

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONSFOR
BERMUDA GREENS COMMONSREC-
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THIS DECLARATION made this 7th day of November, 91,
by Bermuda Greens of Naples, Ltd., a Florida limited partnership,
hereinafter called the "Declarant," for itself and its successors,
grantees, and assigns.

W I T N E S S E T H:

WHEREAS, Declarant owns certain real property located in Collier County, Florida, described on Exhibit "A" attached hereto (hereinafter the "Properties"), and intends to create thereon recreational facilities, Common Areas and landscaped areas to be known as BERMUDA GREENS COMMONS.

WHEREAS, Declarant desires to provide for the preservation of property values, and amenities in BERMUDA GREENS COMPLEX, contribute to the general health, safety and welfare of residents and provide for the maintenance of the land and improvements thereon, and to this end desires to subject the Properties to the protective covenants, conditions, restrictions, and other provisions hereinafter set forth; and

WHEREAS, to provide a means for meeting certain of the purposes and intents herein set forth, BERMUDA GREENS COMMONS ASSOCIATION, INC., a Florida corporation not for profit (hereinafter the "Commons Association") has been incorporated; and

WHEREAS, Declarant may, in its sole discretion, from time to time, convey, lease or grant a license or other use right to lands within BERMUDA GREENS COMMONS by deed, easement, or otherwise to the Commons Association, to the unit owners within the BERMUDA GREENS COMPLEX, and to the condominium associations and Homeowner Associations within the BERMUDA GREENS COMPLEX for the purpose of maintenance, landscaping, drainage, recreation or other purposes for the use and benefit of Members and their families, tenants and guests.

NOW, THEREFORE, the Declarant, Bermuda Greens of Naples, Ltd., and any other person whose signature appears hereinafter by way of joinder or consent, declares that the Properties, together with such improvements as may hereafter be made thereto, are and shall be owned, used, and conveyed subject to the easements, covenants, conditions, restrictions, and all other provisions of this Declaration as it may be amended from time to time, which shall run with the land and be binding on all parties having any right, title or interest in the Properties or any part thereof, their heirs,

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successors and assigns, and shall inure to the benefit of each Owner thereof. The Developer reserves the right in its sole discretion to add or withdraw property from the submission to this Declaration, except that the Developer shall not be permitted to withdraw any property from the Declaration if such property has been conveyed to the Commons Association.

1. **DEFINITIONS.** The following definitions shall apply to the terms used in this Declaration and its recorded exhibits, unless the context clearly requires another meaning.

1.1 **"Assessment" or "Assessments"** shall mean and refer to any charge imposed by the Commons Association on any or all Owners including without limitation Annual Assessments and Special Assessments, as authorized by the Governing Documents.

1.2 **"Association"** shall initially mean and refer to BERMUDA GREENS CONDOMINIUM ASSOCIATION, INC. and shall subsequently mean and refer to all Condominium Associations or Homeowner's Associations created within the BERMUDA GREENS COMPLEX.

1.3 **"Bermuda Greens Complex"** shall mean and refer to the real property which is more fully described in Exhibit B, Page 1.

1.4 **"Board"** shall mean and refer to the Board of Directors of BERMUDA GREENS COMMONS ASSOCIATION, INC.

1.5 **"Common Areas"** shall mean and refer to all real property and any improvements and fixtures thereon, owned, leased or the use of which has been granted to the Commons Association for the common use and enjoyment of its members.

1.6 **"Commons Association"** shall mean and refer to the BERMUDA GREENS COMMONS ASSOCIATION, INC., a Florida corporation, not for profit, which has its principal place of business in Collier County, Florida and its successors and assigns, whose Articles of Incorporation and By-Laws are attached hereto as Exhibit "C".

1.7 **"Preserve Lands"** shall mean and refer to all areas designated as such on the Plat. Preserve Lands are required to be kept in their natural state so as to prevent destruction of said areas or the alteration of the water flow at variance to the design standard for the Water Management System.

1.8 **"Declarant" or "Developer"** shall mean and refer to Bermuda Greens of Naples, Ltd., a Florida limited partnership, or any entity or person to which the Developer specifically assigns any rights it may have under this agreement as the Developer of

part or all of THE BERMUDA GREENS COMPLEX. The Developer specifically reserves the right to assign any and all of the rights it may have pursuant to this Declaration to a successor Developer.

1.9 "Declaration" shall mean and refer to this document, entitled "Declaration of Covenants, Conditions and Restrictions for BERMUDA GREENS COMMONS", as it may be amended from time to time.

1.10 "Governing Documents" shall mean and refer to this Declaration and to the Articles of Incorporation and By-Laws of the Commons Association, as the same may be amended from time to time. In the event of conflict or inconsistency among the documents, the controlling document shall be that first appearing in the following sequence: The Declaration, the Articles and the By-Laws.

1.11 "Institutional Mortgagee" means the holder of any mortgage against the Commons Area, which holder is the Declarant, a bank, savings and loan association, mortgage company, real estate or mortgage investment trust, pension or profit sharing trust; or the Federal Housing Administration, the Veterans Administration, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, any agency of the United States of America, or the holder of a first mortgage which is guaranteed or insured by the Federal Housing Administration, the Veterans Administration, any agency of the United States of America or by any other public or private corporation engaged in the business of guaranteeing or insuring residential mortgage loans, and their successors and assigns. The term also includes any and all lending institutions, or the successors and assigns of such lenders (herein referred to as the "Lenders") which have loaned money to Developer or any entity or person which succeeds to Declarant's position as Developer of part or all of BERMUDA GREENS COMMONS and which hold a mortgage upon any portion of the Properties securing such a loan.

1.12 "Institutional Mortgage" means a mortgage held by an Institutional Mortgagee.

1.13 "Living Unit or "Unit" shall mean and refer to any residential structure, including condominium unit, located within BERMUDA GREENS COMPLEX and intended for occupancy by one family or household.

1.14 "Members" shall mean and refer to those entities which are entitled to membership in the Commons Association as provided in its Articles of Incorporation and By-Laws or to those persons who are entitled to membership in an Association, depending upon the context in which it is used.

1.15 "Neighborhood" shall mean and refer to any condominium or homeowner development located in BERMUDA GREENS COMPLEX.

1.16 "Neighborhood Association" shall mean and refer to any condominium association, homeowner's association, their successors and assigns, for any particular Neighborhood.

1.17 "Neighborhood Common Area" or "N.C.A." shall refer to the common elements of the condominium or homeowner's associations.

1.18 "Neighborhood Covenants" shall mean and refer to any and all covenants, conditions, restrictions, and other provisions imposed by recorded instrument and applicable to one or more specific Neighborhoods but not to all Neighborhoods.

1.19 "Owner" shall mean and refer to the record owner of fee simple title to any Living Unit located within the BERMUDA GREENS COMPLEX, but does not include a person having an interest in a Unit merely as security for the performance of an obligation.

1.20 "Properties" shall mean and refer to the real property located within BERMUDA GREENS COMMONS as described in Exhibit "A" hereto.

1.21 "Structure" shall mean that which is built or constructed, or any piece of work artificially built up or composed of parts joined together in some definite manner, the use of which requires more or less permanent location on the ground, or which is attached to something having a permanent location on the ground. The term shall be construed as if followed by the words "or part thereof". The term includes, without limitation, all Living Units, swimming pools, fences, flagpoles, antennas, playground equipment, and storage sheds.

1.22 "Water Management Systems and Drainage Areas" shall mean and refer to the surface and/or underground system and facility for the storage of surface water and sanitary sewer water throughout the BERMUDA GREENS COMPLEX, including Preserve Lands, lakes and/or ponds designated, specified and/or described in a Plat or the Collier County P.U.D. Ordinance, as from time to time amended, and any system or part of a system for the preservation and maintenance of any environmentally sensitive parts of the property.

2. PURPOSES AND POWERS.

2.1 Operation, Maintenance and Repair of Common Area. The Declarant, in order to insure that the Common Areas will continue to be maintained in a manner that will contribute to the comfort and enjoyment of the Owners and provide for other matters of

concern to them, has organized the Commons Association. The purposes of the Commons Association shall be: to hold title, operate, maintain and repair the Common Areas including, but not limited to, the recreation facilities, certain roadways, retention areas, the surface water management system and any improvements thereon, any decorative entranceways, any medians in the streets within the Properties designated by the Directors; to pay for the costs incident to the above described responsibilities and the costs of street lighting for the Common Areas, if any; and to take such other action as the Commons Association is authorized to take with regard to the Properties pursuant to its Articles of Incorporation and ByLaws, or this Declaration, and with regard to any other areas as designated by the Board. The Commons Association shall operate, maintain and repair areas designated by Declarant as Common Areas, whether or not title to those areas has been formally conveyed to the Commons Association.

3. GENERAL COVENANTS, RESTRICTIONS AND RESERVATIONS.

3.1 Use Restrictions. The properties may be used for the purposes consistent with the way in which the property is zoned. Declarant reserves the right and the power to assign and reassign various land uses to real property within BERMUDA GREENS COMMONS in accordance with the applicable zoning.

3.2 Landscaping; Sprinkler Systems. Areas not covered by structures, walkways, paved parking facilities or recreation facilities shall be maintained as lawn or landscaped areas to the pavement edge of any abutting streets and to the waterline of any abutting lakes, canals or water management areas. No stone, gravel, or paving of any type shall be used as a substitute for grass in a lawn. Certain areas as determined by the Declarant may remain in a natural or unimproved state. All lawns, landscaping, and sprinkler systems within the BERMUDA GREENS COMMONS shall be maintained by the Commons Association.

3.3 Sidewalks. Declarant may construct sidewalks in BERMUDA GREENS COMMONS. Sidewalks shall be maintained by the Commons Association.

3.4 Underground Utilities. All electric, telephone, gas and other utility lines shall be installed underground to the extent possible.

3.5 Right to Use Common Areas. The right to use the Common Areas shall be appurtenant to and shall run with membership in an Association, subject to this Declaration and the rules and regulations of the Commons Association.

3.6 Lighting. All exterior lighting shall be accomplished in accordance with a lighting plan approved in writing by Declarant.

3.7 Trucks, Commercial Vehicles, Recreation Vehicles, Motor Homes, Mobile Homes, Boats, Campers and Trailers.

(A) No commercial vehicle of any kind shall be parked on BERMUDA GREENS COMMONS for a period of more than four hours per day, unless such vehicle is necessary in the actual construction or repair of a structure or for grounds maintenance or maintenance of public utilities, or unless such vehicle is fully enclosed inside a structure. The parking of 2-axle, noncommercial pick-up trucks will be permitted. The parking of vans will be permitted if the following requirements are met:

- (1) The vehicle will be used for personal, non-business use only.
- (2) All vans must have windows on both side panels and seating capacity throughout.
- (3) No tools, equipment, merchandise, materials or supplies may be kept or stored in the van.

(B) No boat, boat trailer or other trailer of any kind, camper, mobile home, motor home, commercial pick-up truck or disabled vehicle shall be permitted to be parked or stored in BERMUDA GREENS COMMONS unless kept fully enclosed inside a structure.

(C) No vehicle shall be parked anywhere but on paved areas intended that purpose or in garages. Parking on lawns or landscaped areas is prohibited.

(D) No vehicle shall be used as a domicile or residence, either permanent or temporary.

3.8 Nuisances. Nothing may or shall be done which is or may become a reasonable source of annoyance or nuisance to residents of any Neighborhood. No obnoxious, unpleasant or offensive activity shall be carried on, nor may anything be done, which can be reasonably construed to constitute a nuisance, public or private in nature. Any question with regard to the interpretation of this Section shall be decided by the Declarant so long as it owns any property in BERMUDA GREENS COMMONS and thereafter by the Commons Association whose decision shall be final.

3.9 Litter. In order to preserve the beauty of BERMUDA GREENS COMMONS, no garbage, trash, refuse or rubbish shall be

deposited, dumped or kept upon the Properties except in closed containers, dumpsters or other garbage collection facilities deemed suitable by the Board, or in proper-sized, closed plastic bags for curbside pickup as required. All containers, dumpsters and other garbage collection facilities shall be kept in designated areas and kept in a clean condition with no noxious or offensive odors emanating therefrom.

3.10 Correction of Health and Safety Hazards. Any conditions which are deemed by the Commons Association to be a hazard to the public health or safety may be corrected immediately as an emergency matter by the Commons Association and the cost thereof shall be charged to the responsible Owner or Association, and payment may be enforced by a lien against the Unit with the same force and effect as if the charge were part of the Commons Association's assessments.

3.11 Subdivision and Regulation of Land. No Owner or Neighborhood Association shall inaugurate or implement any variation from, modification to, or amendment of any governmental plans, land development regulations, development orders or development permits applicable to BERMUDA GREENS COMMONS, or to the Properties, without the prior written approval of Declarant, which approval may be denied at the sole discretion of Declarant.

3.12 Owner and Member Compliance. The protective covenants, conditions, restrictions and other provisions of this Declaration shall apply not only to Owners, Members and persons to whom a Member has delegated his right of use in and to the Common Areas, but also to any other person occupying an Owner's Unit under lease from the Owner or by permission or invitation of the Owner or his tenants, expressed or implied, licensees, invitees or guests. Failure of an Owner to notify any person of the existence of the easements, covenants, conditions, restrictions, and other provisions of this Declaration shall not in any way act to limit or divest the right of Declarant or Commons Association of enforcement of these provisions and, in addition, the Owner shall be responsible for any and all violations of these provisions by his tenants, delegates, licensees, invitees or guests, and by his guests, licensees and invitees of his tenants at any time.

3.13 Declarant's Exculpation. Declarant may grant, withhold or deny its permission or approval in any instance where its permission or approval is permitted or required without any liability of any nature or kind to Owner or an Association or any other Person for any reason whatsoever, and any permission or approval granted shall be binding upon all persons. The use restrictions of this Section 3 shall not apply to any property owned by the Developer prior to its conveyance to a unit owner other than the Developer.

4. EASEMENTS.**4.1 Utility and Other Easements.**

- (A) Declarant hereby grants and declares that a non-exclusive easement for access, ingress and egress shall exist over all portions of the BERMUDA GREENS COMPLEX which are subsequently developed and improved for the purpose of utilities, common parking areas, streets, water management and drainage, driveways, ingress and egress, so that the integrity of the BERMUDA GREENS COMPLEX shall be maintained. Such easements shall exist for the benefit of each owner (and their respective mortgagees, heirs, successors and assigns) of any portion of, or condominium unit or residential unit created on, the Property. The easements hereby created shall run to the benefit of any properties subject to this declaration, it's owners and their servants, tenants, visitors, and licensees in common with all persons having a like, nonexclusive, perpetual right of ingress and egress over and across the properties in such areas as are subsequently developed and improved for utilities, common parking areas, streets, water management and drainage, driveways, walkways, ingress and egress.
- (B) Declarant reserves the rights, so long as Declarant owns any units or property within the BERMUDA GREENS COMPLEX to create easements for the purpose of installing, operating and maintaining governmental, public or private utility facilities, and for other purposes incidental to the development of the Properties known as BERMUDA GREENS COMPLEX, and there are also reserved such easements and rights-of-way for any other purposes as Declarant in its sole discretion may in the future determine.
- (C) Declarant hereby reserves the right, and the power, during a period of thirty (30) years from the date of the recordation of this Declaration or of the recordation of the plat or of any other applicable recorded instrument, whichever is later, to declare, grant and record additional easements granting the full free right, power and authority to lay, operate and maintain such drainage facilities, sanitary sewer lines, potable and irrigation water lines, storm sewers, gas and electric lines, communication

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lines, cable television lines, and such other further service facilities as Declarant may deem necessary, along, through, in, over and under a strip of land up to ten (10) feet in width from all side, front and rear lines of any lot and, along, through, in, over and under Common Areas. The duration of any such easement shall be set forth in an instrument of public record. Said easements and the rights granted shall not be inconsistent with the then existing improvements on the applicable portions of the Common Area. Such easements may benefit properties within the BERMUDA GREENS COMPLEX or properties not within the BERMUDA GREENS COMPLEX. Any easement granted pursuant to this Section shall be subordinate to the lien of an institutional mortgage.

4.2 Service Easement. Declarant hereby grants to delivery, pickup and fire protection services, police and other authorities of the law, United States mail carriers, representatives of electrical, telephone, cable television and other utilities that service the Properties, and to such other persons as the Declarant or Commons Association may from time to time designate, the nonexclusive, perpetual right of ingress and egress over and across the Properties for the sole purpose of performing their authorized services.

5. ASSOCIATION.

5.1 Members.

- A. The members of this Corporation shall be all the Florida non-profit corporations ("Associations") which are actually created for the purpose of operating a residential condominium or other multi-unit residential development located within the BERMUDA GREENS COMPLEX. If any of the member Associations is voluntarily dissolved (except incident to a merger with this corporation), that Association's right to membership shall be transferred to another corporation, or to a trustee, which shall have and exercise such Association's membership rights, obligations and privileges as long as this Corporation exists.

- B. Whenever a vote of the members is required, each member Association shall be entitled to one vote in Corporation matters for each dwelling unit within that Association. The manner of exercising voting rights shall be as set forth in the By-Laws.
- C. The share of a member Association in the funds and assets of the Corporation cannot be assigned, withdrawn or transferred in any manner except as an appurtenance to the property the member Association operates.

6. COMMON AREAS.

6.1 Members Rights and Easements.

- (A) Every member of an Association which is a member of the Commons Association shall have a right and easement of enjoyment and use in and to the Common Areas. The right and easement shall be appurtenant to and shall pass with the title to every Unit, subject to any limitation set forth in this Declaration including:
- (1) The right of the Commons Association to determine the annual assessments to be paid by the members.
 - (2) The right of the Commons Association to dedicate or transfer all or any part of the Common Areas to any governmental agency, public authority, or utility;
 - (3) The right of the Commons Association to grant easements over, across or through the Common Area or any part thereof.
 - (4) The right of the Commons Association to borrow money for the purpose of improving the Common Areas, and in aid thereof, to mortgage Common Areas;
 - (5) The right to take such steps as are reasonably necessary to protect Common Areas against foreclosure; and
 - (6) The provisions of this Declaration, or any other applicable recorded instrument, the Articles of Incorporation and By-Laws of the

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Commons Association; and any rules and regulations governing use and enjoyment of the Common Areas adopted by the Commons Association.

6.2 Delegation of Right.

- (A) A unit owner who is a member of an Association which is a member of the Commons Association may temporarily delegate his right of use in and to the Common Areas to his non-resident guests (if the guests are accompanied by a member) or to tenants who reside in the Living Unit of the unit owner, but only to the extent and subject to conditions, limitations and restrictions as may be provided for in the By-Laws and the Commons Association's rules and regulations. A fee may be imposed for such a delegation, not necessarily limited to the cost of processing the delegation. No more than four transfers to tenants may be made in any given year and no such transfer shall be made for a period of less than one month.
- (B) Each unit owner shall be financially and legally responsible for the actions of any person to whom the unit owner has delegated his right to use the Commons Areas.

6.3 Conveyance and Use

- (A) Any real property conveyed, leased, or the use of which has been granted by Declarant or any third party to the Commons Association as Common Areas is not and shall not be deemed dedicated for use by the general public but is, and shall be, deemed restricted for the common use and enjoyment of members of the Associations which are Members of the Commons Association.
- (B) Declarant may convey property to the Commons Association in either an improved or an unimproved condition, with or without any specific restrictions on its use, and the Commons Association must accept such property. The Commons Association shall not accept the conveyance of real property from any

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third party, in either an improved or unimproved condition, without the prior written consent of Declarant, so long as Declarant owns any property in the BERMUDA GREENS COMMONS.

6.4 Commons Association's Rights and Powers.

- (A) Subject to the provisions of this Declaration or any other applicable recorded instrument, the Commons Association's Articles and By-Laws, the Commons Association shall have the right, and the power, to develop, promulgate and enforce reasonable rules and regulations for the use and enjoyment of Common Areas.
- (B) No Common Areas shall be used in violation of any rule or regulation or other requirement of the Commons Association established pursuant to the provisions of this Declaration or the By-Laws or the Commons Association.

6.5 Declarant's Rights and Powers.

- (A) Declarant shall have the right and the power to regulate and control the external design and appearance of Common Areas in such a manner as to:
 - (1) Promote a quality environment which will preserve the value of the Living Units within the BERMUDA GREENS COMPLEX; and
 - (2) Foster the attractiveness and functional utility of BERMUDA GREENS COMPLEX as a place to live and play, including a harmonious relationship among structure, vegetation and topography.
- (B) No nuisance or obnoxious or offensive activity shall be conducted or permitted on any Common Areas. The Declarant shall have the right and the power in the exercise of its reasonable discretion to determine the activities or the uses which constitute nuisances or obnoxious or offensive activity. Nothing shall be done within the Common Areas which is a reasonable source of annoyance to the residents or Members.

- (C) No amendment to any of the Governing Documents shall be effective to diminish or alter Declarant's rights, powers, and privileges as long as Declarant holds any Unit for sale in the ordinary course of business within the BERMUDA GREENS COMPLEX or holds any Properties as defined herein, unless Declarant shall consent in writing.
- (D) Any use of Common Areas other than the uses intended pursuant to this Declaration shall be subject to the prior written approval of the Declarant so long as it holds any unit for sale in the ordinary course of business within the BERMUDA GREENS COMPLEX.

6.6 Maintenance. The Commons Association shall be responsible for the maintenance, repair, replacement and control of all Common Areas, and shall keep the same in good, safe, clean, attractive and sanitary condition, and in good working order at all times.

6.7 Partition Prohibited. There shall be no judicial partition of the Common Areas, except as expressly provided elsewhere herein, nor shall Declarant, or any Owner or any other person acquiring any interest in BERMUDA GREENS COMMONS, or any part thereof, seek judicial partition thereof.

7. LAKE AND WATER RIGHTS.

7.1 Ownership of Lakes. Certain portions of the Properties shall constitute "lakes". The lakes subjected to this DECLARATION shall be conveyed to the ASSOCIATION, who shall be the "OWNER" of the lakes for the purposes set forth in this DECLARATION. The waters, water quality, littoral plantings and maintenance of such lake shall be controlled by the ASSOCIATION.

7.2 Maintenance of Lake Embankments and Lake Bottoms. The ASSOCIATION shall maintain and control the water level and quality of the lakes and shall maintain the embankment from the top edge of such embankment to the lake bottom. The ASSOCIATION shall have the power and right, as it deems appropriate, to control and eradicate plants, fowl, reptiles, animals, fish and fungi in and on any lakes, as well as to maintain any drainage device and/or water level devices so as to ensure compliance with applicable governmental regulations as they exist from time to time. The OWNER of land which lies adjacent to or part of the embankment ("Adjacent OWNER") shall maintain all land to the top edge of the embankment. Maintenance of the embankment by the ASSOCIATION shall be conducted so that the grass, planting or other natural support of the embankment shall exist in a clean and safe manner and so as

to prevent erosion. If the Adjacent OWNER shall fail to maintain the property adjacent to the embankment, the ASSOCIATION shall have the right, but not the obligation, to enter onto the adjacent OWNER'S property and perform the maintenance at the expense of the adjacent OWNER, which expense shall be a Special Assessment against the adjacent OWNER and his property as provided herein.

7.3 Improvements on Lake. In the event the DECLARANT, an entity designated by the DECLARANT, or the ASSOCIATION shall construct any bridges, docks, or other improvements which may extend over or into the lake or construct any bulkheads or similar improvements to support or enhance the lake, the ASSOCIATION shall maintain any and all improvements in good repair and condition. No OWNER, except the DECLARANT, its designee or the ASSOCIATION, shall be permitted to construct any improvement, permanent or temporary, on, over or under any lake without the written consent of the ASSOCIATION. Such consent may be withheld by the ASSOCIATION for any reason.

7.4 Easement. A Member's use and access to the lakes shall be subject to and limited by this DECLARATION and the Rules and Regulations of the ASSOCIATION. If permitted, the use of lakes shall be limited to fishing, boating, and/or recreational use. The ASSOCIATION is hereby granted a non-exclusive easements for ingress and egress over the lakes and over any Properties for the purpose of providing the maintenance required herein.

7.5 Lake Use Restrictions And Covenants. In connection with the use of any lake the following restrictions shall apply:

(a) No motorized or power boats shall be permitted on any lake with the exception of boats used by the ASSOCIATION for maintenance thereof;

(b) No bottles, trash, cans, grass clippings or other landscape materials, or garbage of any kind or description shall be place in any lake;

(c) No activity shall be permitted on any lake which may become an annoyance or nuisance to the adjacent property and the Members thereof. The ASSOCIATION'S determination whether any activity constitutes an annoyance or nuisance shall be final;

(d) No person or entity, except DECLARANT or the ASSOCIATION or a member with the ASSOCIATION'S approval, shall have the right to pump or otherwise remove any water from any lake for the purpose of irrigation or other use;

(e) The lakes shall not be used in conjunction with any business enterprise or public use whatsoever;

(f) Only Members shall be permitted to fish in the lakes and only in areas so designated; and

(g) The Board of Directors of the ASSOCIATION shall be entitled to establish, amend, or modify Rules and Regulations governing the use of the lakes as the Board deems necessary or convenient.

8. ASSESSMENTS AND FEES.

8.1 Method of Establishing Assessments. Before the first day of December of each year, the Board of Directors of the Commons Association shall consider and adopt an annual operating budget in amounts believed to be sufficient to enable the Corporation to perform its functions for the ensuing year. Based upon the amount of monies determined to be needed for the operation of the Corporation, the Board of Directors shall assess against each member its proportionate share of the budget, such proportionate share being determined by the ratio which the number of dwelling units contained in the particular Member bears to the total number of dwelling units then completed (having received a Certificate of Occupancy) in the BERMUDA GREENS COMPLEX. However, in no event shall the total number of dwelling units in the BERMUDA GREENS COMPLEX exceed 264 units. Each member shall, as provided for in the Declaration of Condominium, Homeowner's Association document, or other governing documents pertaining to such member, apportion such annual assessments among its unit owners in the shares provided in said Declaration or governing documents.

8.2 Payment of Annual Assessments. Annual assessments shall be billed in quarterly installments payable in advance on the first day of January, April, July and October of each year.

8.3 Collection of Assessments. The Board of Directors of the Commons Association shall be authorized to adopt and promulgate rules and regulations for the collection of all assessments, and the determination and collection of assessments against the members shall be subject to the following provisions:

- A. Assessments or installments thereof remaining unpaid longer than ten (10) days after the due date shall bear interest from the due date at the highest rate allowed by law; all payments on account shall be first applied to interest and then to the assessment payment first due.

- B. No member may exempt itself from liability for its assessment hereunder by waiver of the use and enjoyment of any of the Common Areas or the waiver of the use and enjoyment of the Commons Area.

8.4 Declarant's Duties and Obligations. During the period of Developer control, the Developer will fund the difference, if any, between the Commons Association income from Members and the actual expenses incurred. The foregoing shall not obligate the Developer to contribute to the funding of any reserve accounts for capital expenditures or deferred maintenance.

9. PROVISIONS RELATED TO DEVELOPER.

9.1 Appointment of Directors. As the Developer of the BERMUDA GREENS COMPLEX, Bermuda Greens of Naples, Ltd. shall have the right to appoint all of the Directors of the Corporation until control of all Associations in the BERMUDA GREENS COMPLEX has been turned over to unit owners other than the Developer. Within thirty (30) days thereafter, each Association shall designate one or more directors to serve until their successors are designated and the next annual organizational meeting is held.

9.2 Title to Common Areas. Developer will initially retain the legal title to the Common Areas and Limited Common Areas. On or before the date when owners other than the Developer first select a majority of the Board of Directors as provided in 8.1 above, Developer shall convey the title to the Common Areas and Limited Common Areas to the Corporation and the Corporation shall accept such conveyance, subject to the assignments of the parking spaces in the Limited Common Areas, if any, to taxes for the year of conveyance and to restrictions, limitations, conditions, reservations and easements of record. Commencing with the date the Declaration of Condominium for BERMUDA GREENS, a Condominium is recorded, the BERMUDA GREENS COMMONS ASSOCIATION, INC. shall be responsible for the maintenance and administration of the properties, and for the payment of any taxes assessed against the properties and any improvements and personal property thereon accruing from and after the date of such recordation. Developer shall have the right from time to time to enter upon the properties during periods of construction upon adjacent properties and for the purpose of construction of any facilities on the properties that Developer elects to build. The aforesaid parking spaces shall not be assignable or transferable other than through the sale or conveyance of the unit to which they are appurtenant. Upon sale of a unit or property to which a parking space is appurtenant, the seller shall be required to assign and transfer the parking space with his property.

10. COVENANT AND RULE ENFORCEMENT: DISPUTE RESOLUTION. The Commons Association has the power to enforce all covenants, conditions, and restrictions set forth in this Declaration, and agreements applicable to any real property therein, and is further empowered to promulgate and enforce administrative rules and regulations governing the use of the Common Areas. Enforcement actions for damages, or for injunctive relief, or both, may be brought by any Member, Developer, or the Commons Association against:

- (A) The Commons Association
- (B) The owner of any Unit.
- (C) Any occupant of a Unit.
- (D) Any Association or Member which fails to make a reasonable effort to enforce any restrictive covenants or affirmative obligations under provisions of the Declaration or the Association's own constituent documents, where such failure has an adverse impact on the appearance of the community or the operation of this Association.

The enforcement of covenants, conditions, restrictions and agreements applicable to the specific developments within the BERMUDA GREENS COMPLEX is primarily the function and duty of the respective Associations. The enforcement of the provisions of this Declaration is primarily the responsibility of the Commons Association.

10.1 Damages and Attorney's Fees. Damages shall not be conclusively deemed adequate relief for any breach or violation of any provision hereof. Any person or entity entitled to enforce any provision hereof shall be entitled to relief by way of injunction, as well as any other available relief either at law or in equity. Any party to a proceeding who succeeds in enforcing any provision of this Declaration, or in enjoining violation or breach of any provision hereof, or recovers damages on account of such breach, against an Owner or the Commons Association shall be entitled to reimbursement of reasonable attorney's fees and court costs (including those resulting from appellate proceedings) by such Owner or Commons Association.

10.2 Non-Liability of Declarant. The Declarant shall not be liable or responsible for any violation of these covenants, conditions, restrictions or other provisions by any Person other than itself.

11. INSURANCE: RECONSTRUCTION AFTER CASUALTY.

11.1 Required Coverage. The Commons Association shall obtain and maintain at all times the insurance listed below. The named insured on all insurance policies upon the Common Area shall be the Common Area individually and as agent for each member and their respective unit owners, without naming them.

- A. Liability Insurance:** Public liability insurance covering all of the Common Area and insuring the Commons Association, the members, and their respective unit owners as their interests appear, in such amounts as the Board of Directors may determine from time to time. Premiums for such insurance shall be chargeable as an expense of the Commons Association and shall be assessed against and paid by each of the members as provided for in herein. The Commons Association shall not be responsible for purchasing liability insurance to cover accidents occurring outside the Commons Association.
- B. Property Insurance:** Insurance against vandalism, malicious mischief, fire, windstorm and other perils normally covered by a standard "all-risk" property contract, insuring all of the insurable improvements upon the land owned and to be owned by the Commons Association and all personal property included as Corporation Property, for a minimum of eighty percent (80%) of the full replacement value, together with such other insurance as the Commons Association may deem necessary. Premiums for such insurance shall be chargeable as an expense of the Commons Association and shall be assessed against and paid by each of the members as provided for herein. The Commons Association shall annually make an analysis to determine replacement costs for insurance purposes for all of the then existing improvements for the ensuing year. Said insurance shall not insure against damage to property other than Commons Association.
- C.** Such other insurance as the Board of Directors of the Corporation shall determine from time to time to be desirable. Premiums for such insurance shall be an expense of the Commons Association and shall be assessed against and paid by each of the members as provided for herein.

11.2 Distribution of Proceeds. If a loss occurs for which the proceeds of insurance policies are received, payments under the policies shall be disbursed and expended in the following manner:

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- A. To the officers of the Commons Association responsible for the conduct of its financial affairs. Said officers shall be bonded at the Commons Association's expense, at least to the full extent of the insurance proceeds and other funds on hand, and all such payees shall endorse the insurance company's check payable to the Commons Association.
- B. If the damage for which the proceeds are paid is to be repaired or reconstructed, the Commons Association shall pay the proceeds to defray the costs thereof as elsewhere provided. Any proceeds remaining after the defraying of such costs shall be distributed to the Commons Association to be used for the benefit of the members.
- C. 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 proceeds shall be distributed to the members.

11.3 Commons Association as Agent. The Commons Association is irrevocably appointed agent for each Member, the respective unit owners, and for each holder of a mortgage or other lien upon a dwelling unit, and for each owner of any other interest in the Commons Association property to adjust all claims arising under insurance policies purchased by the Commons Association and to execute and deliver releases for payment of claims.

11.4 Neighborhood Property. Each Member and their respective unit owners shall obtain insurance coverage at their own expense upon their own property and for their own personal liability.

11.5 Reconstruction or Repair After Casualty. If any part of the Commons Association shall be damaged by casualty, a decision as to whether or not it shall be reconstructed or repaired shall be made by the Board of Directors of the Commons Association. If the proceeds of insurance are not sufficient to defray the estimated cost of reconstruction and repair, and if the Board of Directors has determined to proceed to reconstruct and repair, the Board may make a special assessment against each member in order to obtain the funds sufficient for the payment of such costs. Such special assessments shall be assessed against each member based upon the ratio which the number of dwelling units contained in the particular member bears to the total number of dwelling units in the BERMUDA GREENS COMPLEX.

11.6 Property Insurance Coverage. The Commons Association shall maintain property insurance coverage on all structures, improvements, and fixtures which are part of the Club Common Areas.

11.7 General Liability Insurance Coverage. The Commons Association shall maintain general liability insurance coverage for all club common areas, public ways, and commercial spaces in the amount of \$1,000,000 for bodily injury and property damage per occurrence.

11.8 Bonding. The Commons Association shall maintain fidelity bond coverage for all individuals handling association funds in amounts sufficient to cover the minimum of three months assessments plus all reserves.

11.9 Commons Association's Right of Entry. For the purpose of performing the duties authorized by this Section 11, the Commons Association, through its duly authorized agents and employees, shall have the right to enter upon any Living Unit or Lot at reasonable hours and perform such duties.

12. Declarant's Rights.

12.1 Sales Activity. While Declarant holds one or more Units for sale in the ordinary course of business or holds Property within thy BERMUDA GREENS COMPLEX as defined herein, Declarant and its designees shall have the right to use the Common Areas (including, but not limited to, all recreational facilities) to establish, modify, maintain and utilize, as it and they deem appropriate, model Units, sales facilities, sales offices, or other offices for use in selling any part of BERMUDA GREENS COMPLEX. Without limiting the generality of the foregoing, the Declarant and its designees may show model Units or the Common Areas or Neighborhood Common Areas to prospective purchasers or tenants, erect signs and other promotional material to advertise, and take all other action helpful for sales, leases and promotion of BERMUDA GREENS COMPLEX.

12.2 Assignment of Rights to Subsequent Developer. Except as otherwise specifically provided herein, Declarant reserves the right and the power to delegate or assign, either exclusively or non-exclusively, partially or completely, to any person or entity, any or all of its development rights, powers, duties, privileges created or provided for by this Declaration or by any other recorded instrument. Such assignments shall not in any way lessen the Developer's rights herein.

12.3 Easement for Construction, Maintenance. Declarant (including its designees and contractors) shall have the right to enter any part of the Properties and take any action reasonably necessary or convenient for the purpose of completing the construction thereof, or any part thereon, and for repair,

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replacement and maintenance purposes provided such activity does not prevent or unreasonably interfere with the use or enjoyment of the Associations or their members.

12.4 Other Entities or Associations. Declarant shall have the right and the power, but neither the duty nor the obligation, to record an instrument subjecting the lands to protective covenants, conditions, restrictions or provisions other than those provided for in the Declaration.

12.5 Enforcement.

(A) Declarant reserves unto itself the right, and the power

(1) to enforce the covenants, conditions, restrictions, and other provisions of this Declaration, and

(2) to delegate or assign, either exclusively or non-exclusively, any or all of its rights, powers, duties or privileges hereunder to the Commons Association, or to an Association, or to any other person or entity.

(B) The Declarant shall have the right and the power to enforce the covenants, conditions, restrictions and other provisions imposed by this Declaration by any proceeding at law or in equity against any person violating or attempting to violate any such provisions, to restrain any violation or attempted violation of such provisions, to require specific performance of such provisions, to recover damages for violations of such provisions, and against the land to enforce any lien created by this Declaration. Failure by Declarant, or the Commons Association, or an Association, or any other person, to enforce any of such provisions shall in no event be deemed a waiver of their right to do so thereafter.

13. DURATION OF COVENANTS; AMENDMENT.

13.1 Duration. The covenants, conditions and restrictions of this Declaration shall run with and bind the Properties, and shall inure to the benefit of and be enforceable by the Commons Association, the Declarant and any Member, its respective legal representatives, heirs, successors, and assigns, for a period of thirty (30) years from the date this Declaration is recorded unless

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fifty-one percent (51%) of the members of each member Association and of the fifty-one percent (51%) of the mortgagees of an institutional mortgage of record vote for its termination before that time. Upon the expiration of said thirty (30) year period this Declaration shall be automatically renewed and extended for successive ten (10) year periods. The number of ten (10) year renewal periods hereunder shall be unlimited with this Declaration being automatically renewed and extended upon the expiration of each ten (10) year renewal period for an additional ten (10) year period; provided, however, that there shall be no renewal or extension of this Declaration if during the last year of the initial thirty (30) year period or any successive ten year (10) period fifty-one percent (51%) of the members of each member Association and fifty-one percent (51%) of the mortgagees of an institutional mortgage of record vote for its termination. It shall be required that written notice of any meeting at which such proposal to terminate this Declaration will be considered, shall be given at least forty-five (45) days in advance of said meeting. If this Declaration is terminated, the President and Secretary of the Commons Association shall execute a certificate which shall set forth the resolution of termination adopted by the Commons Association, the date of the meeting of the Commons Association at which such resolution was adopted, the date that notice of such meeting was given, the total number of votes of Members of the Commons Association, the total number of votes required to constitute a quorum at a meeting of the Commons Association, the number of votes necessary to adopt a resolution terminating this Declaration, the total number of votes cast in favor of such resolution, and the total number of votes cast against such resolution. Said certificate shall be recorded in the Public Records of Collier County, Florida, and may be relied upon for the correctness of the facts contained therein as they relate to the termination of this Declaration.

13.2 Amendment of Declaration. In addition to any other right of amendment or modification provided for in this Declaration, in which case those provisions shall apply, Declarant, may, in its sole discretion, by an instrument filed of record, unilaterally modify, enlarge, amend, waive or add to the covenants, conditions, restrictions and other provisions of this Declaration. This right shall expire at such time as Declarant no longer holds any property for sale in the ordinary course of business within BERMUDA GREENS COMPLEX, or twenty (20) years from the recording of this Declaration, whichever comes first.

13.3 Amendments by Members. This Declaration may be amended at any time provided that fifty-one percent (51%) of the members of each of the respective member Associations at a duly called and held meeting of the respective member Associations vote in favor of the proposed amendment; provided however, that if the affirmative vote required, for approval of action under the

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specific provision to be amended, is a higher or lower percentage, then such higher or lower percentage shall be required to approve amendment of that provision. Notice shall be given at least forty-five (45) days prior to the date of the meeting at which such proposed amendment is to be considered. If any proposed amendment to this Declaration is approved by the Members as set forth above, the President and Secretary of the Commons Association shall execute an Amendment to this Declaration which shall set forth the amendment, the date of the meetings of the member Associations and the Commons Association at which such amendment was adopted, the total number of votes cast for the amendment, and the total number of votes cast against the amendment. Such amendment shall be effective when recorded in the Public Records of Collier County, Florida. Amendments in the nature of the following shall require the affirmative approval of any institutional mortgagees holding a mortgage on the property.

- 1) Changes in voting rights;
- 2) Changes in line provisions as they affect institutional mortgagees;
- 3) Changes in reserve provisions and responsibility for maintenance, repairs and replacement of club common areas;
- 4) Changes in rights to use club common areas; and
- 5) Contraction of the club common areas.

13.4 Amendment of Provision Relating to Developer. As long as the Developer holds any Property for sale in the ordinary course of business within BERMUDA GREENS COMPLEX, no amendment shall have the effect of changing any provision relating specifically to the Developer without the Developer's written consent.

14. RIGHTS OF MORTGAGEES:

14.1 Notice of Casualty or Condemnation. In the event of condemnation, eminent domain proceedings, or very substantial damage to, or destruction of any part of the club common areas, the record holder of any first mortgage on the club common areas or any unit shall be entitled to notice.

14.2 Mortgage Foreclosure. Except as otherwise provided by law, if the mortgagee of an institutional mortgage of record acquires title to a living unit as a result of foreclosure of the mortgage, or as the result of a deed given in lieu of foreclosure, such mortgagee shall not be liable for the share of Commons Association expenses or assessments attributable to the living

unit, or chargeable to the former owner of the unit, which came due prior to the mortgagee's acquisition of title. Any unpaid share of Commons Association expenses which such acquirer is exempt from liability becomes an expense collectible from all unit owners, including such acquirer and his successors and assigns. No owner or acquirer of title to a condominium parcel by foreclosure (or by a deed in lieu of foreclosure) may during the period of his ownership of such parcel, whether or not the parcel is occupied, be excused from the payment of any assessments coming due during the period of such ownership. In the event of a conflict between this paragraph and paragraph 8.1 (D), this paragraph shall supersede.

14.3 Right to Inspect Books. The Association shall make available to institutional mortgagees requesting same current copies of the Declaration of Covenants, Conditions and Restrictions for BERMUDA GREENS COMMONS, By-laws, and other rules concerning the Commons Association and the books, records and financial statements of the Commons Association. "Available" shall mean ready for inspection, upon written request, during normal business hours, or under other reasonable circumstances. Photocopies shall be at the expense of the mortgagee requesting same.

14.4 Financial Statement. Any institutional mortgagee is entitled, upon written request, to a financial statement of the Commons Association for the immediately preceding fiscal year.

14.5 Water Management, Drainage and Conservation Area Restrictions and Easements.

(a) No structure, planting or other material (other than sod) of any kind shall be constructed, erected or installed, unless constructed, erected or installed by DECLARANT, nor shall a Member in any way change, alter, impede, revise or otherwise interfere with the flow and the volume of water in any portion of a water management and drainage area reserved for, or intended by DECLARANT to be reserved for, drainage way, sluice-ways or for the accumulation of runoff waters, as reflected in any Plot or instrument of record, without the specific written permission of the ASSOCIATION and the DECLARANT.

(b) A Member shall in no way deny or prevent ingress and egress by DECLARANT or the ASSOCIATION to any water management and drainage areas for maintenance or landscape purposes. The right of ingress and egress, and easements, therefor, are hereby granted in favor of the DECLARANT, the ASSOCIATION, or any appropriate governmental or quasi-governmental agency that may reasonably require such ingress and egress and easements therefore are hereby specifically reserved and created.

(c) No Properties shall be increased in size by the filling in or any water retention or drainage areas on which it abuts. Members shall not fill, dike, rip-rap, block, divert or change the established water retention and drainage areas that have been or may be created by easement without the prior written consent of the ASSOCIATION and the DECLARANT. No Member may draw water for irrigation or other purposes from any lake, pond or other water management area nor is any boating or swimming in such areas allowed, unless such Member has obtained written approval of the ASSOCIATION.

(d) The Preserve and Preserve Buffer Easement areas may not be altered from their natural state other than to remove exotic vegetation or to provide the utilities and drainage as shown on the Plat and approved construction plans for each phase. Each Property containing a Preserve Buffer Easement shall retain exclusive use of the Preserve Buffer area, but the Member may in no way alter such area from its natural state as noted above. Activities prohibited within the Preserve and Preserve Buffer areas include, but are not limited to, construction or placing of buildings on or above the ground, dumping or placing soils or other substances such as trash, removal or destruction of trees, shrubs or other vegetation, with the exception of exotic vegetation removal, dredging or removal of soil material, diking or fencing, and any other activities detrimental to drainage, flood control, water conservation, erosion control, or fish and wildlife habitat conservation or preservation.

(e) All surface water management systems within BERMUDA GREENS COMPLEX will be the ultimate responsibility of the ASSOCIATION. The ASSOCIATION may enter any Properties or Common Area and make whatever improvements or repairs are deemed necessary to restore proper water management. The cost shall be an expense of the ASSOCIATION.

(f) Nothing in this Section shall be construed to allow construction of any new water management facility or alteration of water management systems without first obtaining the necessary permits from all governmental regulatory agencies having jurisdiction.

15. RECREATIONAL FACILITIES.

15.1 RECREATIONAL FACILITIES TO BE CONSTRUCTED BY THE DEVELOPER. USED ONLY BY UNIT OWNERS OF THE BERMUDA GREENS COMPLEX. The Developer shall deed to the BERMUDA GREENS COMMONS ASSOCIATION as Association property that property identified on Pages 1 and 2 of Exhibit "A" and Page 2 of Exhibit "B" as the parcel upon which the developer is committed to construct as follows:

(A) Facilities Committed to be Built Which Will be Used Only by Unit Owners in the BERMUDA GREENS COMPLEX.

i. Swimming Pool. One heated, swimming pool with dimensions of at least 30' by 50', and with depths ranging from approximately 3' to 6' will be centrally located to the buildings. A deck at least six (6) feet wide will surround the pool on all sides. The pool and deck area surrounding the pool will have the capacity to accommodate approximately 40 persons.

ii. Clubhouse. With approximately 2,500 square feet which will contain a great room, an office/utility room, a screened lanai, a Men's room, and a Ladies room. The approximate capacity of the clubhouse will be 150 people.

The Developer will spend \$1,000 to provide pool furniture and equipment and other personal property for these facilities.

The maximum number of units that will use these facilities is two hundred sixty-four (264) but may be substantially less than 264.

RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED WITHOUT CONSENT OF UNIT OWNERS OR THE ASSOCIATION

The recreational facilities described in this paragraph are committed to be constructed as part of the Commons Association. These facilities will be available for use in 1991. The location of these facilities is shown on Page 2 of Exhibit "B" to this Declaration.

(B) Method of Sharing Cost and Expense. The total cost and expense of managing, operating and maintaining all recreation facilities thereon shall be a common expense of the Association and assessed to the unit owners in accordance with their respective proportions of sharing common expenses pursuant to Section 3 above.

16. GENERAL AND PROCEDURAL PROVISIONS.

16.1 Other Documents. Declarant, the Commons Association and any Neighborhood Association provided for herein or in any applicable recorded instrument shall have such rights, powers, duties, and privileges as set forth herein or in the Articles of Incorporation, By-Laws and other constituent documents of such entity; however, no such entity may have rights, duties, powers or privileges that are in conflict with the provisions of this

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Declaration, and this Declaration shall prevail in all events of conflict.

16.2 Severability. If any covenant, condition, restriction or other provision of this Declaration is held to be invalid in whole or in part by any Court of competent jurisdiction, then such holding shall in no way affect the validity of the remaining provisions of this Declaration, all of which shall remain in full force and effect.

16.3 Dissolution. In the event of dissolution of the Commons Association each member Association shall continue to be subject to the annual assessment specified in Section 8 and each Owner shall continue to be personally obligated to Declarant or the successor or assigns of the Commons Association as the case may be for such assessment to the extent that such assessments are required to enable Declarant or any such successors or assigns acquiring any real property previously owned by the Commons Association to properly maintain, operate and preserve it.

16.4 Gender. Wherever in this Declaration the context so requires the singular number shall include the plural, and the converse; and the use of any gender shall be deemed to include all genders.

16.5 Notices.

- (A) **To Declarant.** Notice to Declarant as may be required herein shall be in writing and delivered or mailed to Declarant at its principal place of business as shown by the records of the Secretary of the State of Florida, or at any other location designated by Declarant.
- (B) **To Commons Association.** Notice to the Commons Association shall be in writing and delivered or mailed to the Commons Association at its principal place of business as shown by the records of the Secretary of the State of Florida, or at any other location designated by Commons Association.
- (C) **To Owner.** Notice to any Owner of a violation of any of these restrictions, or any other notice as may be required herein shall be in writing and shall be delivered or mailed to the Owner at his last known address, or at the address shown on the deed recorded in the Public Records of Collier County, Florida.
- (D) **To Association.** Notice to the Association shall be in writing and delivered or mailed to the

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Association at its principal place of business as shown by the records of the Secretary of the State of Florida, or at any other location designated by Association.

16.6 Construction. The provisions of this Declaration shall be liberally interpreted and construed to provide maximum flexibility consistent with the general development plan for the BERMUDA GREENS COMPLEX and the purposes set forth herein.

16.7 Captions, Headings and Titles. Captions, headings, and titles inserted throughout this Declaration are for convenience only, and in no way shall such captions, headings or titles define, limit, or in any way affect the subject matter, content or interpretation of the terms and provisions of this Declaration.

16.8 Interpretation. The Board of Directors of the Commons Association shall be responsible for interpreting the provisions of this Declaration and of any of the exhibits attached hereto. Such interpretation shall be binding upon all parties unless wholly unreasonable. A written opinion rendered by legal counsel that an interpretation adopted by the Board is not unreasonable shall conclusively establish the validity of such interpretation.

16.9 Applicable Statutes. The validity, application, and construction of this Declaration and its exhibits shall be governed by the Laws of Florida as they exist on the date of the recording of this Declaration.

IN WITNESS WHEREOF, Bermuda Greens of Naples, Ltd., a Florida limited partnership, as Owner of the hereinabove described property, hereby executes this Declaration by and through its duly authorized officer.

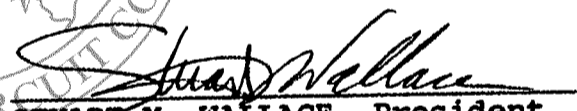
Witnesses:

BERMUDA GREENS OF NAPLES, LTD.,
a Florida Limited Partnership

By: CBG OF NAPLES, INC.
GENERAL PARTNER


Suzanne Howard


Debra C. Watts


STUART M. WALLACE, President
800 Seagate Drive, Suite 301
Naples, Florida 33940

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Page 28

FORSYTH, SWALM & BRUGGER, P.A., Attorneys at Law, 600 Fifth Avenue South, Suite 210, Naples, Florida 33940

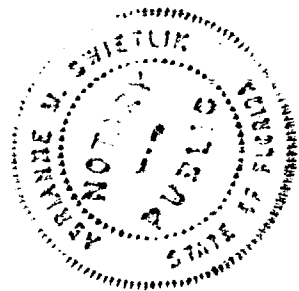
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STATE OF FLORIDA
COUNTY OF COLLIER

This instrument was acknowledged before me this 2nd day of November 1971, by Stuart N. Wallace, President of CBG OF NAPLES, INC., a Florida corporation, the general partner of BERMUDA GREENS OF NAPLES, LTD., a Florida limited partnership, on behalf of the partnership.

Adrienne M. Swietlik
Notary Public (SEAL)
My Commission Expires:
Adrienne M. Swietlik

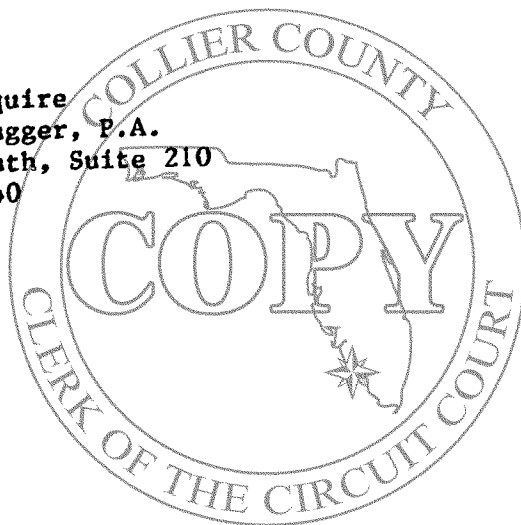
NOTARY PUBLIC, STATE OF FLORIDA,
MY COMM. EXPIRES NOVEMBER 21, 1975.
BONDED THAT NOTARY PUBLIC ENDEAVORING



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Prepared by:

John N. Brugger, Esquire
Forsyth, Swalm & Brugger, P.A.
600 Fifth Avenue South, Suite 210
Naples, Florida 33940



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JOINDER AND CONSENT OF MORTGAGEE

THIS JOINDER AND CONSENT is given this 7th day of November, 1991, on behalf of COMMONWEALTH MANAGEMENT AND DEVELOPMENT CORPORATION, a Florida Corporation, being the owner and holder of that certain mortgage given by BERMUDA GREENS OF NAPLES, LTD., a Florida Limited Partnership ("Mortgagor"), to Whispering Pines, Inc., a Florida Corporation, dated June 19, 1990, and recorded on June 25, 1990, in O.R. Book 1539, at Page 936, securing a Promissory Note in the face amount of \$2,200,000.00, which mortgage was assigned to First National Bank of Bonita Springs by Assignment dated December 6, 1990, and recorded in O.R. Book 1577, Page 101, and as assigned to Whispering Pines, Inc. by Assignment of Mortgage recorded June 19, 1991 in O.R. Book 1625, Page 1694, and as further assigned to COMMONWEALTH MANAGEMENT AND DEVELOPMENT CORPORATION by Assignment of Mortgage recorded June 19, 1991 in O.R. Book 1625, Page 1696 and a Mortgage Subordination Agreement by COMMONWEALTH MANAGEMENT AND DEVELOPMENT CORPORATION dated August 16, 1991 and recorded in O.R. Book 1641, Page 1557, all of the Public Records of Collier County, Florida.

Further, this Joinder and Consent is given by COMMONWEALTH MANAGEMENT AND DEVELOPMENT CORPORATION, a Florida Corporation, being the owner and holder of that certain Mortgage given by BERMUDA GREENS OF NAPLES, LTD., a Florida Limited Partnership, recorded March 26, 1991 in O.R. Book 1601, Page 1995, Public Records of Collier County, Florida.

WHEREAS, Mortgagor has requested Mortgagee to join in and consent to the recording of the Declaration of Covenants, Conditions & Restrictions for Bermuda Greens Commons (the "Declaration").

NOW, THEREFORE, Mortgagee joins in and consents to the recording of the Declaration and agrees that the lien and effect of the Mortgage shall be subject and subordinate to the terms of the Declaration.

Mortgagee makes no warranty or representation of any kind or nature concerning the Declaration, any of its terms and provisions, or the legal sufficiency thereof, and disavows any such development of Bermuda Greens Commons and does not assume and shall not be responsible for any of the obligations or liabilities of the developer contained in the Declaration or other documents issued in connection with the promotion of Bermuda Greens. None of the representations contained in the Declaration or other documents shall be deemed to have been made by Mortgagee, nor shall they be construed to create any obligation on Mortgagee to any person relying thereon. Nothing contained herein shall affect or impair the rights and remedies of Mortgagee as set forth in the Mortgage or in the Declaration.

Made as of the day and year first above written.

Signed in the presence of:

COMMONWEALTH MANAGEMENT AND
DEVELOPMENT CORPORATION, a
Florida Corporation

Bly J. DeNike
Witness Bly J. DeNike

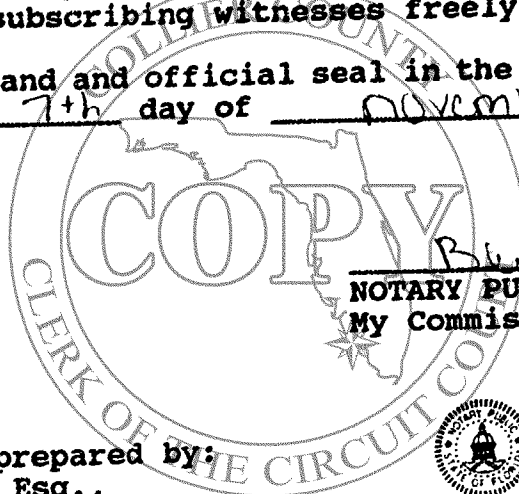
Darla Jo Anderson
Witness Darla Jo Anderson

By: Roderick A. MacLeod
Roderick A. MacLeod,
President
800 Seagate Drive, Suite 301
Naples, Florida 33940

STATE OF FLORIDA)
COUNTY OF COLLIER)

I HEREBY CERTIFY, that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared RODERICK A. MACLEOD, President of COMMONWEALTH MANAGEMENT AND DEVELOPMENT CORPORATION, a Florida Corporation, well known to me to be the person described in the foregoing instrument, and he acknowledged executing the same in the presence of two subscribing witnesses freely and voluntarily.

WITNESS my hand and official seal in the County and State last aforesaid this 7th day of November, 1991.



Bly J. DeNike
NOTARY PUBLIC
My Commission Expires:

This Instrument prepared by:
John N. Brugger, Esq.,
Forsyth, Swalm & Brugger, P.A.
600 Fifth Avenue South, Suite 210,
Naples, Florida 33940
(813) 263-6999



BLY J. DENIKE
MY COMMISSION EXPIRES
June 5, 1994
BONDED THRU NOTARY PUBLIC UNDERWRITERS

JOINDER AND CONSENT OF MORTGAGEE

THIS JOINDER AND CONSENT is given this 7th day of November, 1991, on behalf of BARNETT BANK OF NAPLES, a Florida Banking Corporation ("Mortgagee"), being the owner and holder of that certain Mortgage and Security Agreement given by BERMUDA GREENS OF NAPLES, LTD., a Florida Limited Partnership ("Mortgagor"), dated and recorded on the 31st day of May, 1991, in Official Records Book 1621, Pages 867 et seq.; and a UCC-1 Financing Statement recorded May 31, 1991 in Official Records Book 1621, Page 913, and an Assignment of Leases and Rents, dated and recorded May 31, 1991, in Official Records Book 1621, Page 905 et seq., all of the Public Records of Collier County, Florida.

WHEREAS, Mortgagor has requested Mortgagee to join in and consent to the recording of the Declaration of Covenants, Conditions & Restrictions for Bermuda Greens Commons (the "Declaration").

NOW, THEREFORE, Mortgagee consents to and joins in the recordation of the Declaration and agrees that the lien and effect of the Mortgage shall be subject and subordinate to the terms of the Declaration.

Mortgagee makes no warranty or representation of any kind or nature concerning the Declaration, any of its terms and provisions, or the legal sufficiency thereof, and disavows any such development of Bermuda Greens Commons and does not assume and shall not be responsible for any of the obligations or liabilities of the developer contained in the Declaration or other documents issued in connection with the promotion of Bermuda Greens. None of the representations contained in the Declaration or other documents shall be deemed to have been made by Mortgagee, nor shall they be construed to create any obligation on Mortgagee to any person relying thereon. Nothing contained herein shall affect or impair the rights and remedies of Mortgagee as set forth in the Mortgage or in the Declaration.

Made as of the day and year first above written.

Signed in the presence of:

BARNETT BANK OF NAPLES, a
Florida Banking Corporation

Beatrice Velez
Witness Beatrice Velez

Susan Kitts
Witness Susan Kitts

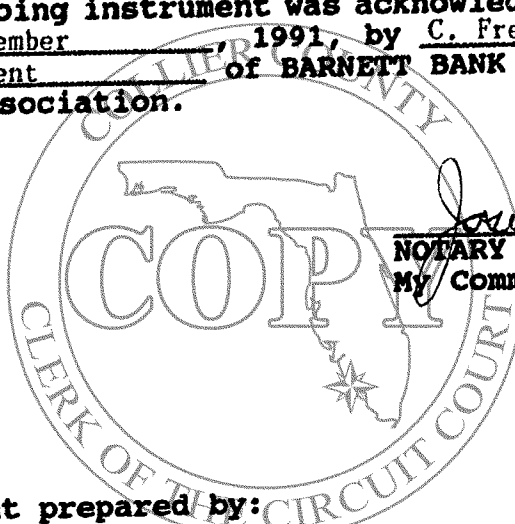
BY: *C. Fred Bailey*
C. Fred Bailey
(printed name)

Vice President
(title)
796 Fifth Avenue South
Naples, Florida 33940
CORPORATE SEAL

STATE OF FLORIDA
COUNTY OF COLLIER

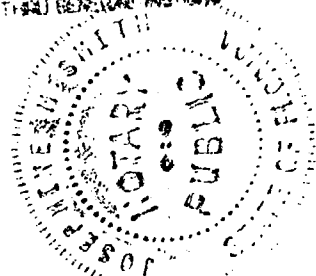
The foregoing instrument was acknowledged before me this 7th
day of November, 1991, by C. Fred Bailey
Vice President of BARNETT BANK OF NAPLES, on behalf of
the banking association.

(SEAL)



Josephine M. Smith
NOTARY PUBLIC Josephine M. Smith
My Commission Expires:

NOTARY PUBLIC STATE OF FLORIDA
MY COMMISSION EXP. AUG. 18, 1992
BONDED THROUGH GENERAL ANDWARD



This Instrument prepared by:
John N. Brugger, Esq.
Forsyth, Swalm & Brugger, P.A.
600 Fifth Avenue South, Suite 210
Naples, Florida 33940
(813) 263-6000

When received.

BERMUDA GREENS COMMONS

LEGAL DESCRIPTION

A parcel of land in Section 14, Township 48 South, Range 25 East based on the descriptions recorded in Official Record Book 1539, Pages 934 and 935 and Official Record Book 1539, Pages 73 and 74 of the Public Records of Collier County, Florida, being more particularly described as follows:

TRACT "B" OF BERMUDA GREENS TRACT MAP

Commencing at the Southwest corner of said Section 14, Township 48 South, Range 25 East, Collier County, Florida; thence run $N00^{\circ}00'50''E$ along the West line of said Section 14, for 299.67 feet; thence run $S89^{\circ}59'10''E$ for 111.21 feet; thence run East for 278.70 feet to the POINT OF BEGINNING of the herein described lands; thence run $N07^{\circ}25'34''E$ for 420.92 feet; thence run $N52^{\circ}39'44''E$ for 132.05 feet; thence run $N35^{\circ}33'31''E$ for 161.26 feet; thence run $N77^{\circ}22'41''E$ for 278.24 feet; thence run $S05^{\circ}35'32''W$ for 102.21 feet; thence run $S21^{\circ}38'06''W$ for 268.19 feet; thence run $S04^{\circ}04'12''W$ for 111.95 feet to a point of curvature of a curve concaved to the Northwesterly; thence run 60.32 feet along the arc of said curve having a radius of 37.00 feet, a central angle of $93^{\circ}24'29''$, a chord of 53.86 feet and a chord bearing of $S50^{\circ}46'27''W$; thence run $N82^{\circ}31'19''W$ for 134.89 feet to a point of curvature of a curve concaved to the Southeasterly; thence run 52.97 feet along the arc of said curve having a radius of 33.00 feet, a central angle of $91^{\circ}57'43''$, a chord of 47.46 feet and a chord bearing of $S51^{\circ}29'50''W$; thence run $S05^{\circ}30'58''W$ for 203.24 feet; thence run $N76^{\circ}17'50''W$ for 91.03 feet; thence run West for 87.30 feet to the Point of Beginning, subject to easements, restrictions and reservations of record, containing 4.44 acres more or less.

and;

TRACT "C" OF BERMUDA GREENS TRACT MAP

Commencing at the Southwest corner of said Section 14, Township 48 South, Range 25 East, Collier County, Florida; thence run $N00^{\circ}00'50''E$ along the West line of said Section 14, for 299.67 feet; thence run $S89^{\circ}59'10''E$ for 111.21 feet; thence run East for 278.70 feet; thence run $N07^{\circ}25'34''E$ for 420.92 feet; thence run $N52^{\circ}39'44''E$ for 132.05 feet; thence run $N35^{\circ}33'31''E$ for 161.26 feet; thence run $N77^{\circ}22'41''E$ for 48.50 feet to the POINT OF BEGINNING of the herein described

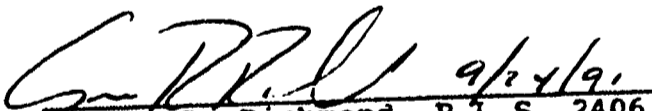
lands; thence run N12°37'19"W for 51.86 feet; thence run N32°03'07"W for 45.89 feet; thence run N00°27'44"W for 90.45 feet; thence run S52°59'53"E for 34.39 feet; thence run S75°13'19"E for 50.00 feet; thence run S15°17'20"E for 39.67 feet; thence run S19°33'57"E for 95.42 feet; thence run S77°22'41"W for 83.84 feet to the Point of Beginning subject to easements, restrictions and reservations of record, containing 0.29 acres more or less.

and;

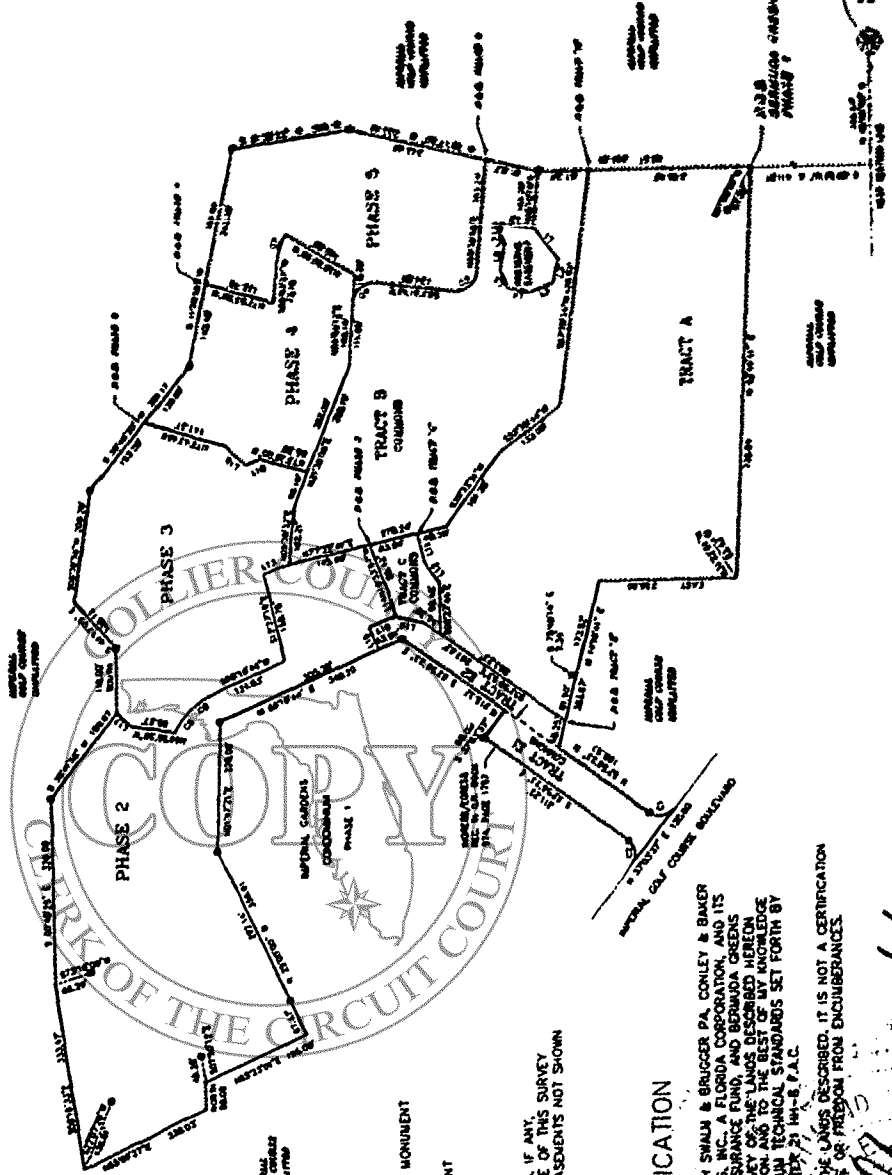
TRACT "E" OF BERMUDA GREENS TRACT MAP

Commencing at the Southwest corner of said Section 14, Township 48 South, Range 25 East, Collier County, Florida; thence run N00°00'50"E along the West line of said Section 14, for 299.67 feet; thence run S89°59'10"E for 111.21 feet; thence run N02°44'41"E for 730.84 feet; thence run East for 235.00 feet; thence run N14°10'41"E for 255.42 feet to the POINT OF BEGINNING of the herein described lands; thence continue N14°10'41"E for 48.25 feet; thence run N52°56'23"W for 196.57 to a point of curvature of a concaved to the Southeasterly; thence run 47.12 feet along the arc of said curve having a radius of 30.00 feet, a central angle of 90°00'00", a chord of 42.43 feet and a chord bearing of S82°03'37"W (S82°30'37"W in Deed) to the intersection with the Southeasterly right-of-way line of Imperial Golf Course Boulevard); thence run N37°03'37"E along said right-of-way line for 120.00 to a point of cusp with a curve concaved to the Northeasterly; thence run 47.12 feet along the arc of said curve having a radius of 30.00 feet, a central angle of 90°00'00", a chord of 42.43 feet, and a chord bearing of S07°56'23"E to a point of tangency; thence run S52°56'23"E for 311.25 feet; thence run S37°03'37"W for 60.00 feet; thence run S52°56'23"E for 215.32 feet; thence run N66°18'44"E for 43.91 feet; thence run S23°41'16"E for 43.42 feet; thence run S69°19'02"W for 50.00 feet; thence run N75°13'19"W for 50.00 feet; thence run N52°59'53"W for 297.62 feet to the Point of Beginning, subject to easements, restrictions and reservations of record, containing 0.86 acres more or less.

Prepared by:

 9/24/91
George R. Richmond, P.L.S. 2406
William C. McAnly & Associates, P.A.
5101 East Tamiami Trail, Suite 202
Naples, Florida 33962

BERMUDA GREENS COMPLEX BOUNDARY SURVEY



CURVE TABLE

STATION	CHORD BEARING	CHORD DISTANCE	ARC BEARING	ARC DISTANCE
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LINE TABLE

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LEGEND
 ■ PERMANENT REFERENCE MONUMENT
 P.O.B. POINT OF BEGINNING
 P.O.C. POINT OF COMMENCEMENT

NOTES
 1. LOCATION OF IMPROVEMENTS, IF ANY, ARE NOT WITHIN THE SCOPE OF THIS SURVEY.
 2. LOCATION OF RECORDED EASEMENTS NOT SHOWN

CERTIFICATION

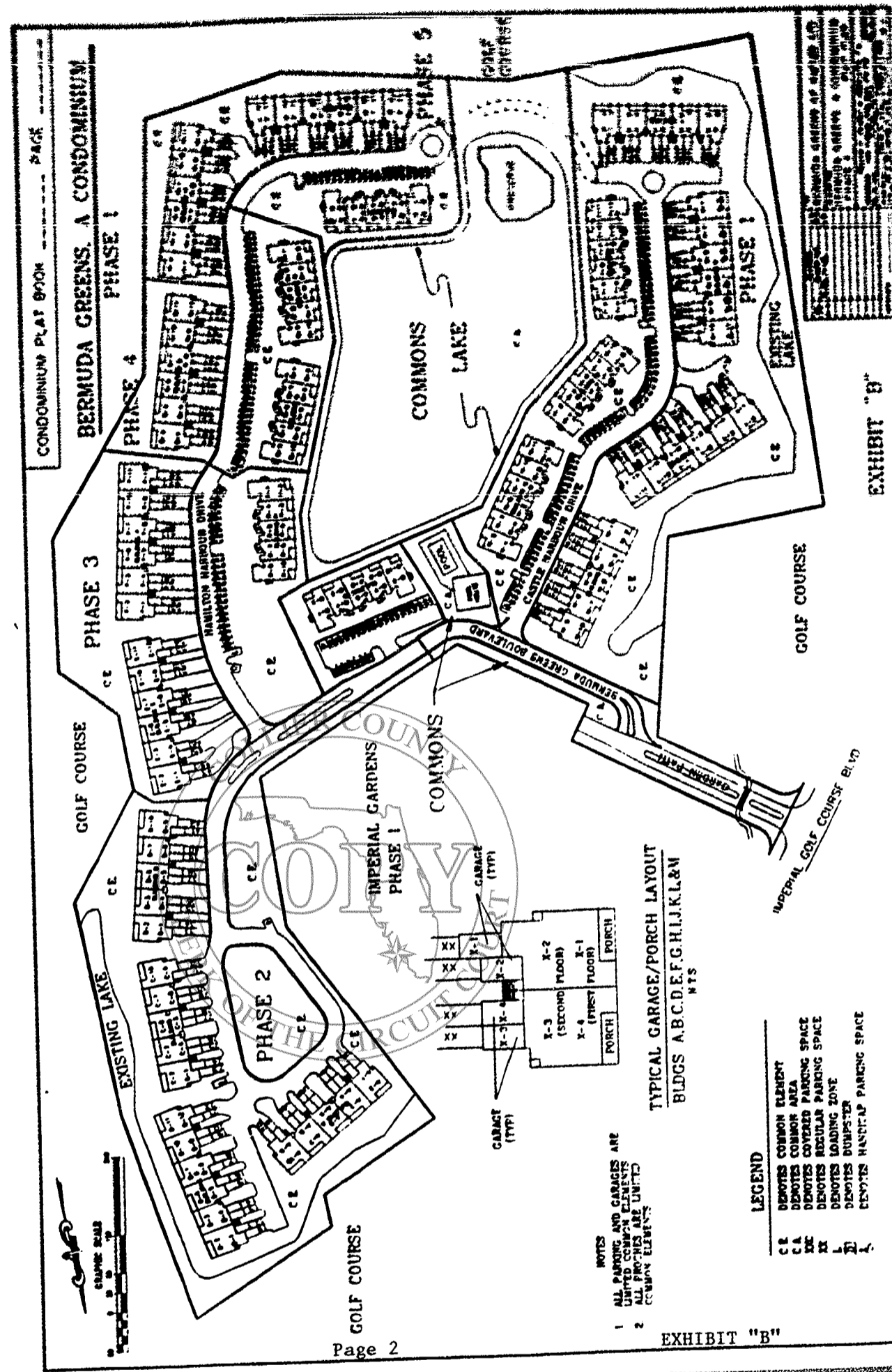
I HEREBY CERTIFY TO FORSYTH SWAIN & BRUGGER P.A., CONLEY & BAKER CHARTERED, WHISPERING PINES, INC., A FLORIDA CORPORATION, AND ITS ASSOCIATES, ATTORNEYS TITLE INSURANCE FUND, AND BERMUDA GREENS OF NAPLES LTD. THAT A SURVEY OF THE LANDS DESCRIBED AND ANCHORAGE WAS MADE UNDER MY PERSONAL TECHNICAL STANDARDS SET FORTH BY FLORIDA STATUTE, CHAPTER 29, §§ 29.01-29.05, P.A.C.

CERTIFICATION IS VALID FOR THE LANDS DESCRIBED. IT IS NOT A CERTIFICATION OF TITLE, ZONING, EASEMENTS, OR FREEDOM FROM ENCUMBRANCES.


[Signature]
 DATE 11/6/91
 GEORGE R. RICHMOND, P.L.S., 2308
 WILLIAM C. MANNING & ASSOCIATES, P.A.
 5101 EAST TAMPAWATTA ROAD, SUITE 202
 NAPLES, FLORIDA 34102
 (813) 775-0783 ED LAW

MINOR SURVEYS OF THE STATE OF FLORIDA
 REGISTERED PROFESSIONAL SURVEYORS
 GEORGE R. RICHMOND, P.L.S.
 WILLIAM C. MANNING & ASSOCIATES, P.A.
 5101 EAST TAMPAWATTA ROAD, SUITE 202
 NAPLES, FLORIDA 34102
 (813) 775-0783

EXHIBIT "B"



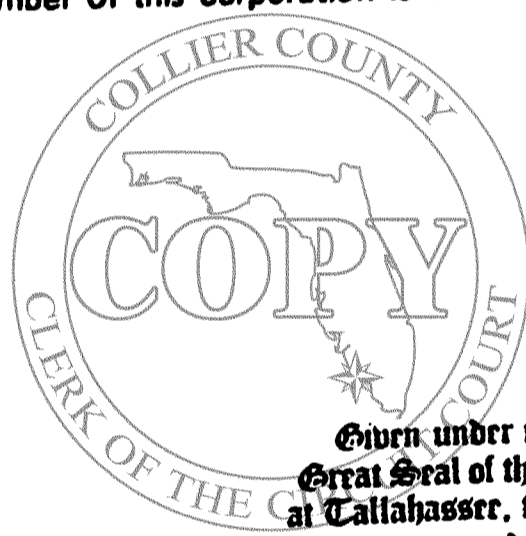
State of Florida



Department of State

I certify that the attached is a true and correct copy of the Articles of Incorporation of BERMUDA GREENS COMMONS ASSOCIATION, INC., a corporation organized under the Laws of the State of Florida, filed on November 1, 1991, as shown by the records of this office.

The document number of this corporation is N45858.



Given under my hand and the Great Seal of the State of Florida, at Tallahassee, the Capital, this the 1st day of November, 1991.



CR2EO22 (2-91)

Jim Smith

Jim Smith
Secretary of State EXHIBIT "C"

ARTICLES OF INCORPORATION

OF

BERMUDA GREENS COMMONS ASSOCIATION, INC.

FILED
 JAN 11 1964
 SECRETARY OF STATE
 TALLAHASSEE, FLORIDA

Pursuant to Section 617.013, Florida Statutes, these Articles of Incorporation are created by Bermuda Greens of Naples, Ltd., of Naples, Florida, as sole incorporator, for the purposes set forth below.

ARTICLE I

NAME: The name of the corporation, is BERMUDA GREENS COMMONS ASSOCIATION, INC., and its address is 800 Seagate Drive, Suite 301, Naples, Florida 33940.

ARTICLE II

PURPOSE AND POWERS: The purpose for which the Corporation is organized is to provide an entity to own, maintain and operate the Recreation Areas, Common Areas, and landscaped areas for the benefit of the condominiums located within the BERMUDA GREENS COMPLEX as described.

The Corporation is organized and shall exist on a non-stock basis as a corporation not for profit under the laws of the State of Florida. No portion of any earnings of the Association shall be distributed or inure to the private benefit of any member, director or officer. All funds and the title to all property acquired by the Corporation shall be held for the benefit of the members in accordance with the provisions of these Articles of Incorporation and the By-Laws. For the accomplishment of its purposes, the Corporation shall have all of the common law and statutory powers and duties of a Florida corporation not for profit, except as limited or modified by these Articles or the By-Laws, including without limitation the following:

- A. To own, acquire and convey land, and to operate, maintain, and manage those lands owned or to be owned by the Corporation and such other lands which the Corporation is responsible to maintain.

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 Page 1

EXHIBIT "C"

- B. To operate, maintain, manage and keep in good repair, any of the improvements and amenities upon lands owned by the Corporation and upon lands which the Corporation is responsible to maintain, including, without limitation, structures for the use of the Corporation's members and their respective unit owners.
- C. To landscape all lands owned by the Corporation, and all lands which the Corporation is responsible to maintain.
- D. To make available to the members of the Corporation and their respective unit owners, services and facilities for the enjoyment of the properties herein mentioned, and to promote the social welfare, security, pleasure, recreation, entertainment, and common good of the members and their respective unit owners.
- E. To assess against the members of the Corporation fees for the operation and maintenance of the Corporation in order to enable the Corporation to perform its purposes as set forth herein and in the By-Laws of the Corporation, and such other purposes as may be allowed by law.
- F. To borrow or raise money for any of the purposes of the Corporation and from time to time without limit as to amount, to draw, make, accept, endorse, execute, and issue promissory notes, drafts, bills of exchange, warrants, bonds, debentures and other negotiable or non-negotiable instruments and evidences of indebtedness; and to secure the payment of any thereof, and of the interest thereon, any mortgage, pledge, conveyance or assignment in trust, of the whole or any part of the rights or property of the Corporation, whether at the time owned or thereafter acquired.

ARTICLE III

MEMBERSHIP:

- A. The members of the Corporation shall be all the Florida non-profit corporations ("Associations") which are actually created for the purpose of operating a residential condominium or other multi-unit residential development located within the property described as the BERMUDA GREENS COMPLEX. If any of the member Associations is voluntarily dissolved (except incident to a merger with this corporation), that Association's right to membership shall be transferred to another

BERMUDA GREENS COMMONS - ARTICLES
Page 2

EXHIBIT "C"

corporation, or to a trustee, which shall have and exercise such Association's membership rights, obligations and privileges as long as this Corporation exists.

- B. Whenever a vote of the members is required, each member Association shall be entitled to one vote in Corporation matters for each dwelling unit within that Association. The manner of exercising voting rights shall be as set forth in the By-Laws.
- C. The share of a member Association in the funds and assets of the Corporation cannot be assigned, withdrawn or transferred in any manner except as an appurtenance to the property the member Association operates.

ARTICLE IV

DIRECTORS AND OFFICERS:

- A. The affairs of the Corporation shall be administered by a Board of Directors consisting of the number of Directors determined by the By-Laws, but not less than three (3) Directors, and in the absence of such determination shall consist of three (3) Directors. Directors may be, but do not have to be, officers or directors of their respective Associations.
- B. Directors shall be appointed or elected by the member Associations in the manner determined by the By-Laws. Directors may be removed and vacancies on the Board of Directors shall be filled in the manner provided by the By-Laws.
- C. The business of the Corporation shall be conducted by the officers designated in the By-Laws. The officers shall be elected by the Board of Directors at its annual organizational meeting and shall serve at the pleasure of the Board.

ARTICLE V

TERM: The term of the Corporation shall be perpetual.

BERMUDA GREENS COMMONS - ARTICLES
Page 3

EXHIBIT "C"

ARTICLE VI

BY-LAWS: The By-Laws of the Corporation shall be the By-Laws as they may be amended from time to time. The By-Laws may be altered, amended, or rescinded in the manner provided therein.

ARTICLE VIIAMENDMENTS:

- A. These Articles of Incorporation may be altered or amended at any regular or special meeting of the members, provided that: (1) written notice of the meeting is given in the manner provided for in the By-Laws, and the notice contains the full text of the proposed alteration or amendment; and (2) the proposed alteration or amendment is approved by the affirmative vote of at least a majority of the voting interests.
- B. No amendment of these Articles or of the By-Laws shall be effective to change the voting rights of any member, or to change the proportion or percentage by which a member shares the expenses of the Corporation, unless that member consents thereto.
- C. An amendment shall become effective after filing with the Secretary of State and after being recorded in the Public Records of Collier County, Florida. For recording purposes, the amendment shall be attached to a certificate executed by the officers of the Corporation with the formalities of a deed. The certificate must identify the book and page of the Public Records where each Declaration of Condominium for all condominiums which are members of the BERMUDA GREENS COMMONS ASSOCIATION, INC. is kept.

ARTICLE VIIIINITIAL DIRECTORS:

The initial Directors of the Association shall be:

Stuart M. Wallace
800 Seagate Drive, Suite 301
Naples, Florida 33940

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EXHIBIT "C"

William Slavich
800 Seagate Drive, Suite 301
Naples, Florida 33940

Barbara A. Williams
800 Seagate Drive, Suite 301
Naples, Florida 33940

ARTICLE IX

INITIAL REGISTERED AGENT:

The initial registered office of the Association shall be at:

BERMUDA GREENS OF NAPLES, LTD.
800 Seagate Drive, Suite 301
Naples, Florida 33940

The initial registered agent at said address shall be:

Stuart M. Wallace

ARTICLE X

INDEMNIFICATION: To the fullest extent permitted by Florida law, the Association shall indemnify and hold harmless every Director and every officer of the Association against all expenses and liabilities, including attorneys fees, actually and reasonably incurred by or imposed on him in connection with any legal proceeding (or settlement or appeal of such proceeding) to which he may be a party because of his being or having been a Director or officer of the Association. The foregoing right of indemnification shall not be available if a judgement or other final adjudication establishes that his actions or omissions to act were material to the cause adjudicated and involved:

- A. Willful misconduct or a conscious disregard for the best interests of the Association, in a proceeding by or in the right of the Association to procure a judgement in its favor.
- B. A violation of criminal law, unless the director or officer had no reasonable cause to believe his action was unlawful or had reasonable cause to believe his action was lawful.

BERMUDA GREENS COMMONS - ARTICLES
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- C. A transaction from which the Director or officer derived an improper personal benefit.
- D. Wrongful conduct by Directors or officers appointed by the Developer, in a proceeding brought by or on behalf of the Association.

In the event of a settlement, the right to indemnification shall not apply unless the Board of Directors approves such settlement as being in the best interest of the Association. The foregoing rights of indemnification shall be in addition to and not exclusive of all other rights to which a Director or officer may be entitled.

WHEREFORE the incorporator has caused these presents to be executed this 3-1 day of October, 1971.

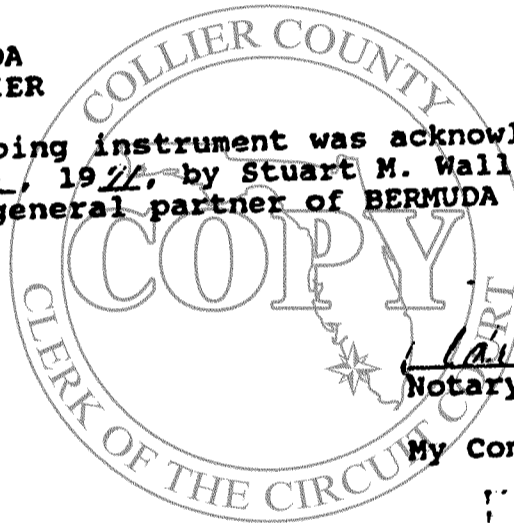
BERMUDA GREENS OF NAPLES, LTD.
a Florida Limited Partnership

By: CBG OF NAPLES, INC.
General Partner

BY: Stuart M. Wallace
Stuart M. Wallace, President

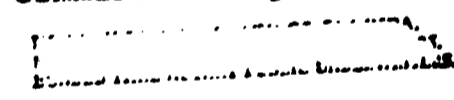
STATE OF FLORIDA
COUNTY OF COLLIER

The foregoing instrument was acknowledged before me this 3/1 day of October, 1971, by Stuart M. Wallace, President of CBG OF NAPLES, INC., general partner of BERMUDA GREENS OF NAPLES, LTD.



Louanna M. Swittick
Notary Public

My Commission Expires



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EXHIBIT "C"

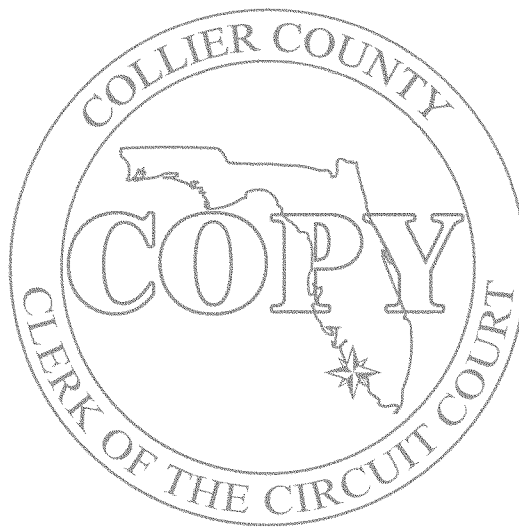
ACCEPTANCE OF REGISTERED AGENT

Having been named to accept service of process for BERMUDA GREENS COMMONS ASSOCIATION, INC., at the place designated in these Articles of Incorporation, I hereby accept the appointment to act in this capacity and agree to comply with the laws of the State of Florida in keeping open said office.


Stuart M. Wallace

D:\wp50\CONDO\BERMUDA\COMMONS.ART

FILED
91 NOV -1 PM 4: 04
SECRETARY OF STATE
TALLAHASSEE, FLORIDA



BERMUDA GREENS COMMONS - ARTICLES
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EXHIBIT "C"

BY-LAWS

OF

BERMUDA GREENS COMMONS ASSOCIATION, INC.

1. **GENERAL.** These are the By-Laws of BERMUDA GREENS COMMONS ASSOCIATION, INC., hereinafter the "Corporation", a corporation not for profit organized under the laws of Florida. THIS IS NOT A CONDOMINIUM ASSOCIATION.

1.1 **Principal Office.** The principal office of the Corporation shall be 800 Seagate Drive, Suite 301, Naples, Florida 33940.

1.2 **Seal.** The seal of the Corporation shall be inscribed with the name of the Corporation, the year of its organization, and the words "Florida" and "not for profit." The seal may be used by causing it, or a facsimile of it, to be impressed, affixed, reproduced or otherwise placed upon any document or writing of the Corporation where a seal may be required.

2. **DEFINITIONS.** The following definitions shall apply to the terms used in the Articles of Incorporation and these By-Laws:

2.1 **"Association"** shall mean and refer to any one or more of the members.

2.2 **"Bermuda Greens Complex"** shall mean and refer to the property which is more fully described in Exhibit "B".

2.3 **"Board"** shall mean and refer to the Board of Directors of this Corporation.

2.4 **"Common Area"** means the real property owned or to be owned by the Commons Association, and all improvements thereon.

2.5 **"Condominium"** shall mean and refer to any residential condominium within the area served by the Corporation.

2.6 **"Corporation"** shall mean and refer to BERMUDA GREENS COMMONS ASSOCIATION, INC.

2.7 **"Corporation Property"** shall mean and refer to all lands owned by the Corporation, together with all buildings, improvements

and amenities located thereon, sometimes called the "Common Area" and/or "Limited Common Area", as well as all personal property of the Corporation.

2.8 "Developer" shall mean and refer to Bermuda Greens of Naples, Ltd., a Florida limited partnership, its successors and assigns.

2.9 "Member" shall mean and refer to any or all of the associations referred to in Article III of the Articles of Incorporation, and as stated in Section 3 below.

2.10 "Membership Area" shall mean and refer to the BERMUDA GREENS COMPLEX.

2.11 "Unit" or "Dwelling Unit" shall mean and refer to any single family residence located in the area served by the corporation, including condominium units, villas, townhomes, or any other form of residence.

3. MEMBERSHIP.

3.1 Qualifications. Every Association, whether a condominium association or other form of mandatory membership homeowners association, which operates a condominium or other multi-unit residential development located in the Membership Area, shall automatically be a member of this Corporation. The unit owners who are members of those Associations are not members of this Corporation.

3.2 Voting Interests. When a vote of the members is required herein or by law, each member shall be entitled to one (1) vote in the affairs of the Corporation for each dwelling unit which it represents. Such votes shall be cast by the members of the Board of Directors of this Corporation who are designated by each Board of Directors of the respective members. The term "a majority of the voting interests", in cases of membership votes shall mean the number of votes equal to one-half of the total number of dwelling units in the Membership Area, plus one vote.

3.3 Meeting of Members. Inasmuch as the affairs of the Corporation shall largely be governed and managed by the Board of Directors of the Corporation, there shall be no separate meetings of the members related to the activity of this Corporation. The members shall exercise their voting rights, when a vote of the members is required, through their representatives on the Board of Directors, which shall hold annual organizational meetings, regular meetings, and special meetings, in the manner prescribed in Section 4 of these By-Laws.

4. BOARD OF DIRECTORS.

4.1 Number of Directors. The Corporation shall be governed by a Board of Directors initially consisting of three (3) Directors. The Directors of the Corporation shall have a fiduciary relationship to the members.

4.2 Selection of Directors. Except as otherwise provided in 11.1 below, the Board of Directors of each member Association shall designate in writing one (1) individual who shall serve as a Director of this Corporation from the next annual organizational meeting of the Board of Directors until the following annual organizational meeting, or until their earlier death, resignation or removal. The designation shall be made in the time and manner as set forth in the By-Laws of the member Associations. Each such designee shall be a unit owner or spouse of a unit owner of the member Association he represents and may be an officer or director thereof. If there are less than three member Associations, each Association shall designate two (2) Directors. If there are more than three member associations, each association will designate one (1) director.

4.3 Organizational Meeting of Directors. The annual organizational meeting of the Board of Directors shall be held during February or March, but not later than March 15, of each year, at which time the newly-designated Directors shall elect officers and conduct such other business as they may deem appropriate. At the organizational meeting the Board may adopt a resolution authorizing the President or other executive officer to spend Corporation funds during the summer months and shall place reasonable limitations on that authority. Written notice of the annual organizational meeting shall be sent to each member at least fifteen (15) days in advance of the annual organizational meeting.

4.4 Regular Meetings. Regular meetings of the Board may be held according to a prearranged schedule at such time and place in Collier County, Florida, as shall be determined from time to time by a majority of the Directors. Notice of regular meetings shall be given to each Director, personally or by mail, telephone or telegram, at least ten (10) days prior to the day named for such meeting.

4.5 Special Meetings. Special meetings of the Board may be called by the President, and must be called by the Secretary at the written request of at least two (2) Directors. Not less than two (2) days notice of a special meeting shall be given to each Director, personally or by telephone or telegram, which notice shall state the time, date, place and purpose of the meeting.

Business conducted at special meetings shall be limited to matters stated in the notice of the meeting.

4.6 Notice to Members. All meetings of the Board of Directors shall be open to attendance by any Directors of the member Associations, and notices of all Board meetings shall be provided to each Association at least forty-eight (48) hours in advance, except in an emergency. Notice shall include a general outline of the agenda for the meeting. Notice of any Board meeting where assessments are to be considered for any reason shall specifically contain a statement that assessments will be considered and the nature of the assessments. The right to attend does not include the right to participate unless permitted by the Board.

4.7 Waiver of Notice. Any Director may waive notice of a meeting before or after the meeting, any such waiver shall be deemed equivalent to the giving of notice.

4.8 Quorum of Directors. A quorum at a Board meeting shall be attained by the presence in person of at least a majority of the Directors. Directors may participate in any meeting of the Board, or meeting of an executive or other committee, by means of a conference telephone call or similar communicative arrangement whereby all persons present can hear and speak to all other persons. Participation by such means shall be deemed equivalent to presence in person at a meeting.

4.9 Vote Required. The acts approved by a majority of those Directors present and voting at a meeting at which a quorum has been attained shall constitute the acts of the Board of Directors, except as otherwise provided in below. Directors may not vote by proxy at Board meetings.

4.10 Presumption of Assent. A Director who is present at a meeting of the Board shall be deemed to have voted in favor of any action taken, unless he voted against such action or abstained from voting because of an asserted conflict of interest.

4.11 Adjourned Meetings. The majority of the Directors present at any meeting of the Board, regardless of whether a quorum has been attained, may adjourn the meeting from time to time. At any adjourned meeting, provided a quorum is present, any business that might have been transacted at the meeting originally called may be transacted without further notice.

4.12 Removal, Filling of Vacancies. Any Director (except those appointed by the Developer) may be removed with or without cause by the Board of Directors of the member Association that appointed him. Such removal shall be evidenced by presentation of

a duly adopted resolution of the Board of Directors of said Association; all vacancies shall be filled by the Board of Directors of said Association.

4.13 Resignation. Any Director may resign by written notice to the Corporation, which resignation shall take effect upon receipt, unless another date is specified in the notice. Any Director who is absent from three (3) consecutive meetings of the Board shall be deemed to have tendered his resignation as of the date of the third meeting, and the member Association which appointed such Director shall be notified in writing and requested to appoint a replacement. The replacement shall not be the same person who was just removed.

4.14 Powers. The property and business of the Corporation shall be managed by the Board of Directors, which may exercise all corporate powers not prohibited by law, the Articles of Incorporation, or these By-Laws. The powers of the Board of Directors shall specifically include, but not be limited to, the following:

- A. To levy and collect fees and assessments in accordance with the provisions of the Articles of Incorporation and these By-Laws, and to establish the time and manner within which payment of same are due;
- B. To use and expend the fees and assessments collected for those purposes set forth in the Articles of Incorporation and as may be permitted by law;
- C. To perform all functions set forth in the Articles of Incorporation and as may be permitted by law, and in conjunction with the foregoing, to purchase the necessary equipment, furnishings, fixtures, accessories and tools necessary or incidental to the maintenance of the Corporation Property;
- D. To collect delinquent fees and assessments by suit or otherwise;
- E. To employ such personnel as may be necessary or incidental in order to carry out the purposes and functions of the Corporation;
- F. To enter into such contracts and bind the Corporation thereby as the Board of Directors may deem reasonable in order to carry out the powers and functions of the Board of Directors, including the power to borrow money;

- G. To make reasonable rules and regulations for the use of Corporation Property and for the operation of the Corporation; and

4.15 Limitation on Powers. The Board of Directors may not purchase any land, nor make any material alterations of or substantial additions to the Corporation property or the facilities located thereon costing more than \$5,000 in the aggregate in any twelve month period, without the prior written approval of the Boards of Directors of a majority of the member Associations in the BERMUDA GREENS COMMONS. However, if work necessary to insure, protect, maintain, repair or replace the Corporation Property or facilities also constitutes a material alteration or substantial addition, the foregoing limitation shall not apply.

4.16 Compensation. Directors and officers shall not receive compensation for their services as such, by way, at the discretion of the Board of Directors, receive reimbursement for so-called "out-of-pocket" expenses incurred in the actual performance of their duties.

4.17 Order of Business. The order of business at all meetings of the Board shall be substantially as follows:

- A. Roll call;
- B. Reading of minutes of last meeting;
- C. Resignations and Elections;
- D. Consideration of Communications;
- E. Reports of officers and employees;
- F. Reports of committees;
- G. Unfinished business;
- H. Original resolutions and new business.

4.18 Committees. The Board of Directors may, by resolution, designate such standing or temporary committees as it may deem advisable or as may be required herein, provided that the composition of every committee shall include at least one unit owner or spouse of a unit owner from each of the member Associations. Each such committee shall have such authority as shall be specified in the resolution designating such committee. The Board of Directors shall have the power at any time to remove any individual serving on any such committee or committees, with or without cause, and to fill vacancies in and to dissolve such committee or committees. Each committee designated by the Board of Directors shall keep regular minutes of its meetings and shall report the same to the Board when required. The designation of any committee and the delegation thereto of authority shall not operate to relieve the Board of Directors, or any individual executive Director of any responsibilities imposed by law.

5. **OFFICERS.** The officers of the Corporation shall be a President, and one or more Vice Presidents, all of whom must be Directors of the Corporation, a Secretary and a Treasurer, all of whom shall be elected by the Board of Directors. All officers must be unit owners or spouses of unit owners. Any two of said offices may be held by one person, except that the President shall not hold any other office. The Board of Directors may appoint such other officers as it shall deem necessary who shall hold their offices for such terms and shall exercise such powers and perform such duties as shall be determined from time to time by the Board. The officers of the Corporation have a fiduciary duty to the members.

5.1 Tenure of Officers. All officers shall serve for one year term but may be reelected for additional terms. All officers of the Corporation shall hold office until their successors are elected and qualified. Any officer elected or appointed by the Board of Directors may be removed at any time, with or without cause, by the affirmative vote of the majority of the Directors. Any officer may resign at any time by giving written notice to the Corporation and unless otherwise specified therein, the resignation shall become effective upon receipt. Any vacancy occurring in any office of the Corporation shall be filled by the Board of Directors of the corporation.

5.2 The President.

- A. The President shall preside at all meetings of the Directors; he shall have general and active management of the business of the Corporation; he shall see that all orders and resolutions of the Board of Directors are carried into effect; he shall execute bonds, mortgages and other contracts requiring seal, under the seal of the Corporation, except where required or permitted by statute to be otherwise signed and executed, and except where the signing and execution thereof shall be expressly delegated by the Board of Directors to some other officer or agent of the Corporation.
- B. He shall have general superintendency and direction of all the other officers of the Corporation and shall see to the best of his ability that their duties are performed properly;
- C. He shall submit a report of the operations of the Corporation for the fiscal year to the Board of Directors whenever called for by the Board; and from time to time shall report to the Board all matters within his knowledge which the best interest of the Corporation may require to be brought to their notice;

- D. He shall hold an ex-officio position on all committees, and shall have the general powers and duties of supervision and management usually vested in the office of the president of a corporation.

5.3 ~~The Vice-President.~~ The Vice-President, or if there be more than one, the Vice-Presidents, according to the order of their election appointment, shall be vested with all powers and duties required to perform the duties of the President in his absence, and such other duties as may be prescribed by the Board of Directors.

5.4 The Secretary.

- A. The Secretary shall be responsible for the keeping of the minutes of the meetings of the Board of Directors in one or more books provided for that purpose;
- B. He shall see that all notices are duly given in accordance with these By-Laws, or as required by statute;
- C. He shall be the custodian of the corporate records and of the seal of the Corporation and shall see that the seal of the Corporation is affixed to all documents, the execution of which on behalf of the Corporation under its seal is duly authorized in accordance with the provisions of these By-Laws or as required by statute;
- D. He shall keep a register of the post office address of each member;
- E. In general, he shall perform all duties incident to the office of secretary and such other duties as from time to time may be prescribed by the President or the Board of Directors.

5.5 The Treasurer.

- A. The Treasurer shall be responsible for keeping full and accurate accounts of receipts and disbursements in books belonging to the Corporation and shall cause all monies and other valuable effects to be deposited or kept in the name and to the credit of the Corporation in such depositories as may be designated by the Board of Directors.
- B. He shall oversee the disbursement of funds of the Corporation, take proper vouchers for such disbursements, and shall render to the President and Directors, at the regular meetings of the Board, or whenever they may

require it, an account of all transactions and of the financial condition of the Corporation.

- C. He shall be the chairman of the Budget Committee, if any.
- D. He may be required to give the Corporation a bond in a sum and with one or more sureties satisfactory to the Board, for the faithful performance of the duties of his office, and the restoration of the Corporation in case of his death, resignation or removal from office, of all books, papers, vouchers, money or other property of whatever kind in his possession belonging to the Corporation. The Corporation shall pay all premiums for issuance of the bond.
- E. In general, he shall perform all duties incident to the office of Treasurer and such other duties as from time to time may be prescribed by the President or the Board of Directors.

6. ASSESSMENTS AND FEES.

6.1 Method of Establishing Assessments. In accordance with Section 10.5 below, before the first day of December of each year, the Board of Directors shall consider and adopt an annual operating budget in amounts believed to be sufficient to enable the Corporation to perform its functions for the ensuing year. Based upon the amount of monies determined to be needed for the operation of the Corporation, the Board of Directors shall assess against each member its proportionate share of the budget, such proportionate share being determined by the ratio which the number of dwelling units contained in the particular member bears to the total number of dwelling units in the BERMUDA GREENS COMPLEX. Provided, however, that during the period of Developer control, the total number of dwelling units in the BERMUDA GREENS COMPLEX shall be presumed to be 264. Each member shall, as provided for in the Declaration of Condominium or other governing documents pertaining to such member, apportion such annual assessments among its unit owners in the shares provided in said Declaration or governing documents.

6.2 Payment of Annual Assessments. Annual assessments shall be billed in quarterly installments payable in advance on the first day of January, April, July and October of each year.

6.3 Limitation on Change in Assessments. The Board of Directors of the Corporation shall not increase a member's annual assessment by more than twenty percent (20%) over and above the respective member's annual assessments for the preceding year

without the unanimous approval of the Board Directors of the Corporation.

6.4 Collection of Assessments. The Board of Directors of the Corporation shall be authorized to adopt and promulgate rules and regulations for the collection of all assessments, and the determination and collection of assessments against the members shall be subject to the following provisions:

- A. Assessments or installments thereof remaining unpaid longer than ten (10) days after the due date shall bear interest from the due date at the highest rate allowed by law; all payments on account shall be first applied to interest and then to the assessment payment first due.
- B. No member may exempt itself from liability for its assessment hereunder by waiver of the use and enjoyment of any of the Corporation property.

7. USE RESTRICTIONS.

7.1 Promulgation of Rules. Reasonable regulations concerning the use of Corporation Property may be made and amended from time to time by the Board of Directors. Copies of such regulations and amendments thereto shall be made available to all unit owners in the BERMUDA GREENS COMMONS.

7.2 Restrictions. The following restrictions, in addition to the rules and regulations hereafter promulgated by the Board of Directors, shall govern the use of the Corporation Property and the conduct of the members of the Corporation and, their respective unit owners, occupants and/or guests.

- A. Each member and their respective unit owners and occupants shall not use or permit the use of the Corporation Property in any manner which would be disturbing or be a nuisance to unit owners and occupants, or in such a way as to be injurious to the reputation of the property.
- B. The use of Corporation Property shall be consistent with existing law, these By-Laws, and the governing documents of the member Associations, and shall not constitute a general nuisance.
- C. No tents or camping facilities shall be permitted on any Corporation Property.

- D. Corporation Property shall not be obstructed, littered, defaced or misused in any manner.
- E. No animals or pets shall be allowed on Corporation Property except to the extent permitted by the respective Declaration of Condominium or other governing documents of each member; further, cats and canines shall be allowed only if carried or on a leash while on Corporation Property. No pets are permitted in the pool area.
- F. No member or their respective unit owners or occupants shall post any advertisements or posters of any kind in or on the Corporation Property except as authorized, in writing, by the Board of Directors. The Developer and Southdale, Inc. shall have the right to post advertisements or posters or other promotional material to advertise units for sale or lease.
- G. All garbage and trash shall be deposited in the disposal installations provided for such purpose.
- H. No members or their respective unit owners or occupants shall make any alteration or improvement of Corporation Property, except as authorized, in writing, by the majority of the Board of Directors.

8. INSURANCE.

8.1 Required Coverage. The Board of Directors of the Corporation shall obtain and maintain at all times the insurance listed below. The named insured on all insurance policies upon the Corporation Property shall be the Corporation individually and as agent for each member and their respective unit owners, without naming them.

- A. Liability Insurance: Public liability insurance covering all of the Corporation Property and insuring the Corporation, the members, and their respective unit owners as their interests appear, in such amounts as the Board of Directors may determine from time to time, provided that the minimum amount of coverage shall be one million dollars. Premiums for such insurance shall be chargeable as an expense of the Corporation and shall be assessed against and paid by each of the members as provided for in Section 6 hereof. The Corporation shall not be responsible for purchasing liability insurance to cover accidents occurring outside the Corporation Property.

8. Such other insurance as the Board of Directors of the Corporation shall determine from time to time to be desirable. Premiums for such insurance shall be an expense of the Corporation and shall be assessed against and paid by each of the members as provided for in Section 6 hereof.

8.2 Distribution of Proceeds. If a loss occurs for which the proceeds of insurance policies are received, payments under the policies shall be disbursed and expended in the following manner:

- A. The officers responsible for the conduct of the Corporation's financial affairs and thus for handling any such proceeds may be bonded at the Corporation's expense, at least to the full extent of the insurance proceeds and other funds on hand, and all such payees shall endorse the insurance company's check payable to the Corporation.
- B. If the damage for which the proceeds are paid is to be repaired or reconstructed, the Corporation shall pay the proceeds to defray the costs thereof as elsewhere provided. Any proceeds remaining after the defraying of such costs shall be distributed to the Corporation to be used for the benefit of the members.
- C. 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 proceeds shall be distributed to the members.

8.3 Corporation as Agent. The Corporation is irrevocably appointed agent for each member, the respective unit owners, and for each holder of a mortgage or other lien upon a dwelling unit, and for each owner of any other interest in the Corporation property to adjust all claims arising under insurance policies purchased by the Corporation and to execute and deliver releases for payment of claims.

8.4 Reconstruction or Repair After Casualty. If any part of the Corporation Property shall be damaged by casualty, a decision as to whether or not it shall be reconstructed or repaired shall be made by the Board of Directors of the Corporation. If the proceeds of insurance are not sufficient to defray the estimated cost of reconstruction and repair, and if the Board of Directors has determined to proceed to reconstruct and repair, the Board may make a special assessment against each member in order to obtain the funds sufficient for the payment of such costs. Such special assessments shall be assessed against each member based upon the ratio which the number of dwelling units contained in the

particular member bears to the total number of dwelling units in the BERMUDA GREENS COMPLEX, and as provided for in Section 6.1 above.

9. NOTICES.

9.1 Method. Except as otherwise required, notices to Directors and each member shall be in writing and delivered personally or mailed to the Directors and each member at their addresses appearing on the records of the Corporation. Notice by mail shall be deemed to be given at the time when the same shall be deposited properly addressed with sufficient first class postage in the U.S. mails. Notice to Directors may also be given by telegram, telephone, or in person.

9.2 Waiver. whenever any notice is required to be given a waiver thereof in writing, signed by the person or persons entitled to said notice, whether before or after the time stated therein, shall be deemed equivalent hereto. The attendance of any person at any meeting shall constitute a waiver of notice of such meeting except when the person attends the meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business on the grounds that the meeting is not lawfully called or convened.

10. FINANCES.

10.1 Fiscal Year. The Corporation shall operate on a fiscal year beginning on the first day of January and ending on the 31st day of December of each year. The Board of Directors is expressly authorized to change to a different fiscal year basis whenever deemed expedient for the best interest of the Corporation.

10.2 Checks. All checks or demands for money and notes of the Corporation shall bear two signatures, and may be signed by any of the following officers: President, Vice President, Secretary or Treasurer or by such officer or such other person or persons as the Board of Directors may from time to time designate.

10.3 Annual Financial Statement. The Board shall provide a written financial statement prepared by an independent certified public accountant to the Board of Directors of each member within ninety (90) days after the end of each fiscal or calendar year as to the total fees and assessments and other income as to the method of disbursement of said funds. The minimum report required shall be a compilation, as defined by the Florida Board of Accountancy.

10.4 Depository. The Corporation shall maintain its accounts in such financial institutions in the State of Florida as shall be designated from time to time by the Board. Withdrawal of monies from such accounts shall be only by such persons as are authorized by the Board. The Board may invest Corporation funds in interest-bearing accounts, money market funds, certificates of deposit, U.S. Government securities, and other similar investment vehicles.

10.5 Budget. The Treasurer shall prepare or cause to submit to the Board, not later than November 1 of each year, a proposed budget for the next year. The proposed budget shall be detailed and shall show the amounts budgeted for income and expense by accounts. The Board of Directors shall, not later than November 30 of each year, adopt an annual budget for the next fiscal year. A copy of the proposed budget and a notice stating the time, date and place of the meeting at which the budget will be considered shall be mailed to or served on each Director not less than fourteen (14) days prior to that meeting.

10.6 Reserves. In addition to the operating expenses provided in the budget, the Board may establish one or more reserve accounts for contingencies, operating expenses, repairs, improvements or deferred maintenance. The purpose of the reserves is to provide financial stability and to minimize the need for special assessments. The amounts proposed to be so reserved shall be shown in the annual budget. These funds may be spent for any purpose approved by the board.

10.7 Special Assessments. Special assessments may be imposed by the Board of Directors when necessary to meet unusual, unexpected, emergency, or non-recurring expenses, or for such other purposes as are authorized by the Articles of Incorporation or these By-Laws. Special assessments are due on the day specified in the resolution of the Board approving such assessment. The notice of any special assessment must contain a statement of the purpose(s) of the assessment, and the funds collected must be spent for the stated purpose(s) or credited to the members.

11. PROVISIONS RELATED TO DEVELOPER.

11.1 Appointment of Directors. As the Developer of the Membership Area, Bermuda Greens of Naples, Ltd. shall have the right to appoint all of the Directors of the Corporation until control of all Associations in the Membership Area has been turned over to unit owners other than the Developer. At that time, each Association shall designate one or more directors to serve until their successors are designated and the next annual organizational meeting is held, as provided in Sections 4.2 and 4.3 above.

11.2 Subsidy of Corporation Expenses. During the period of Developer control, the Developer and will fund the difference, if any, between Corporation income from members and the actual expenses incurred. The foregoing shall not obligate the Developer to contribute to the funding of any reserve accounts for capital expenditures or deferred maintenance.

11.3 Title to Common Areas. Developer will initially retain the legal title to the Common Areas. Developer shall convey the title to the Common Areas to the Corporation and the Corporation shall accept such conveyance, subject to taxes for the year of conveyance and to restrictions, limitations, conditions, reservations and easements of record within sixty (60) days of such time when all of the Common Areas are completed and ready for use. This section in no way affects the Developer's rights under Article I, H of the Articles of Incorporation giving the Developer the right to cause the common areas to be platted and dedicated to public use. Commencing with the date the Declaration of Condominium for BERMUDA GREENS, a Condominium is recorded or when title to the Common Areas is transferred to the Corporation, whichever occurs earlier, the Corporation shall be responsible for the maintenance and administration of the Corporation property, and for the payment of any taxes assessed against the Corporation Property and any improvements and personal property thereon, if any, accruing from and after the date of such recordation. Developer shall have the right from time to time to enter upon the Corporation Property during periods of construction upon adjacent properties and for the purpose of construction of any facilities on the Corporation Property that Developer elects to build.

12. AMENDMENT OF BY-LAWS.

Amendments to these By-Laws shall be proposed and adopted in the following manner:

12.1 Proposal. Amendments to these By-Laws may be proposed by the President or by any two (2) Directors.

12.2 Procedure. Upon any amendment or amendments to these By-Laws being proposed, the appropriate notices and copies of the text of the proposed amendments shall be mailed to all Directors with notice of a meeting at which the amendments will be voted on.

12.3 Vote Required. Except as otherwise provided, these By-Laws may be amended by concurrence of at least two-thirds (2/3rds) of the Directors at any meeting called for that purpose. The text of any proposed amendment shall be contained in the notice of such meeting.

12.4 Certificate; Recording. A copy of each amendment shall be attached to a certificate that the amendment was duly adopted, which certificate shall be executed by officers of the Corporation with the formalities of a deed. The amendment shall be effective when the certificate and copy of the amendment are recorded in the Public Records of Collier County, Florida. The certificate must identify the book and page of the Public Records where the Declaration of Condominium or other governing documents for each development in the BERMUDA GREENS COMMONS ASSOCIATION are recorded.

13. COMPLIANCE AND DEFAULT; REMEDIES.

In addition to any other remedies provided by law, the following provisions shall apply:

13.1 Fines. Pursuant to Section 617.10(3), Florida Statutes, the Board of Directors may levy reasonable fines against members whose unit owners commit violations of the rules and regulations, or condone such violations by their family members, guests or lessees. The fines shall be in an amount deemed necessary by the Board to deter future violations, but in no event shall any fine exceed \$500.00.

13.2 Suspension of Use Rights. The Board of Directors may suspend the right of any unit owner, or his guest, tenants, and family members, to use Corporation Property for the period of time the owner shall have failed to pay any fine levied under 13.1 above, or for a reasonable time as punishment for infractions of Corporation rules and regulations by the unit owner, his family, guests or tenants.

14. MISCELLANEOUS

14.1 Gender. Whenever the masculine or singular form of the pronoun is used in these By-laws, it shall be construed to mean the masculine, feminine or neuter; singular or plural, as the context requires.

11.2 Severability. Should any portion hereof be void or become unenforceable, the remaining provisions of the instrument shall remain in full force and effect.

11.3 Conflict. If any irreconcilable conflict should exist, or hereafter arise, with respect to the interpretation of these By-Laws and the Articles of Incorporation, the provisions of the Articles of Incorporation shall prevail over the provisions of the By-Laws.

The foregoing constitute the first By-Laws of BERMUDA GREENS COMMONS ASSOCIATION, INC., and were adopted by the Board of Directors at its initial organizational meeting held on 1st November, 1991.

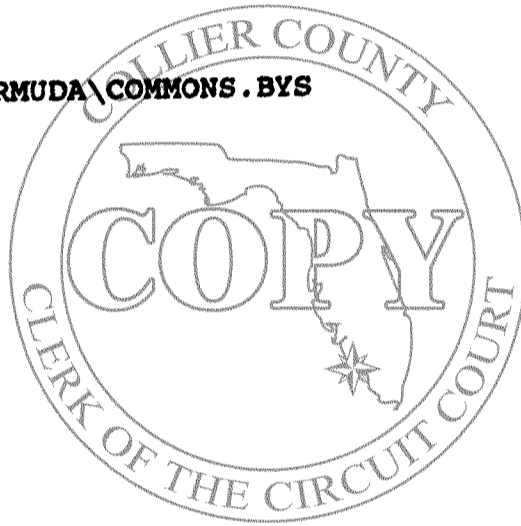
BERMUDA GREENS COMMONS ASSOCIATION, INC.

Stuart M. Wallace
President Stuart M. Wallace

Attest:

Stuart M. Wallace
Secretary Stuart M. Wallace

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EXHIBIT "C"

RECORDED AND INDEXED
COLLIER COUNTY, FLORIDA
JAMES R. GILES