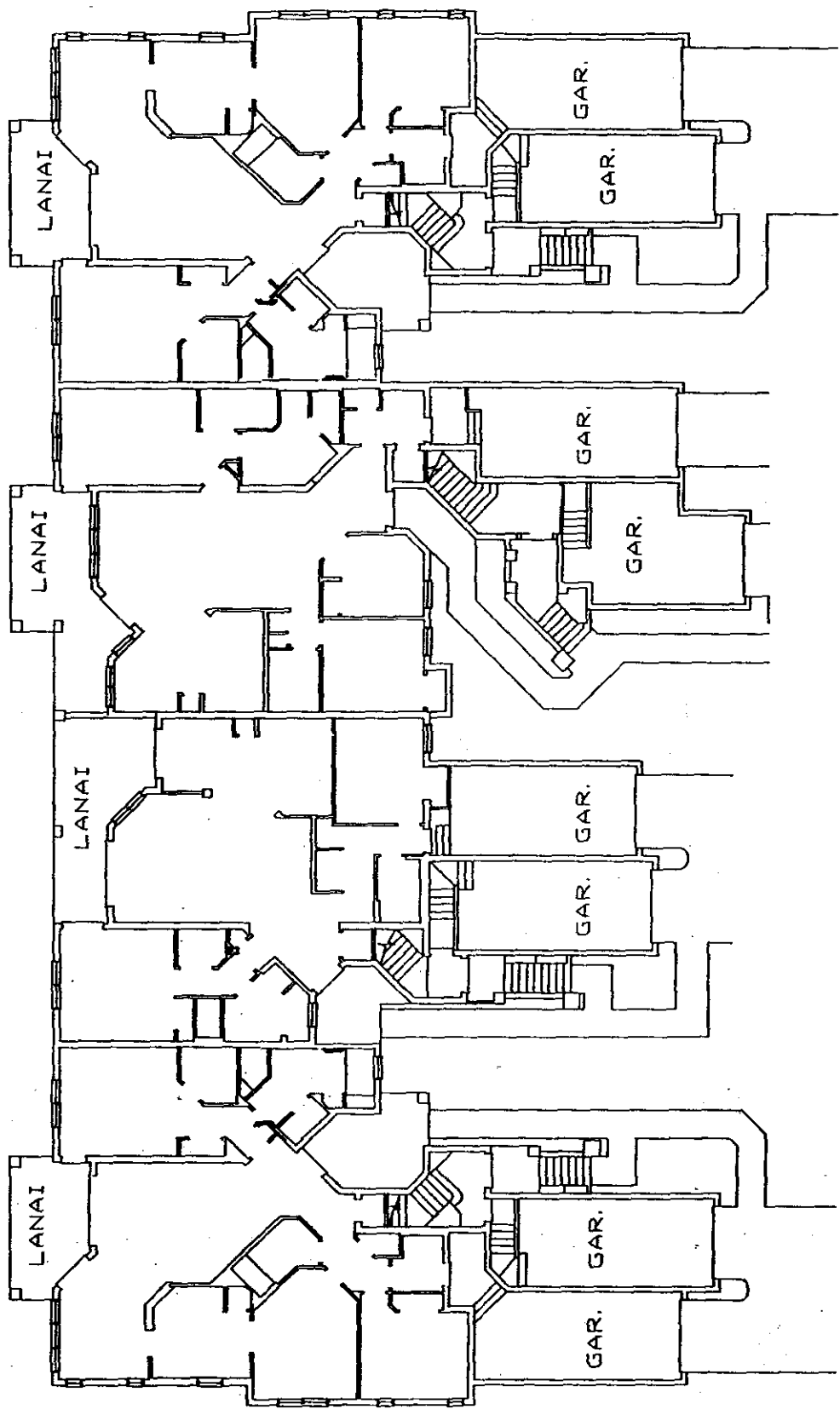
**COMMUNITY ENGINEERING SERVICES, INC.**  
 Civil Engineering • Planning • Project Management  
 9200 Bonita Beach Road Suite 209  
 Bonita Springs, Florida 33923  
 Telephone (813) 485-0009 Fax (813) 485-7

**WEDGEWOOD AT LEXINGTON, CONDOMINIUM No. 3**

Exhibit "A"  
 Page 6 of 13

SITE PLAN AREA #3  
 F TRACTS 17 & 19  
 CLUB PLAT BOOK 58 PAGE 59-88 SHEET 2 of 2

OR2760 192362



BUILDING TYPE ONE - FIRST FLOOR PLAN

"LANAIS, GARAGES AND DRIVEWAYS ARE LIMITED COMMON ELEMENTS."

WEDGEWOOD AT LEXINGTON,  
CONDOMINIUM No. 3

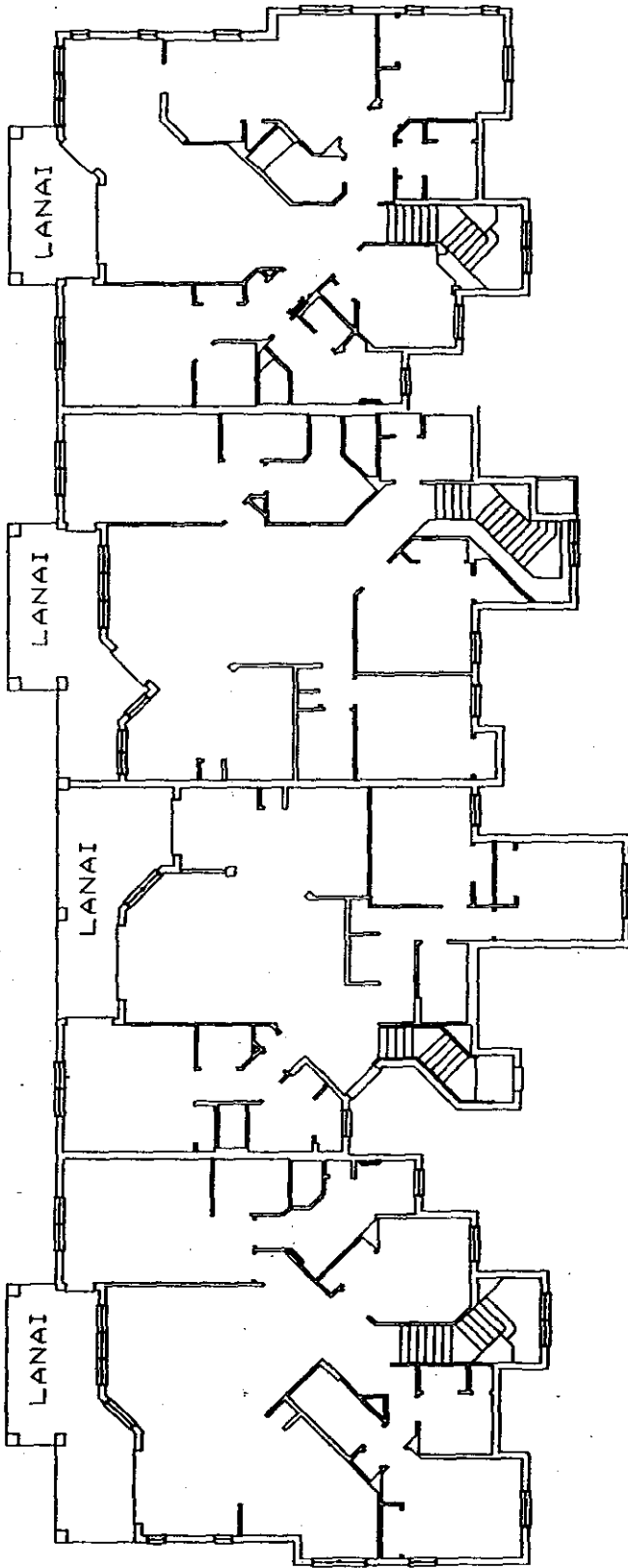
COMMUNITY ENGINEERING SERVICES, INC.  
Civil Engineering • Planning • Project Management  
9200 Bonita Beach Road, Suite 209  
Bonita Springs, Florida 33923  
Telephone (813) 482-0006 Fax (813) 482-7934



DATE: 03/9/96

OR2760 PG236

EXHIBIT 2



BUILDING TYPE ONE - SECOND FLOOR PLAN

"LANAIS, GARAGES AND DRIVEWAYS ARE LIMITED COMMON ELEMENTS."



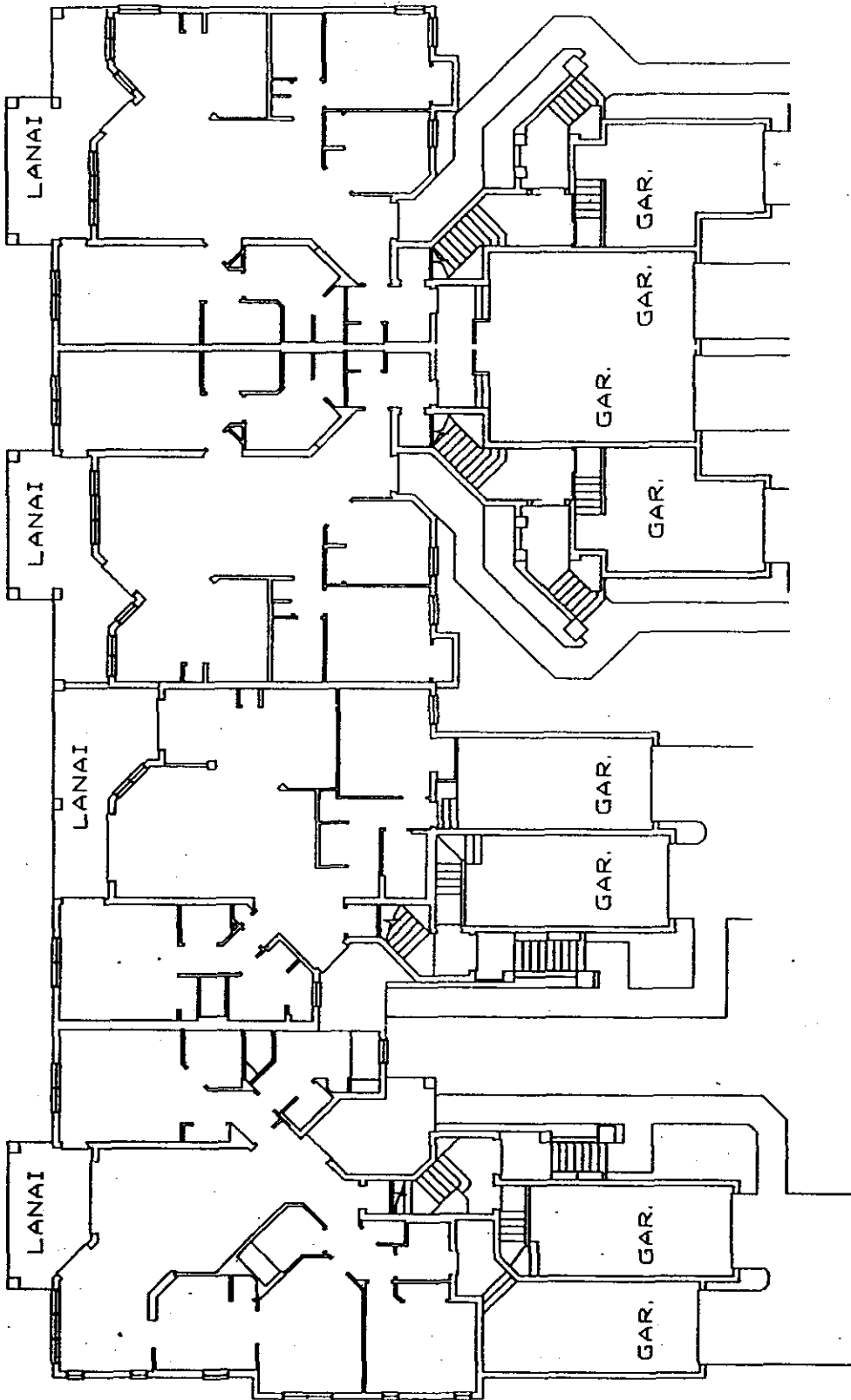
COMMUNITY ENGINEERING SERVICES, INC.  
Civil Engineering • Planning • Project Management  
9200 Benito Beach Road, Suite 209  
Orlando, Florida 32825  
Telephone (407) 485-0008 Fax (407) 485-7834

WEDGEWOOD AT LEXINGTON,  
CONDOMINIUM No. 3

SHEET 2 of 6

DATE: 03/09/96

OR2760 DC2364



BUILDING TYPE TWO - FIRST FLOOR PLAN

"LANAIS, GARAGES AND DRIVEWAYS ARE LIMITED COMMON ELEMENTS."



COMMUNITY ENGINEERING SERVICES, INC.  
 Civil Engineering • Planning • Project Management  
 8200 Benito Beach Road Suite 206  
 Benito Springs, Florida 33623  
 Telephone (813) 488-0008 Fax (813) 495-7334

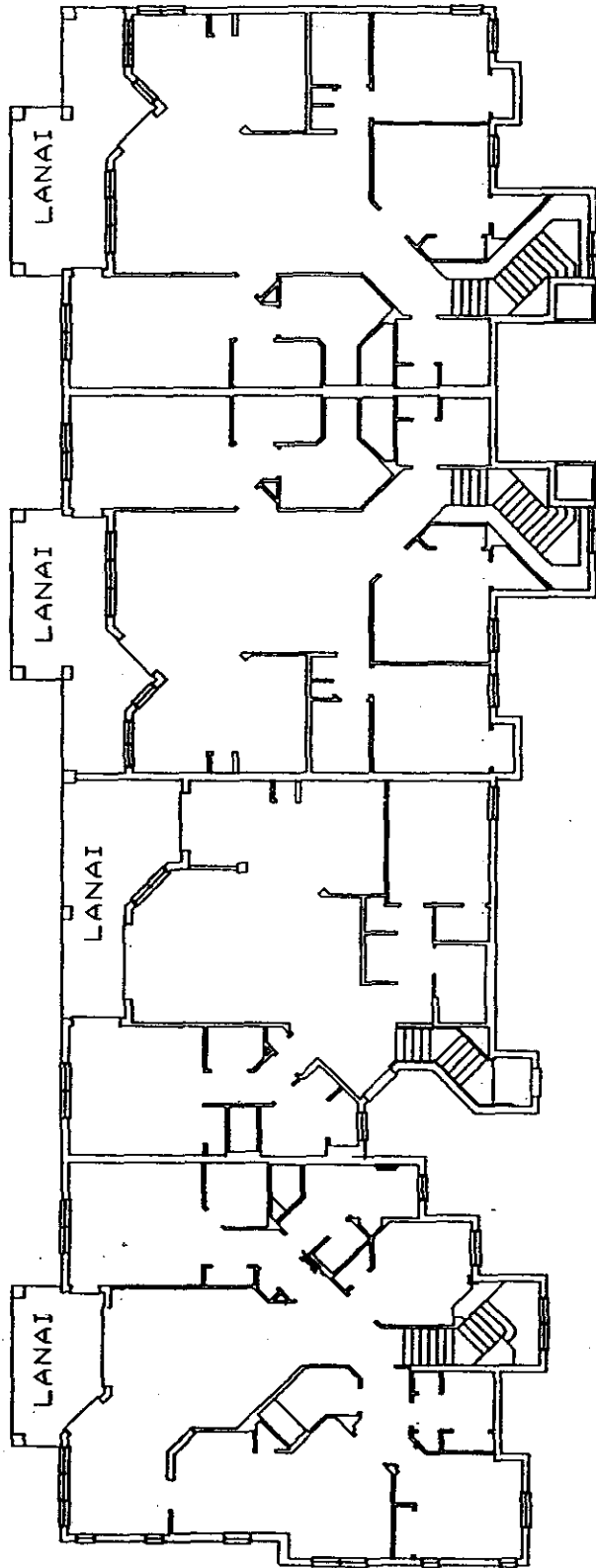
WEDGEWOOD AT LEXINGTON,  
CONDOMINIUM No. 3

DATE: 03/9/96

SHEET 3 of 6

OR 760 P62365

EXHIBIT 2



BUILDING TYPE TWO - SECOND FLOOR PLAN

"LANAIS, GARAGES AND DRIVEWAYS ARE LIMITED COMMON ELEMENTS."

WEDGEWOOD AT LEXINGTON,  
CONDOMINIUM No. 3

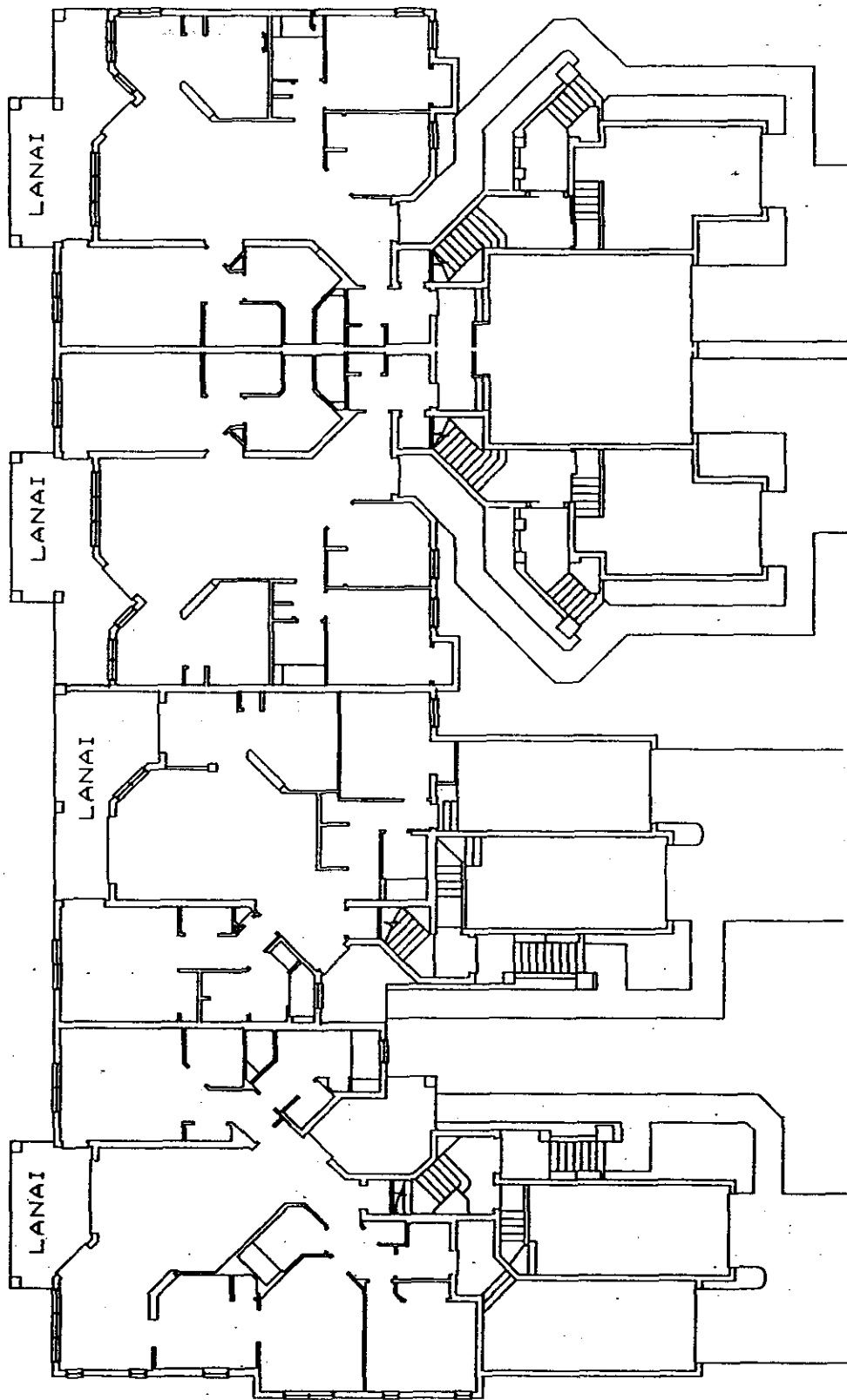
COMMUNITY ENGINEERING SERVICES, INC.  
Civil Engineering • Planning • Project Management  
9200 North Beach Road, Suite 208  
Boca Raton, Florida 33423  
Telephone (813) 495-0000 Fax (813) 495-7934



DATE: 03/9/96

OR2760 PG2366

EXHIBIT 2



BUILDING TYPE FOUR - FIRST FLOOR PLAN

"LANAIS, GARAGES AND DRIVEWAYS ARE LIMITED COMMON ELEMENTS."



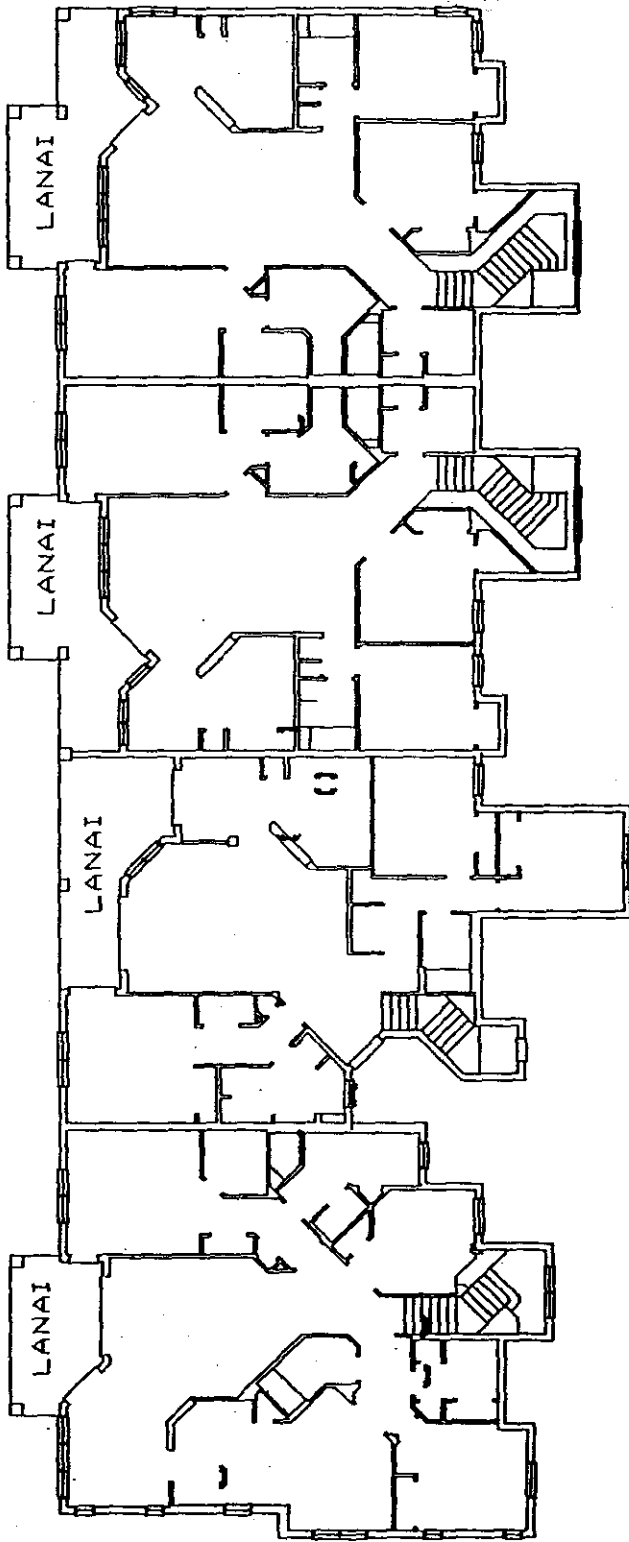
COMMUNITY ENGINEERING SERVICES, INC.  
Civil Engineering • Planning • Project Management  
9200 Gerilla Beach Road Suite 208  
Bonita Springs, Florida 33923  
Telephone (813) 483-0009 Fax (813) 483-7834

WEDGEWOOD AT LEXINGTON,  
CONDOMINIUM No. 3

DATE: 03/9/98

SHEET 5 of 6

OR2760 PG2367



BUILDING TYPE FOUR - SECOND FLOOR PLAN

"LANAIS, GARAGES AND DRIVEWAYS ARE LIMITED COMMON ELEMENTS."

WEDGEWOOD AT LEXINGTON,  
CONDOMINIUM No. 3

COMMUNITY ENGINEERING SERVICES, INC.  
Civil Engineering • Planning • Project Management

8200 Benita Beach Road, Suite 208  
Belle Springs, Florida 33091  
Telephone (813) 483-8800 Fax (813) 483-7444



DATE: 03/9/96



**WEDGEWOOD AT LEXINGTON CONDOMINIUM NO. 3**

The following Survey Certificates of Substantial Completion are incorporated by reference:

<b>Building Number(s)</b>	<b>Recording Information</b>	<b>Recording Date</b>
Building 31	O.R. Book 2771, Pages 903 – 906 of the Public Records of Lee County, Florida	December 10, 1996
Building 30	O.R. Book 2771, Page 907 – 910 of the Public Records of Lee County, Florida	December 10, 1996
Buildings 22 – 29	O.R. Book 3162, Page 2360 – 2389 of the Public Records of Lee County, Florida	August 31, 1999