



**MASTER
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
MAGNOLIA PLANTATION AT BLUEWATER BAY**

This Declaration of Covenants, Conditions and Restrictions is made as of the 1st day of December, 1993 by EMCA FOREST INVESTORS, LTD., hereinafter referred to as "Declarant".

WITNESSETH:

Declarant is the owner of the real property described in Exhibit "A" (sometimes referred to as the "Property" or "Magnolia Plantation at Bluewater Bay"). This Declaration sets forth a general plan of improvement for the benefit of all owners of residential property within Magnolia Plantation at Bluewater Bay and constitutes the terms and conditions applicable to Magnolia Plantation Property Owners Association at Bluewater Bay, Inc. (the "Association"). Declarant seeks by this document to provide a flexible and reasonable procedure for the overall management of the private roads and other common areas; to regulate the inter-relationship of the various subdivisions to be developed within Magnolia Plantation at Bluewater Bay; and to establish a method for the administration, maintenance, preservation, use and enjoyment of such common property as is now or may hereafter be the responsibility of or be owned by the Association. The Association may also perform educational, recreational, charitable, and other social welfare activities.

Each Residential Unit is subject to this Master Declaration and will automatically become a member of Magnolia Plantation Property Owners Association at Bluewater Bay, Inc.

NOW, THEREFORE, Declarant hereby declares that all of the Property shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions which are for the purpose of protecting the value and desirability of and which shall run with title to the Property submitted to this Declaration. The terms of this Declaration shall be binding on all parties having any right, title, or interest in the Property or any part thereof, their heirs, successors, successors-in-title and assigns, and shall inure to the benefit of each owner thereof. Declarant may withdraw parcels or portions of the Property from this Declaration if Declarant decides not to develop that parcel or portion as a residential subdivision within Magnolia Plantation.

**ARTICLE I
DEFINITIONS**

Section 1. "Area of Common Responsibility" shall mean and refer to those areas, if any, which are designated as such by this Declaration, designated as such by Declarant or by the Association, designated as such pursuant to any agreement between the Association and any association of Residential Unit owners or with any condominium association or with any other owner within Magnolia Plantation at Bluewater Bay, or designated as Common Area herein.

Unless the documents creating any parcel within Magnolia Plantation at Bluewater Bay specifically provide that the property included in that parcel shall not be subject to this paragraph, all property outside the legal limits of a Residential Unit and not otherwise a part of the common area of an association within Magnolia Plantation at Bluewater Bay (other than this Association) shall also be an Area of Common Responsibility. Expense for security, maintenance and replacement within Areas of Common Responsibility shall be designated by the Board as either General Expense or Parcel Expense.

Section 2. "Association" shall mean and refer to Magnolia Plantation Property Owners Association at Bluewater Bay, inc., a Florida nonprofit corporation, its successors and assigns.

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Section 3. "Board of Directors" or "Board" shall refer to the Board of Directors of the Association.

Section 4. "Common Area" shall mean all real and personal property now or hereafter owned by the Association for the common use and enjoyment of the Owners. Common roads owned by the Association shall include all area within the designated right-of-way.

Section 5. "Common Expense" shall mean and include the actual and estimated expenses of operating the Association including all expenses incurred to secure, maintain and preserve its Common Areas and its Areas of Common Responsibility, and including reasonable reserves, all as may be found to be necessary and appropriate by the Board pursuant to this Declaration, the By-Laws, and the Articles of Incorporation. Common Expenses shall be divided by the Board into **General Expenses**, which are expenses designated by the Board to be of benefit to the entire Property, and **Parcel Expenses**, which are certain expenses as designated by the Board applicable specifically to a certain Parcel and not applicable generally to the entire Property.

Section 6. "Declarant" is EMCA Forest Investors, Ltd., and its designated successors or assigns. A successor by foreclosure or deed in lieu of foreclosure will have all rights of Declarant and may have greater rights than Declarant in certain cases as set forth herein.

Section 7. "General Assessment". An assessment of a portion of Common Expenses equal to General Expenses which shall be charged to every Residential Unit in the Property on an equal basis.

Section 8. "Limited Access Area" is that certain area within the described boundary lines of a Residential Unit or a condominium building where the owner or owners thereof shall have the exclusive use and access over those areas defined by such boundary lines, subject to this Declaration, and to any applicable condominium, townhome or subdivision documents, and subject to other rights of use by utility easements or access agreements. In addition, maintenance and other personnel authorized by the Board shall have the right, as specifically authorized by the Board, to enter a Limited Access area to fulfill a duty given the Association by this Declaration or by various other documents creating the owners' estate in the subject property. Fences around property (if any are permitted) shall make provision to accommodate the need of maintenance or emergency personnel to enter these areas in such locations as may be approved by Declarant in connection with any such fence approved.

Section 9. "Member" shall mean and refer to a person or entity entitled to membership in the Association as provided herein.

Section 10. "Mortgage" shall include a deed of trust as well as a mortgage.

Section 11. "Mortgagee" shall include a beneficiary or holder of a deed of trust as well as a mortgagee. The term shall also refer to the successor in interest to any mortgagee, unless the context requires otherwise.

Section 12. "Mortgagor" shall include the trustor of a deed of trust as well as a mortgagor.

Section 13. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of any Residential Unit which is part of the Property but excluding in all cases any party holding an interest merely as security for the performance of an obligation.

Section 14. "Parcel" shall mean and refer to any separately designated portion of the Property intended to be developed as a residential area. The boundaries of a Parcel, type of development therein and number of Residential Units in a Parcel may be changed from time-to-time at the sole discretion of the Declarant. After a Parcel has been designated by Declarant, the Board may or may not separately designate the same Parcel for purposes of assigning Parcel Expenses, or the Board may redefine an area as a Parcel for purposes of assessing Parcel Expenses.

Section 15. "Person" means a natural person, a corporation, a partnership, trustee, or other legal entity.

Section 16. "Property" shall mean and refer to the real property described in Exhibit "A" attached hereto and shall further refer to such additional property as may be added to this Declaration by the Declarant.

Section 17. "Parcel Assessment". Parcel Assessments shall be used for the purpose of promoting the recreation, health, safety, welfare, common benefit and enjoyment of the Owners of the Residential Units within a Parcel and for securing and maintaining the Areas of Common Responsibility within or for the benefit of a given Parcel, all as may be specifically authorized from time-to-time by the Board of Directors of this Association.

The Parcel Assessment shall be levied equally against Owners of Residential Units in a Parcel for such purposes as are authorized by this Declaration or as are determined to be necessary or appropriate by the Board of Directors from time-to-time. The Parcel Assessment shall be in addition to the General Assessments and any Special Assessments.

Section 18. "Residential Association" shall mean any association other than this Association created with respect to any portion of the Property subject to this Declaration.

Section 19. "Residential Unit" shall mean any portion of the Property intended for any type of independent ownership and shall, unless otherwise specified, include within its meaning but not be limited to condominium units, zero lot line homesites, attached fee simple townhome sites, or single family homesites, as such units may be developed within the Property.

For the purpose of this Declaration, a Residential Unit shall come into existence for purposes hereof upon the recording in the public records of Okaloosa County of a subdivision or condominium plat describing said units. In addition, with respect to unplatted Parcels included in the Property, each such unplatted Parcel shall be attributed with the number of residential units which Declarant plans to develop as specified on Exhibit B attached hereto and made a part hereof. Said proposed Residential Units within a Parcel shall also be considered Residential Units for purposes of this Declaration. Declarant may change said development plan from time-to-time in its sole discretion.

ARTICLE II PROPERTY RIGHTS

Section 1. Rights of Residential Unit Owner - Every Owner shall have a right and easement of ingress, egress and access over, upon and across the Common Area of Magnolia Plantation at Bluewater Bay and such other property rights as may be specifically granted to an Owner hereafter, subject to the right of the Association acting through its Board to regulate and control said use in the best interest of the Association. All rights and easements shall also be subject to any restrictions or limitations contained in any Deed or amendment to this Declaration conveying the Common Area to the Association or subjecting it to this Declaration. Any Owner may delegate his or her right of ingress, egress, access or enjoyment to the members of his or her family, tenants, and social invitees subject to such rules and regulations as may be adopted by the Board. It is intended that Magnolia Plantation will be operated as a controlled access community in accordance with such rules and regulations therefor as the Board may adopt from time-to-time.

Section 2. Rights of Declarant - The Declarant shall have a right of ingress, egress, access and enjoyment in and to the Common Area and may delegate its rights and easements to its successors, assigns, tenants and social and business invitees. The Sales Center designated and built by Declarant is not a Common Area whether or not it is situated within a Common Area such as a road right-of-way and will remain private property of the Declarant. DECLARANT AND ITS DESIGNATED SUCCESSORS AND ASSIGNS WILL HAVE THE RIGHT TO USE THE SALES CENTER AND ANY RESIDENTIAL UNIT AS A SALES OR BUSINESS OFFICE UNTIL ALL RESIDENTIAL UNITS HAVE BEEN SOLD AND THEREAFTER MAY MAINTAIN A SALES CENTER WITHIN A RESIDENTIAL UNIT TO ASSIST IN REALES WITHIN THE PROPERTY

ARTICLE III MEMBERSHIP IN COUNCIL OF PROPERTY OWNERS AT BLUEWATER BAY

The Association has agreed to be a member of the Council of Property Owners at Bluewater Bay, Inc. ("Council"), a de-facto master association of other associations and property owners at Bluewater Bay. By accepting title pursuant to this Declaration, each owner of a Residential Unit is deemed to have appointed and given his or their proxy and power to vote regarding all issues to come before the Council to the representative designated by the Board of Directors of the Magnolia Plantation Association. The Board will appoint one or more of its members to serve as its representative to the Council and may remove that person without cause or notice. The Association shall not be obligated to continue membership in the Council unless fifty (50%) percent or more of the property owner associations in Bluewater Bay also continue as members of the Council. The expense of being a member of the Council shall be paid by the Association as a General Expense and the areas of concern addressed by the Council shall be considered part of the Association's Area of Common Responsibility. The fee paid by members to the Council for calendar year 1993 is \$60 per year per Residential Unit with a completed home and \$36 per year per Residential Unit without a completed home. The Association shall not be obligated to pay any increased fee unless the increased fee is charged to all members of the Council.

**ARTICLE IV
MEMBERSHIP, DECLARANT'S VOTES & ASSESSMENT, ELECTION OF DIRECTORS**

Section 1. Membership - Every person or entity which is the record owner of a fee or undivided fee interest in any Residential Unit that is subject to this Declaration shall be deemed to have a membership in the Association. Membership shall be appurtenant to and may not be separated from such ownership. The foregoing is not intended to include persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate the Owner's membership. No Owner, whether one or more persons, shall have more than one membership per Residential Unit owned. In the event of multiple owners of a Residential Unit, votes and rights of use and enjoyment shall be as provided herein. The rights and privileges of membership, including the right to vote, may be exercised by a member or the member's spouse, but in no event shall more than one vote be cast for each Residential Unit.

Section 2. Voting - The Association shall have one (1) class of membership. Each Residential Unit shall be entitled to one vote, except that the Declarant will have 3 votes for each Residential Unit or proposed Residential Unit it owns as provided herein. said proposed Residential Units shall be converted to Residential Units as a plat is filed for record for each of said subdivisions.

When more than one person holds an interest in any Residential Unit, the vote for such Residential Unit shall be exercised as those Owners themselves determine and advise the Secretary of the Association prior to any meeting. In the absence of such advice, the Residential Unit's vote shall be suspended in the event more than one person seeks to exercise it.

Section 3. Declarant's Assessment - UNLESS DECLARANT ELECTS OTHERWISE AS SET FORTH HEREAFTER, AS LONG AS DECLARANT OWNS MORE THAN ONE-THIRD OF THE RESIDENTIAL UNITS (PROPOSED AND ACTUAL) THEN IN LIEU OF DUES OR GENERAL ASSESSMENTS OR PARCEL ASSESSMENTS, DECLARANT SHALL BE RESPONSIBLE FOR PAYING TO THE ASSOCIATION AN AMOUNT EQUAL TO THE DEFICIT INCURRED BY THE ASSOCIATION IN CONNECTION WITH ITS NORMAL OPERATIONS, SAID DEFICIT TO BE FUNDED ON A MONTHLY BASIS. IN THE EVENT DECLARANT CONTINUES TO BE OBLIGATED TO FUND THE ASSOCIATION DEFICIT AS SET FORTH HEREIN, THEN NEITHER DECLARANT NOR ANY OWNER WHO TAKES TITLE FROM ANY MORTGAGEE OF DECLARANT OR ITS SUCCESSOR IN INTEREST, WHETHER TITLE IS TAKEN BY FORECLOSURE OR BY DEED IN LIEU OF FORECLOSURE, SHALL BE OBLIGATED TO PAY ANY ASSESSMENT, NOR SHALL ANY LIEN ATTACH TO THE PROPERTY OWNED BY DECLARANT OR A SUCCESSOR TO DECLARANT, ARTICLE VIII NOTWITHSTANDING. DECLARANT MAY AT ANY TIME AFTER JANUARY 1, 1996 ELECT TO TERMINATE ITS DEFICIT FUNDING OBLIGATION HEREUNDER IN WHICH EVENT DECLARANT SHALL PAY THE GENERAL ASSESSMENTS AND APPROPRIATE PARCEL ASSESSMENTS APPLICABLE TO ITS RESIDENTIAL UNITS.

Section 4. Termination of Declarant's Special Status - At such time as Declarant no longer owns 1/3 of the Residential Units (including Proposed Residential Units), or, if earlier, at such time as Declarant elects to terminate its deficit funding obligation under Article IV, Section 3, but in any event not later than December 31, 2003, Declarant shall thereafter have only one vote per Residential Unit, shall no longer be obligated to fund the Association's deficit, and shall be subject to paying its share of Common Expenses based on the same assessment as is levied on any other Residential Unit.

Section 5. Board of Directors - The initial Board of Directors will consist of three persons appointed by Declarant. Thereafter, the Board shall consist of at least three but not more than seven persons elected at the Annual Meeting of Members. Declarant shall always have the right to appoint one person to the Board notwithstanding whether Declarant owns any Residential Units.

**ARTICLE V
MAINTENANCE**

It is anticipated that some parcels within the Property will have their own association and specifically identified common areas. As such, a portion of those Parcels may be described as "Areas of Common Responsibility", maintenance of which shall be the responsibility of the Association to the extent determined appropriate by the Board in which event the expenses connected therewith may be either General Expenses or Parcel Expenses as the Board may determine to be appropriate. Each Parcel association shall have the option to provide a greater degree of maintenance than that provided by the Association. Individual Parcel associations may assess themselves to provide additional services for maintenance or other purposes as determined by the board of each Parcel association.

**ARTICLE VI
RIGHTS AND OBLIGATIONS OF THE ASSOCIATION**

Section 1. Personal Property and Real Property for Common Use - The Association through action of its Board of Directors may acquire, hold, and dispose of tangible and intangible personal property and real property. The Board acting on behalf of the Association shall accept any real or personal property, leasehold, or other property interest within Magnolia Plantation at Bluewater Bay conveyed to it by the Declarant.

**ARTICLE VII
ADDITIONAL RIGHTS OF THE ASSOCIATION AND OWNERSHIP RESTRICTIONS**

Section 1. Rules and Regulations - This Association shall have the right to make rules and regulations governing the use of Common Area and conduct within the Property. Reasonable notice must be given to each member prior to the enforcement of such rules and regulations.

Section 2. Enforcement; Indemnification - This Association shall have the authority to impose monetary fines for violation of the Declaration of Covenants and Restrictions applicable to any parcel or for violation of the Association's rules and regulations governing the Common Area, which fines shall constitute a lien on an owner's Residential Unit or Units. The Association may also suspend an owner's right to vote or to make use of Common Areas because of violations of the Association's rules and regulations.

If the Association, Declarant or any individual seeks to enforce these Covenants or the rules and regulations of the Board through legal action, they will be indemnified for costs and legal fees by any Owner judicially determined to be in violation of the Covenants or of the rules and regulations of the Board. However, no such right of indemnification against fees and costs for enforcement of Covenants or rules and regulations shall exist in favor of any person other than the Association or Declarant unless the Association has first been requested in writing to take enforcement action and has refused to do so. In addition, the Association may provide in its ByLaws a mechanism for arbitrating disputes between members. If so, arbitration of the dispute is a condition precedent to any litigation to enforce the Covenants or any rule or regulation of the Board.

Section 3. Implied Rights - The Association may exercise any other right or privilege given to it expressly by this Declaration, the By-Laws, or by the Declaration of Covenants and Restrictions applicable to any Parcel and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

**ARTICLE VIII
ASSESSMENTS**

Section 1. Creation of General Assessment - There are hereby created assessments for Common Expenses as may from time-to-time be specifically authorized by the Board of Directors. General Assessments shall be allocated equally among all Residential Units within the Association (not including Proposed Residential Units owned by Declarant) and shall be for expenses determined by the Board to be for the benefit of the members of the Association as a whole. Parcel Assessments shall be levied against Residential Units located in particular Parcels for whose benefit Parcel Expenses are incurred and which the Board has determined benefit less than the members of the Association as a whole, said Parcel Assessments to be allocated equally among all Residential Units within the designated Parcel unless the Residential Units therein are subject to a Declaration of Condominium or similar association document which specifies another allocation method. Each Owner by acceptance of his or her deed is deemed to covenant and agree to pay these General and Parcel Assessments. All such assessments, together with interest at the highest rate allowable under the laws of Florida from time-to-time relating to usury for residential real estate loans, plus costs and reasonable attorney's fees, shall be a continuing lien against the Residential Unit on which an assessment is made. A late fee may be charged for each month in which any assessment is more than twenty (20) days late. The amount of the late fee shall be determined by the Board from time-to-time but shall be uniform when established.

Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Residential Unit at the time the assessment arose, and his or her grantee shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance, except a first mortgagee who obtains title to a Residential Unit pursuant to the remedies provided in the mortgage shall not be liable for unpaid assessments which accrued prior to such acquisition of title.

Assessments shall be paid in such manner and on such dates as may be fixed by the Board of Directors which may include, without limitation, acceleration of the annual assessment for delinquent payments. Unless the Board otherwise provides, the assessment shall be paid in monthly installments, in advance.

Section 2. Computation of Assessment - The Board shall prepare an annual budget and the following provisions shall apply:

It shall be the duty of the Board, at least thirty (30) days prior to the meeting at which the budget shall be presented to the membership, to prepare a budget covering the estimated costs of operating the Association during the coming year. The budget shall include such reserve funds as the Board deems appropriate and such General and Parcel Expenses as are anticipated, each of which shall be separately listed. The Board shall cause a copy of the budget and the amount of the assessments to be levied against each Residential Unit for the following year to be delivered to each Owner at least fifteen (15) days prior to the meeting. The budget and the assessments shall become effective unless disapproved at the meeting by a vote of at least two-thirds of the Association membership.

Notwithstanding the foregoing, however, in the event the membership disapproves the proposed budget or the Board fails for any reason to determine the budget for the succeeding year, then and until such time as a budget shall have been determined as provided herein, the budget in effect for the then current year, with the total thereof increased by a maximum of six (6%) percent, shall continue for the succeeding year.

Section 3. Special Assessments - In addition to the assessments authorized in Section 1, the Association may levy a special assessment in any year. So long as the Special Assessments authorized under this Section 3 do not exceed One Hundred (\$100.00) Dollars per Residential Unit in any one year, the Board by majority vote may impose the Special Assessment. If such total is exceeded, then any excess Special Assessment must be approved by a majority vote of the Association membership.

Section 4. Lien for Assessments - All assessments shall constitute a lien on each Residential Unit prior and superior to all other liens except (1) all taxes, bonds, assessments and other levies which, by law, would be superior thereto, and (2) the lien or charge of any first mortgage of record (meaning any recorded mortgage or deed of trust with first priority over other mortgages or deeds of trust) made in good faith and for value.

The Association shall have the power to bid for the Residential Unit at foreclosure sale and to acquire and hold, lease, mortgage and convey the same. During the period owned by the Association following foreclosure: (1) No right to vote shall be exercised on its behalf, (2) No assessment shall be assessed or levied on it; and (3) Each other Residential Unit shall be charged, in addition to its usual assessment, its equal pro rata share of the assessment that would have been charged such Residential Unit had it not been acquired by the Association as a result of foreclosure.

Suit to recover a money judgment for unpaid common expenses, rent and attorney's fees shall be maintainable without foreclosing or waiving the lien securing the same.

Section 5. Successor to Declarant - Notwithstanding anything herein to the contrary, no mortgagee or successor of Declarant shall be obligated for assessments until the mortgagee has taken title and the unit to which the assessment applies has been completed and offered for sale.

ARTICLE IX GENERAL PROVISIONS

Section 1. Term - The covenants and restrictions of this Declaration shall run with and bind the Property, and shall inure to the benefit of and shall be enforceable by the Association, the Declarant or by the Owner of any Property subject to this Declaration, their respective legal representatives, heirs, successors and assigns.

Section 2. Amendment - This Declaration may be amended only by the affirmative vote (in person or by proxy) or written consent of Members representing a majority of the total voting power of the Association. Notwithstanding the above, Declarant reserves unto itself until January 1, 2003 the right to amend this Declaration in any way Declarant desires or to prevent any amendment by others except that no changes may be made in the method of assessment or the voting right of any Residential Unit except with the consent of a majority of those members. Any amendment must be recorded among the land records of Okaloosa County, Florida. No amendment may remove, revoke or modify any right or privilege of Declarant without the written consent of Declarant or the assignee of such right or privilege.

Section 3. Indemnification - The Association shall indemnify every officer and director against any and all expenses, including counsel in connection with any action, suit or other proceeding (including settlement of any suit or proceeding if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer or director. The officers and directors shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct or bad faith. The officers and directors shall have no personal liability with respect to any

contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or directors may also be members of the Association), and the Association shall indemnify and forever hold each such officer and director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer or director, or former officer or director, may be entitled. The Association shall as a Common Expense maintain adequate general liability and officers' and directors' liability insurance to fund this obligation.

Section 4. Delegation of Use - Any Owner may delegate, in accordance with the By-Laws of the Association, his or her right of enjoyment to the Common Area and facilities to the members of his or her family, tenants, and social invitees.

Section 5. Perpetuities - If any of the covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty one (21) years after the death of the last survivor of the now living descendants of James Earl Carter former President of the United States.

Section 6. Renting or Leasing of Residential Units - Residential Units may be rented or leased subject to the following restrictions:

A. All tenants shall be subject to the terms and conditions of this Declaration, the By-Laws, the Articles of Incorporation, and the rules and regulations promulgated thereunder as though such tenant were an Owner.

B. Each Owner agrees to cause his lessee, occupant, or persons living with such Owner or with his lessee to comply with the Declaration, By-Laws, and the rules and regulations promulgated thereunder, and said Owner is responsible and liable for all violations and losses caused by such tenants or occupants, notwithstanding the fact that such occupants of the unit are fully liable for any violation of the documents and regulations; failure to comply shall be, at the Board's option, considered a default in the lease.

C. In the event that a lessee, occupant, or person living with the lessee violates a provision of the Declaration, By-Laws, or rules and regulations adopted pursuant thereto, the Board shall have the power to bring an action or suit against the lessee to recover sums due for damages or injunctive relief, or for any other remedy available at law or equity, including, but not limited to, all remedies available to a landlord upon the breach or default of the lease agreement by the lessee.

D. The Board shall also have the power to impose reasonable fines upon the lessee or on the Owner for any violation by the lessee, occupant, or person living with the lessee of any duty imposed under the Declaration, By-Laws, or rules and regulations adopted pursuant thereto, and to suspend the right of the lessee, occupant, or person living with the lessee to use the Common Area. The Board shall have authority and standing to enforce any lease restrictions contained in or promulgated in accordance with any recorded instrument creating any residential association with Magnolia Plantation at Bluewater Bay.

ARTICLE X **RIGHTS OF SUCCESSOR TO DECLARANT**

Any Successor to Declarant by foreclosure or by deed in lieu of foreclosure may amend this Declaration to provide that all remaining property not then built upon may be removed from the plan of development. Such property may thereafter be used for development or sale by such successor free from any restraint or control of these Covenants.

Any property acquired after foreclosure or after deed in lieu of foreclosure even if removed by the Successor to Declarant from this subdivision, will have access to and use of all common areas upon payment of a pro-rata portion of the cost of operating the Common Areas.

ARTICLE XI **RULES OF CONSTRUCTION**

Section 1. The provisions of this Declaration and of the Covenants are to be construed liberally, in protection of the highest value of land, and in favor of strict but reasonable limitations or personal conduct. Such restrictions are considered supportive of the over all best interests and high values of the subdivisions.

Section 2. Headings herein are for reference only. They are intended as a guide to the contents within the section, and are not a complete statement of its contents. To the extent headings are inconsistent with content of any section, or are incomplete, the text of the content of the section will control.

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration this 10th day of December, 1993.

** OFFICIAL RECORDS **
BK 1802 PG 581

"DECLARANT"
EMCA FOREST INVESTORS, LTD.
A Florida Limited Partnership

John H. Layille
Witness
David C. Weaver
Witness

By: *Raimund Herden*
Raimund Herden, General Partner

STATE OF FLORIDA
COUNTY OF OKALOOSA

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgements, personally appeared Raimund Herden as General Partner of EMCA Forest Investors, Ltd. to me well known to be the person described in and who executed the foregoing and acknowledged before me that he executed the same. He is personally known to me and did take an oath.

WITNESS my hand and official seal in the County and State last aforesaid this 10th day of December, 1993.

Linda G. Davis
Notary Public
My Commission Expires:

(SEAL)

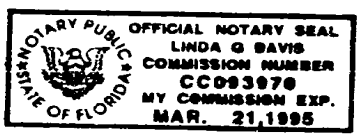


Exhibit "A"

** OFFICIAL RECORDS **
BK 1802 PG 582



Land Surveyors/Engineers

Gustin, Cothorn & Tucker, Inc.

121 Hart Street
Niceville, Florida 32578

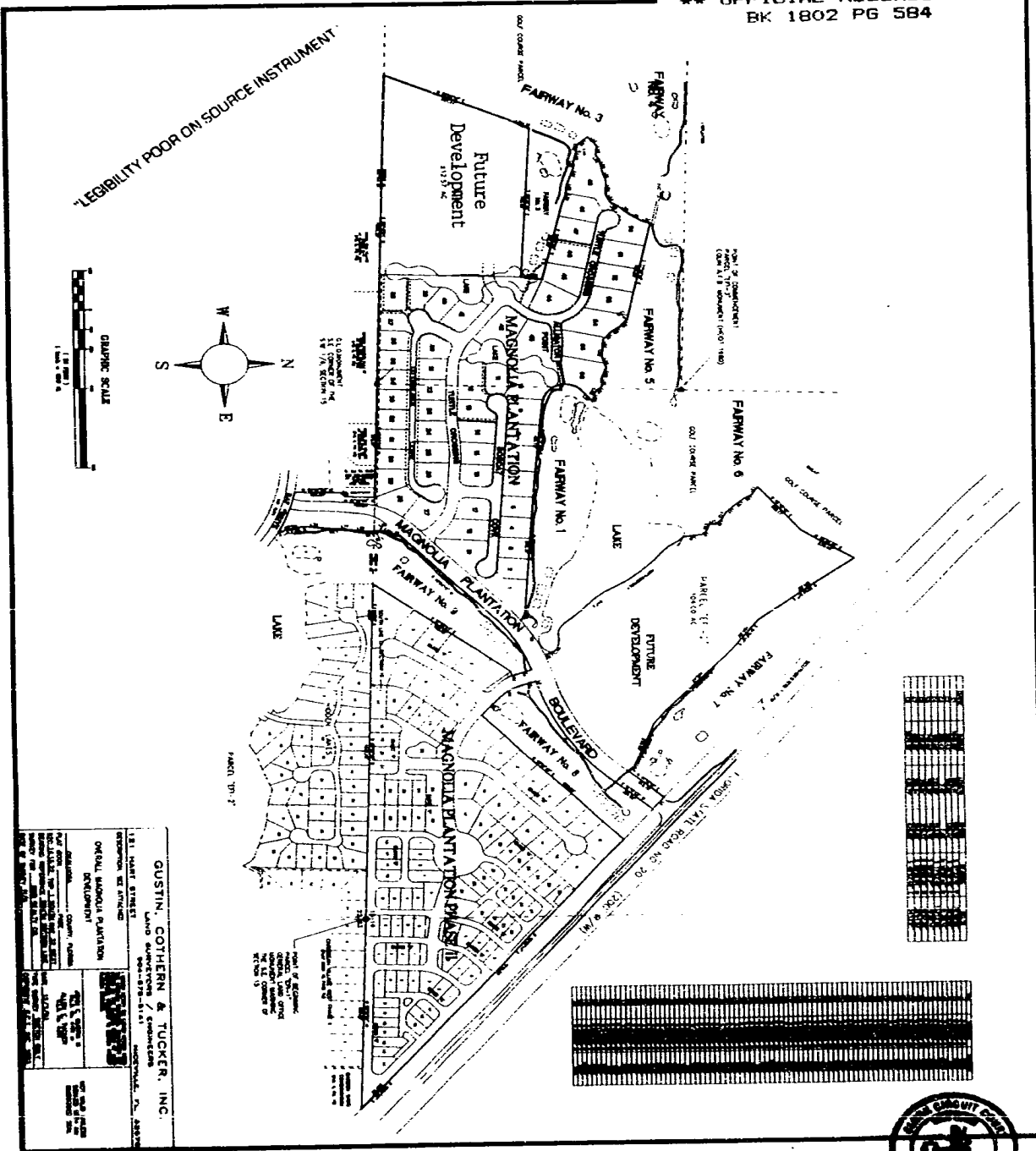
Telephone
(904) 678-5141

LEGAL DESCRIPTION: EFI-2 (Overall Magnolia Plantation Development)

BEGINNING AT THE GENERAL LAND OFFICE MONUMENT MARKING THE SOUTHEAST CORNER OF SECTION 15, TOWNSHIP 1 SOUTH, RANGE 22 WEST OKALOOSA COUNTY, FLORIDA, (ALSO BEING THE SOUTHWEST CORNER OF SECTION 14) THENCE GO N 88°09'55" W, ALONG THE SOUTH LINE THEREOF 1697.36 FEET; THENCE DEPARTING SAID SOUTH LINE GO N 37°05'53" E, 750.58 FEET; THENCE GO N 72°26'56" E, 23.81 FEET TO A POINT ON A CURVE CONCAVE TO THE NORTHEAST AND HAVING A RADIUS OF 269.43 FEET; THENCE ALONG SAID CURVE IN A NORTHWESTERLY DIRECTION THROUGH A CENTRAL ANGLE OF 01°35'12" AN ARC DISTANCE OF 7.46 FEET (CHORD = 7.46 FEET, CHORD BEARING = N 18°59'42" W TO THE POINT OF TANGENCY; THENCE GO N 18°12'07" W, 85.98 FEET TO A POINT ON A CURVE CONCAVE SOUTHEASTERLY AND HAVING A RADIUS OF 660.00 FEET; THENCE GO SOUTHWESTERLY ALONG SAID CURVE HAVING A CENTRAL ANGLE OF 25°43'33", AN ARC DISTANCE OF 296.34 FEET (CH. = 293.86 FEET, CH.BRG. = S 58°56'06" W); THENCE GO S 46°04'19" W, 607.32 FEET; THENCE GO S 07°28'18" W, 47.25 FEET; THENCE GO S 34°54'24" W, 32.93 FEET; THENCE GO S 06°38'04" W, 23.05 FEET; THENCE GO S 07°58'06" E, 36.66 FEET; THENCE GO S 08°33'22" W, 87.21 FEET; THENCE GO S 05°27'06" W, 60.06 FEET; THENCE GO S 02°25'39" E, 26.81 FEET; THENCE GO S 07°28'19" W, 107.98 FEET; THENCE GO S 13°31'41" E, 119.65 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY OF BAY DRIVE (80' RIGHT-OF-WAY) SAID POINT BEING ON A CURVE CONCAVE SOUTHERLY AND HAVING A RADIUS OF 732.84 FEET; THENCE GO WESTERLY ALONG SAID CURVE HAVING A CENTRAL ANGLE OF 16°57'32", AN ARC DISTANCE OF 216.91 FEET (CH. = 216.12 FEET, CH.BRG. = N 69°06'34" W) TO THE SOUTHEAST CORNER OF ROYAL OAK VILLAGE III C (AS RECORDED IN PLAT BOOK 10, PAGE 1 OF THE PUBLIC RECORDS OF OKALOOSA COUNTY) THENCE DEPARTING SAID NORTH RIGHT-OF-WAY RUN ALONG THE EAST BOUNDARY OF SAID ROYAL OAK VILLAGE THE FOLLOWING CALLS: N 00°57'03" E, 194.97 FEET; THENCE GO N 46°45'32" E, 31.87 FEET; THENCE GO N 01°49'52" E, 128.00 FEET TO THE SOUTH LINE OF SAID SECTION 15, THENCE DEPARTING SAID EAST BOUNDARY GO ALONG SAID SOUTH LINE N 88°09'55" W, 572.01 FEET TO THE G.L.O. MONUMENT MARKING THE SOUTHEAST CORNER OF THE SOUTHWEST ¼ OF SAID SECTION 15; THENCE GO N 88°10'00" W, ALONG THE SOUTH LINE THEREOF 1569.39 FEET; THENCE DEPARTING SAID SOUTH LINE GO N 23°20'10" E, 627.71 FEET; THENCE GO N 32°29'13" E, 31.88 FEET; THENCE GO N 18°57'15" E, 36.45 FEET; THENCE GO S 86°32'25" E, 753.56 FEET; THENCE GO N 10°05'07" E, 91.75 FEET; THENCE GO N 76°29'08" W, 397.86 FEET; THENCE GO N 68°35'04" W, 42.16 FEET; THENCE GO N 82°45'36" W, 53.03 FEET; THENCE GO N 71°32'42" W, 100.09 FEET; THENCE GO S 85°53'38" W, 22.53 FEET; THENCE GO N 75°38'23" W, 49.05 FEET; THENCE GO S 84°46'58" W, 7.86 FEET; THENCE GO N 76°29'08" W, 30.18 FEET; THENCE GO N 38°40'28" W, 62.20 FEET; THENCE GO N 48°32'33" E, 60.60 FEET; THENCE GO S 82°51'43" E, 45.03 FEET; THENCE GO N 58°19'39" E, 34.06 FEET; THENCE GO N 80°17'32" E, 52.78 FEET; THENCE GO N 71°12'52" E, 50.19 FEET; THENCE GO S 88°47'07" E, 73.27 FEET; THENCE GO N 63°52'04" E, 46.54 FEET; THENCE GO N 29°49'33" E, 37.15 FEET; THENCE GO N 40°08'26" E, 53.81 FEET; THENCE GO N 35°14'25" E, 66.73 FEET; THENCE GO N 17°43'15" E, 43.20 FEET; THENCE GO S 77°42'10" E, 504.95 FEET; THENCE GO S 30°27'56" E, 3.99 FEET; THENCE GO S 49°05'35" E, 42.96 FEET; THENCE GO S 34°56'15" E, 41.86 FEET; THENCE GO S 47°00'09" E, 54.94 FEET; THENCE GO S 86°57'44" E, 56.72 FEET; THENCE GO S 79°34'19" E, 26.15 FEET; THENCE GO N 72°00'51" E, 63.79 FEET; THENCE GO S 69°18'47" E, 61.32 FEET; THENCE GO N 88°23'07" E, 39.93 FEET; THENCE GO S 42°15'22" E, 35.79 FEET; THENCE GO S

** OFFICIAL RECORDS **
BK 1802 PG 583

58°03'03" E, 13.62 FEET; THENCE GO S 77°45'06" E, 39.07 FEET; THENCE GO S 48°53'36" W, 72.65 FEET TO A POINT OF CURVATURE; THENCE GO SOUTHERLY ALONG A CURVE CONCAVE EASTERLY HAVING A RADIUS OF 100.00 FEET AND A CENTRAL ANGLE OF 133°12'45", AN ARC DISTANCE OF 232.50 FEET (CH. = 183.56 FEET, CH.BRG. = S 17°42'45" E) TO THE POINT OF TANGENCY; THENCE GO S 84°19'20" E, 401.78 FEET; THENCE GO S 85°48'57" E, 670.41 FEET; THENCE GO S 66°15'49" E, 43.26 FEET TO A POINT ON A CURVE CONCAVE SOUTHEASTERLY AND HAVING A RADIUS OF 740.00 FEET; THENCE GO NORTHEASTERLY ALONG SAID CURVE HAVING A CENTRAL ANGLE OF 15°26'14", AN ARC DISTANCE OF 199.38 FEET (CH. = 198.78 FEET, CH.BRG. = N 59°56'37" E) THENCE DEPARTING SAID CURVE RUN N 16°44'58" W, 33 FEET MORE OR LESS TO THE ORDINARY HIGH WATER LINE OF AN EXISTING LAKE; THENCE GO NORTHWESTERLY ALONG SAID ORDINARY HIGH WATER LINE FOR 847 FEET, MORE OR LESS; THENCE DEPARTING SAID ORDINARY HIGH WATER LINE GO N 08°12'31" W, 82 FEET, MORE OR LESS; THENCE GO N 45°39'47" W, 26.04 FEET; THENCE GO N 70°07'38" W, 35.67 FEET; THENCE GO N 01°47'33" E, 27.00 FEET; THENCE GO N 42°01'17" W, 35.57 FEET; THENCE GO N 60°25'26" W, 39.59 FEET; THENCE GO N 42°55'45" W, 45.50 FEET; THENCE GO N 40°11'47" W, 54.92 FEET; THENCE GO N 31°01'01" W, 47.04 FEET; THENCE GO N 58°02'55" W, 45.79 FEET; THENCE GO N 49°45'48" E, 292.17 FEET; THENCE GO N 32°34'32" E, 270.44 FEET; THENCE GO S 36°04'27" E, 521.82 FEET; THENCE GO S 51°56'16" E, 184.09 FEET; THENCE GO S 46°17'33" E, 425.42 FEET; THENCE GO S 48°59'14" E, 87.60 FEET; THENCE GO S 67°33'40" E, 233.90 FEET; THENCE GO S 35°36'19" E, 35.56 FEET; THENCE GO N 41°10'46" E, 213.73 FEET TO THE SOUTH RIGHT-OF-WAY OF FLORIDA STATE ROAD NO. 20 (200' RIGHT-OF-WAY); THENCE GO S 48°59'14" E, ALONG SAID RIGHT-OF-WAY FOR 80.00 FEET; THENCE DEPARTING SAID RIGHT-OF-WAY; GO S 41°10'46" W, 251.92 FEET TO A POINT OF CURVATURE; THENCE GO SOUTHWESTERLY ALONG A CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 1040.00 FEET AND A CENTRAL ANGLE OF 32°25'00", AN ARC DISTANCE OF 588.41 FEET (CH. = 580.59 FEET, CH.BRG. = S 57°23'17" W) TO THE POINT OF TANGENCY; THENCE GO S 73°44'25" W, 5.24 FEET; THENCE GO S 18°12'06" E, 84.43 FEET TO A POINT OF CURVATURE; THENCE GO SOUTHEASTERLY ALONG A CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 209.43 FEET AND A CENTRAL ANGLE OF 29°10'07", AN ARC DISTANCE OF 106.62 FEET (CH. = 105.47 FEET, CH.BRG. = S 32°47'10" E); THENCE GO S 47°22'14" E, 113.44 FEET; THENCE GO N 46°01'45" E, 892.63 FEET TO THE SOUTH RIGHT-OF-WAY OF SAID STATE ROAD NO. 20; THENCE GO S 48°59'14" E ALONG SAID RIGHT-OF-WAY FOR 1549.24 FEET; THENCE GO S 48°47'52" E, 237.89 FEET TO THE INTERSECTION OF SAID SOUTH RIGHT-OF-WAY AND THE SOUTH LINE OF AFORESAID SECTION 14; THENCE DEPARTING SAID SOUTH RIGHT-OF-WAY GO N 88°01'59" W ALONG SAID SOUTH LINE 965.07 FEET TO THE POINT OF BEGINNING, CONTAINING 104.00 ACRES MORE OR LESS.



LEGIBILITY POOR ON SOURCE INSTRUMENT

GRAPHIC SCALE
1" = 100' ±

181 EAST STREET
GUSTIN, COTHERN & TUCKER, INC.
LAND SURVEYORS & ENGINEERS
TALLAHASSEE, FLORIDA 32304

DATE: 12/29/93

BY: [Signature]

FILE# 1305324
OKALOOSA COUNTY, FLORIDA

RCI: DEC 29 1993 @ 9:04 AM
NEWMAN C BRACKIN, CLERK





**DECLARATION OF COVENANTS AND RESTRICTIONS
SINGLE FAMILY SUBDIVISION: PHASE I (56 HOMESITES)
MAGNOLIA PLANTATION AT BLUEWATER BAY**

WHEREAS, EMCA FOREST INVESTORS, LTD., a Florida limited partnership, ("Developer") is the owner of certain subdivided real estate in Okaloosa County, Florida, which is a part of Magnolia Plantation at Bluewater Bay and is more particularly described on Exhibit "A" attached hereto and made a part hereof (the "Subdivision");

WHEREAS, said Developer, in developing the Subdivision, is desirous of placing certain covenants and restrictions upon the use of all of the land comprising the Subdivision and is desirous that said covenants and restrictions shall run with title to said land and the grantee of any deed conveying any lot or lots, parcels or tracts included in Subdivision shall be deemed by the acceptance of such deed to have agreed to all such covenants and restrictions, and to have covenanted to observe, comply with and be bound by all such covenants and restrictions; and

WHEREAS, Developer has previously filed a Master Declaration of Covenants, Conditions and Restrictions for Magnolia Plantation at Bluewater Bay at Book 1802 Page 574 Official Records of Okaloosa County (the "Master Declaration") the Subdivision being a part of the property subjected to said Master Declaration;

NOW THEREFORE, Developer hereby declares that all of the property within the Subdivision all be held, sold, and conveyed subject to the Master Declaration and subject to the following easements, restrictions, covenants and conditions which are for the purpose of protecting the value and desirability of and which shall run with the property submitted to this Declaration and which shall be binding on all parties having any right, title, or interest in the Subdivision or any part thereof, their heirs, successors, successors-in-title and assigns, and shall inure to the benefit of each owner thereof.

(1) **MASTER ASSOCIATION AND FEES.** The Subdivision is part of a larger development area known as "Magnolia Plantation at Bluewater Bay", more particularly described in the Master Declaration. Each lot in the Subdivision is automatically a member of Magnolia Plantation Property Owners' Association as constituted from time to time. The powers and obligations of the Association and its members, including the obligation of members to pay assessments, are more particularly described in the Master Declaration and the Articles of Incorporation and By-Laws of the Association ("Association Documents"). The Association Documents may be modified or amended from time to time as provided for in said Association Documents.

(2) **SINGLE FAMILY RESIDENCE ONLY.** Except as provided in paragraph 5, no structure shall be erected, altered or permitted to remain on any lot in the Subdivision other than for use as a single family residence (which excludes use of a single residential unit as a multi-family residence or for use as a place of business, except that Developer may use a residential unit as a sales center). A portion of a residence constructed in the Subdivision may be used as a home-office or as an ancillary business office only with the prior written approval of Developer, which approval may be given or denied in Developer's sole discretion and only if said use is in accordance with the provisions of any applicable ordinances, rules and regulations of Okaloosa County. The residence on each lot shall not be more than 35 feet in height above the normal surface of the ground. No building situated on any lot shall be rented or leased separately from the rental or lease of the entire property, nor shall any property be used or leased for other than a single family residence. No duplex residence or garage apartment shall be erected or placed on or allowed to occupy said lot and no building shall be altered or converted into a duplex residence or garage apartment. Furthermore, a lot owner may not use any lot for road purposes or as an easement to any lands not contained within the Subdivision.

(3) **MOTORIST'S VISION TO REMAIN UNOBSTRUCTED.** No structure or planting (including but not limited to a fence, wall, hedge, shrub, bush, tree or other thing, natural or artificial) shall be placed or located on any lot if the location of same will, in the sole judgement and opinion of the Developer, obstruct the vision of motorists travelling on any of the streets.

(4) **MINIMUM SQUARE FOOTAGE FOR ANY PRINCIPAL RESIDENCE.** (a) No one-story residence shall be erected or allowed to remain on any lot unless the enclosed heated and cooled area thereof, exclusive of screened porches, garages and storage rooms, shall equal or exceed 1,800 square feet. (b) No one and one-half story residence, no split-level residence and no two-story residence shall be erected or allowed to remain on any lot unless the heated and cooled area thereof,

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exclusive of screened porches, garages and storage rooms, shall equal or exceed 2200 square feet and further provided that the first floor thereof contain a minimum of 1000 square feet.

(5) **BUILDER APPROVAL.** Developer has established a Preferred Builder Program one purpose of which is to limit the builders eligible to construct residential dwellings in Magnolia Plantation to those builders who meet certain standards as to experience, financial stability and quality of product and who have agreed to support Developer's marketing program designed to promote the overall development of Magnolia Plantation. No construction activity may take place on any lot except through a general contractor who has been designated by Developer as a Preferred Builder in accordance with the standards set by Developer and in effect from time to time.

(6) **PLAN APPROVAL.** No lot clearing or construction of any kind, including but not limited to construction or remodeling of main structure, garages, fences or ancillary structures, shall be permitted to commence or allowed to remain on any lot until the plans, design, colors and location of said improvements on the lot have been approved by Developer acting through an Architectural Review Committee appointed by Developer or through such other representative as Developer may designate from time to time. A lot owner shall be required to submit such information as Developer may request in order to facilitate Developer's approval process. One set of the plans required to be submitted for approval will be retained by Developer. If the finished building or other structure does not comply with the approved plans, Developer retains the right to cause the necessary changes to be made at owner's expense, the cost of which shall be a lien upon the property involved. Any changes in plans must first be re-approved by the Developer in accordance with the procedures specified from time to time by Developer.

(7) **OTHER STRUCTURES.** Construction or placement of structures other than the main residence and a garage shall not be permitted on any lot of the Subdivision except for the following ancillary structures which may be permitted subject to approval by Developer of location, architectural design and exterior finishes: pet house (up to 25 square feet and not more than 5 feet high), hothouse or greenhouse (up to 100 square feet and not more than 15 feet high), poolhouse, outdoor fireplace or barbecue pit (up to 9 square feet and not more than 10 feet high), swimming pools and mechanical installation in connection therewith, playground equipment, and such other structures as Developer may approve. Any such ancillary structures permitted hereunder shall be attractively landscaped, constructed in a harmonious design with the main structure, and located only on such part of the lot area as Developer may approve. No ancillary structure shall be built or placed on a lot until the quality, style, color and design have been approved by the Developer in the manner provided for herein.

(8) **SETBACK FOR ALL STRUCTURES.** No building of any type, nor any kind of structure, except driveways and walks, or any part of same, shall be erected, placed or allowed within the front, side and rear building setbacks established by Developer for each lot as shown on Exhibit B attached hereto and made a part hereof. The Developer may, in its sole discretion, modify the setbacks required hereby in order to permit the construction of improvements in cases where Developer believes that setback modifications are appropriate.

(9) **RESUBDIVIDING OR REPLATTING OF LOTS.** Developer reserves the right unto itself to resubdivide or replat a lot or lots in the Subdivision. Except as provided herein no lot may be further subdivided. When more than one lot is owned by a single owner and committed, in Developer's opinion, to be used only as one residential unit, Developer may declare that said two lots be treated as a single lot without the need to formally replat.

(10) **FENCES.** Fences or walls may be built or maintained only on portions of any lot and only in such locations as Developer shall approve in its sole discretion. Without Developer's prior consent, no fence or wall shall be erected higher than six feet from the normal surface of the ground. Fences must be of uniform design and the sides facing away from the lot must be finished. No fence or wall shall be erected until the location, quality, style, color and design shall have been first approved by the Developer or its duly appointed representative in the manner provided for herein. Any such fence or wall constructed without said approval shall, at the request of Developer, be immediately removed at the owner's expense. If said owner does not cause the removal of the fence within ten days after receipt of written notice from Developer, then Developer may enter onto the lot and remove the fence. The cost of Developer doing so shall be paid by owner. Without Developer's prior consent, there shall be no fences or wall of any kind erected to the rear of the building on any lot that directly abuts the golf course or a lake.

(11) **SITE DESIGN, LANDSCAPING PLAN AND TREE REMOVAL TO BE APPROVED BY DEVELOPER.** For the purpose of further insuring the development to be a residential area of highest quality and standards, and in order that all improvements on each lot shall present an attractive and pleasing appearance from all sides of view, the Developer reserves the exclusive power and discretion to control and approve the location on the lot as well as the design of all buildings, structures and other improvements to be built on each lot. Developer shall also have the right to approve the landscaping plan for removal of trees from any lot. No clearing of a lot, construction of improvements, installation of landscaping or tree removal may be done until Developer has approved the plan for said improvements and for the landscaping. Plans showing such details as Developer may reasonably require shall be submitted by Owner to Developer for review and approval. The timing for submitting plans for review, the methods used for the review process and the time period for Developer to respond shall be established from time to time by

Developer. The landscaping plan of a lot must provide that all designated grass areas of front, rear and side yards shall be served by an underground irrigation system and shall be sodded up to the paved surface of any abutting street and up to the side and rear property lines. The landscaping installed anywhere on a lot shall not impede the designed flow of stormwater.

(12) **GARAGES AND CARPORTS.** The improvements on a lot must include a garage which shall have the capacity for at least two automobiles. No carports shall be built on any lot.

(13) **FUTURE PURCHASERS.** The original purchaser of property in this Subdivision as well as subsequent purchasers are bound by these covenants and restrictions which run with the land (see Article 37). Therefore, structural modifications to the exterior of existing structures, new structures (such as ancillary structures and fences) and exterior color changes of any improvements on the lot must be approved in advance by the Developer or his authorized representative.

(14) **NO PARKING OF VEHICLES, BOATS, ETC.** No wheeled vehicles of any kind, boats or any offensive objects may be kept on public rights-of-way of the Subdivision or in the driveway, front, side or rear yard area of any lot except that passenger vehicles, passenger vans and pickup trucks (as long as any such vehicle has no commercial signs thereon) may be parked on a temporary basis in the paved driveway serving a lot. Boats or wheeled vehicles must be kept completely inside a garage located on the lot. No trailers or habitable motor vehicles of any nature shall be kept for use on any lot except within a fully enclosed garage. Disabled vehicles, vehicles under repair or vehicles in storage must be kept only within the garage located on said lot.

(15) **WINDOW AIR CONDITIONERS.** Unless prior approval of the Developer has been obtained, no window air-conditioning units may be installed in any building or ancillary structure.

(16) **NO OVERHEAD WIRES.** All telephone, electric and other utility lines and connections between the main utility lines and the residence and other buildings located on each lot shall be located underground so as not to be visible.

(17) **COMPLETION OF COMMENCED CONSTRUCTION.** When the construction of any improvements is once begun, work thereon shall be prosecuted diligently and continuously until the full completion thereof. All permanent structures shown on the plans and specifications approved by the Developer must be completed within seven (7) months after the commencement date unless such completion is rendered impossible as the direct result of strikes, fires, national emergencies or natural calamities or unless otherwise approved by Developer. All landscaping must also be completed seven (7) months after construction has commenced and, in any event, prior to anyone commencing occupancy.

(18) **DRIVEWAY.** Prior to completion of construction, the owner of the lot in the Subdivision shall install at his expense a suitable concrete or brick paver driveway extending from the paved portion of the abutting street to the garage entrance. Driveway design, size, location and elevation shall be submitted to the Developer for its prior approval. Owner of the lot shall not permit the driveway to interfere with or impede the flow or drainage of surface water along the road right-of-way. During construction on any lot, all vehicles involved in such construction, including those delivering materials and supplies shall enter upon such lot from the street only at the location for the proposed driveway. Such vehicles shall not be parked so as to obstruct the street nor shall they be parked on any property other than the lot on which the construction is proceeding.

(19) **NO PICNIC AREA PRIOR TO CONSTRUCTION.** No picnic areas and no detached outbuildings shall be erected or permitted to remain on any lot prior to the start of construction of a permanent residence thereon.

(20) **NO SHEDS, SHACKS OR TRAILERS.** No shed, trailer, tent or other temporary or movable building or structure of any kind shall be erected or permitted to remain on any lot. However, this paragraph shall not prevent the location on the lot of adequate sanitary toilet facilities for use of workmen during the course of such construction.

(21) **RESIDING ONLY IN RESIDENCE.** No trailer, basement, garage or any outbuilding of any kind, even if otherwise permitted hereunder to be or remain on a lot, shall be at any time used as a residence either temporarily or permanently.

(22) **SIGNS.** Neither owner nor any agent of owner shall place a sign of any character upon any lot or on any other property within Magnolia Plantation except as approved by the Developer. The Developer hereby approves one "FOR SALE" or "For Rent" sign, not to exceed six square feet in size and height not to exceed five feet above grade, to be placed upon said lot by an owner-resident or his agent to facilitate the sale or rental of the home. Only one such sign shall be permitted per lot and if such sign is placed on the golf course or lake front side of a lot, it must be within the required setback. A sign placed in the front yard must be at least ten feet back from the front property line. "SOLD" may be affixed to said sign and said sign may remain on the lot until SEVEN days after closing of the sale. The Developer may enter upon any lot and summarily remove any signs which do not meet the provisions of this paragraph. During the construction period, Developer hereby approves a single identification sign board which may be located on a lot on which the builder may identify his company and, at the option of builder, permit his sub-contractors and lender to identify themselves. No portion of this sign board shall be more than four feet high or three feet wide. Signs

should be placed in the center of each lot at least ten feet back from any adjacent street. In no event shall any builder signs be affixed to any trees on the lot, placed in the right-of-way of the street or placed in the rear yard of the lot.

(23) **COMMERCIAL SIGNS.** Nothing contained in these covenants and restrictions shall prevent the Developer or any person designated by the Developer from erecting or maintaining such commercial and display signs and such temporary dwellings, sales center, model houses and other structures as the Developer may deem advisable for development, marketing or sales purposes.

(24) **AERIALS AND ANTENNAS.** Unless otherwise approved by Developer, no television or radio aerial or antenna nor any other exterior electronic or electric equipment or devices of any kind shall be located on any lot or installed or maintained on the exterior of any structure located on a lot.

(25) **MAIL BOXES.** Only a mail box or newspaper receiving box of the types approved by Developer may be erected or located on any lot. No other receptacle of any kind for use in the delivery of mail or newspapers or similar material may be erected or located on any lot. Mail box selection must be submitted as part of house plans for Developer's approval.

(26) **PETS.** Except for not more than two dogs or two cats, or other pets which are confined exclusively to the interior of the main residence located on the lot, no pets or other animals may be kept on a lot or in any structure located on the lot. No animals of any kind may be kept for any commercial or breeding purposes. If in the sole opinion of the Developer, the animal or animals become dangerous or an annoyance or nuisance in the neighborhood or to nearby property or destructive of wildlife, they may not thereafter be kept on the lot or inside the main residence. All pets must be kept under control at all times and must not become a nuisance by barking or other acts. No pets are allowed on the golf course or in the lakes and all pets must be on a leash when outside the boundary of the owner's lot.

(27) **NO OFFENSIVE ACTIVITIES.** No illegal, noxious, commercial, or offensive activities shall be permitted or carried out on said lot nor shall anything be permitted or done thereon which is or may become a nuisance or a source of embarrassment, discomfort or annoyance to the neighborhood. No trash, garbage, rubbish, debris, waste material or other refuse shall be deposited or allowed to accumulate or remain on any part of said lot nor upon any land or lands continuous thereto. No fires for burning of trash, leaves, clippings or other debris or refuse shall be permitted to be on any part of said land or road right-of-ways. Except on the day of collection, trash containers shall be kept either inside the garage or within a screened area to the side of the house.

(28) **WELL LIMITATION: WATER SUPPLY** Unless prior approval is obtained from Developer and such governmental agencies as may have jurisdiction, no artesian wells may be drilled or maintained on any lot. A central potable water supply system owned and operated by Developer or Okaloosa County or their successors or assigns will be provided to serve the Subdivision and shall be used as the sole source of water for all water spigots and outlets located within all buildings and improvements located on each lot. Each property owner at his expense shall connect his water lines to the water distribution main provided to serve the lot in the Subdivision. After such connection, each lot owner shall pay when due the periodic charges or rates for the furnishing of water made by the supplier thereof. A lot owner may provide an individual, underground water supply and delivery system from a shallow well on his lot provided that said system is used solely to supply water for an air-conditioning or heating installation, irrigation purposes, swimming pools or other exterior uses.

(29) **SEWAGE DISPOSAL.** Each owner of a lot, at his expense, shall connect his sewage disposal line to the sewage collection line provided by Developer to serve the lot in the Subdivision. The connection shall be made in such manner so as to comply with the requirements of the Okaloosa County sewage collection and disposal service. After such connection and payment of sewer connection charges, each lot owner shall pay when due the periodic charges or rates for the furnishing of such sewage collection and disposal service. No septic tank or other private sewage disposal unit shall be installed or maintained on any land in the Subdivision and no sewage shall be discharged into the open grounds, golf course, other lot or into any river, marsh, pond, park, ravine, drainage ditch or canal access way.

(30) **UTILITY EASEMENTS ON SIDES AND REAR OF LOTS, AND ON PRIVATE ROADS AND ENVIRONMENTAL PRESERVATION AREAS.** The Developer, for itself and its successors and assigns, hereby reserves and is given an easement, privilege and right on, over and under the ground in order to erect, maintain and use electric and telephone wires, cables, conduits, water mains, drainage lines or drainage ditches, sewers and other suitable equipment for drainage and sewage disposal purposes or for the installation, maintenance, transmission and use of electricity, gas, telephone, lighting, heating, water, drainage, sewage and other conveniences or utilities, on, in, over and under all of the easements shown on said plat (whether such easements are shown on said plat to be for drainage, utilities or other purposes) and on, in, over and under a further easement retained hereby in favor of Developer described as a seven and one-half foot strip at the front, back and sides of each lot and on, in over and under designated easements and on, in, over and under all private roads and Environmental Preservation Areas. The Developer shall have the unrestricted and sole right and power of alienating and releasing the privileges, easements and rights referred to in this

paragraph. The owner of the lot subject to the privileges, rights and easements referred to in this paragraph shall acquire no right, title or interest in or to any wires, cables, conduits, pipes, mains, lines or other equipment of facilities placed on, over or under the property which is subject to said privileges, rights and easements. The Developer for itself and its successors and assigns reserves the right to designate the users of all such easements by parties other than the real property owner.

(31) LOT APPEARANCE AND LANDSCAPING. The owner of each lot, whether such lot be improved or unimproved, shall keep such lot and the area between the property line of the lot and the paved surface of any abutting street ("street frontage") free of trash and rubbish, and shall keep such lot, street frontage and landscaping thereof in a neat and attractive landscaped condition at all times. During construction, all trash and waste material generated shall be removed and disposed of by the lot owner or the contractor at regular intervals so that the lot does not become unsightly. Developer may specify the trash removal frequency required during construction. The owner of a lot with a completed home shall install, maintain and replenish, if needed, the landscaping required pursuant to the approved landscaping plan. In the event the owner of any lot fails to comply with the provisions hereof, the Developer shall, after giving written notice to the lot owner, have the right, but not the obligation, to go upon such lot and install the sod or other landscaping required in Developer's opinion or remove rubbish and any unsightly or undesirable things and objects from the lot or street frontage and to do any other things and perform and furnish any labor necessary or desirable in its judgement to complete or maintain the landscaping in the manner as set forth herein and to maintain the lot and street frontage in a neat and attractive condition, all at the expense of the owner of such lot. The expense shall be payable by such owner to the Developer on demand. In the event of a failure of such owner to pay the Developer as above provided, the Developer shall have the right to file a notice of lien in the office of the Clerk of the Circuit Court of Okaloosa County, Florida, and from and after the filing of such notice of lien, the Developer shall have a lien on such lot for the payment of such sum, with interest at the rate of 18% per annum or the highest permitted by law, whichever is lower, all in like manner as if the Developer had performed such work at the instance and request of such owner. Any such lien, however, shall be subordinate and inferior to any mortgage then or thereafter encumbering such lot.

(32) CLOTHES LINES. The hanging of clothes in the front, rear or side yard shall not be permitted.

(33) STREET LIGHTING. Developer shall install a street lighting system for the Subdivision. The cost of operating and maintaining this system shall be an expense of the Association and distributed among owners of lots within the Subdivision as the Association deems appropriate.

(34) DEVELOPER MAY CORRECT VIOLATIONS. Whenever there shall have been built or there shall exist on any lot any structure, building, thing or condition which is in violation of these covenants and restrictions, the Developer shall, after giving written notice to the lot owner, have the right, but not the obligation, to enter upon the lot or street frontage where such violation exists and summarily abate, correct or remove the same, all at the expense of the lot owner payable to the Developer on demand. Such entry and abatement, correction or removal shall not be deemed a trespass nor make the Developer liable in any way for any damages on account thereof. In the event of a failure of such owner to pay the Developer any sums required to be paid Developer under these covenants and restrictions, the Developer shall have the right to file a notice of lien as provided in Section 42 hereof.

(35) APPROVAL OF DEVELOPER. Wherever in these covenants and restrictions the consent or approval of the Developer is required to be obtained, no action requiring such consent or approval shall be commenced or undertaken until after a request for approval is submitted in writing to the Developer and approved by the Developer. Such request shall be hand delivered or sent to the Developer by Certified Mail, Return Receipt Requested. After the Developer acts upon the application, it must be picked up and signed for by the applicant. No action shall be taken by or on behalf of the person or persons submitting such application which action violates any of the covenants and restrictions herein contained.

(36) DEVELOPER MAY DESIGNATE A SUBSTITUTE. The Developer shall have the sole and exclusive right at any time and from time to time to transfer and assign to, and to withdraw from such person, firm or corporation as it shall elect, any or all rights, powers, privileges, authorities and reservations given to or reserved to Developer hereunder or under the provisions herein contained. If at any time hereafter there shall be no person, firm or corporation entitled to exercise the right, powers, privileges, authorities and reservations given to or reserved by the Developer under the provisions hereof, the same shall be vested in and be exercised by a committee to be elected or appointed by the owners of a majority of the lots in the Subdivision. Nothing herein contained, however, shall be construed as conferring any rights, powers, privileges, authorities or reservations in said committee except in the event aforesaid.

(37) AMENDMENTS OR ADDITIONAL RESTRICTIONS. The Developer reserves and shall have the right (a) to amend these covenants and restrictions for the purpose of curing any ambiguity in or any inconsistency between the provisions contained herein; (b) to include in any contract, deed declaration or other instrument hereafter made, any additional covenants and restrictions applicable to said land which do not lower the standards of the covenants and restrictions herein contained; and (c) to release any lot from any part of the covenants and restrictions which have been violated if the Developer, in its sole judgement,

determines such violation to be a minor or insubstantial violation or if such variance is appropriate in the particular situation presented.

(38) AMENDMENT OF RESTRICTION WITH CONSENT OF OWNERS. In addition to the rights of the Developer provided for in paragraph (35) hereof, the Developer reserves and shall have the right, with the consent of the Developer and of the persons then owning two-thirds or more of the platted lots shown on the plat of the Subdivision, to amend or alter these covenants and restrictions and any part thereof in any other respects.

(39) ADDITIONAL RESTRICTIONS BY INDIVIDUAL OWNERS. No lot owner, without the prior written consent and approval of the Developer, may impose any additional covenants and restrictions.

(40) RESTRICTIONS EFFECTIVE PERIOD. The covenants and restrictions as amended and added to from time to time as provided for herein, shall be subject to the provisions hereof and unless released as herein provided, be deemed to be covenants and restrictions running with the title to said land on the Subdivision and shall remain in full force and effect until the last day of December, 2043. Thereafter the restrictions shall remain in effect for successive periods of ten (10) years unless two thirds of the unit owners agree in writing to extinguish these restrictions.

(41) RULES OF CONSTRUCTION. All parties who take title subject to these covenants and restrictions understand the general rule of law to be that such covenants are to be construed strictly, against the Developer and in favor of unrestricted use. All parties agree that these covenants and restrictions shall instead be construed to accomplish their purpose consistent with continued support of the value of lots. These covenants are to be construed reasonable to accomplish their purpose.

(42) LEGAL ACTION ON VIOLATIONS. If any person, firm or corporation, or other entity shall violate or attempt to violate any of these covenants and restrictions it shall be lawful for the Developer or any person or persons owning any lot of the Subdivision (a) to prosecute proceedings at law for the recovery of damages against those so violating or attempting to violate any such covenants and restrictions and (b) to maintain a proceeding in equity against those so violating or attempting to violate any such covenants and restrictions, for the purpose of preventing or enjoining all or any such violations or attempted violations. The remedies contained in this paragraph shall be construed as cumulative of all other remedies now or hereafter provided by law. The failure of the Developer, its successors or assigns, to enforce any covenant or restriction herein contained, shall in no event be deemed as a waiver of the right to enforce the same thereafter as to the same breach or violation thereof occurring prior to or subsequent thereto. Lot owners found in violation of any provision of these covenants and restrictions shall be obliged to pay attorney's fees to the successful plaintiff in all actions seeking to prevent, correct or enjoin such violations or in damage suits thereon. All restrictions and covenants herein contained shall be deemed several and independent. The invalidity of one or more or any part of one shall in no way impair the validity of the remaining restrictions and covenants or part thereof.

(43) USE OF GOLF COURSE AND LAKES. The fairways, tees, greens, and roughs of the golf course area are reserved for the exclusive use of golfers who have officially registered for play in accordance with the procedures then in effect as designated by the golf course owner, Bluewater Bay Resort, Ltd. No resident, regardless of club membership status, shall start play without registering for play. Pets shall not be allowed access to any portion of the golf course or be allowed in any lake or pond contained in the Subdivision. Bluewater Bay Resort, Ltd. is authorized to promulgate such rules and regulations governing access to and use of the golf course and any lake or marsh which they own as they may, in their sole discretion, deem appropriate. Bluewater Bay Resort, Ltd., as owner of the golf course, certain marsh areas and the lake adjacent to the first fairway, shall also have the right to enforce the provisions of this Declaration with respect to any lot that abuts property owned by Bluewater Bay Resort, Ltd.

(44) LIENS. Each lot owner hereby grants a lien upon his lot for any sums which may become due the Developer or the Association hereunder. In the event of a failure of such owner to pay the Developer any sums provided for herein, the Developer shall have the right to file a notice of lien in the office of the Clerk of the Circuit Court of Okaloosa County, Florida, and from and after the filing of such notice of lien, the Developer shall have a lien on such lot for the payment of such sum, with interest at the rate of 18% per annum or the highest permitted by law, whichever is lower, all in like manner as if the Developer had performed such work at the instance and request of such owner. Any such lien, however, shall be subordinate and inferior to any mortgage then or thereafter encumbering such lot.

(45) EASEMENT OVER LOTS FOR USE BY GOLFERS. Each owner of a lot abutting the golf course grants an easement to each person registered to play golf on the golf course for the purpose of hitting golf balls over and on to such lot, and walking on said lot to recover golf balls thereon so long as destruction of property does not occur.

IN WITNESS WHEREOF the Developer has hereunto set his hand and seal this 10th day of December, 1993.

"DEVELOPER"
EMCA FOREST INVESTORS, LTD.
A Florida Limited Partnership

David C. Weaver
Witness

By: [Signature]
RAIMUND HERDEN, GENERAL PARTNER

[Signature]
Witness

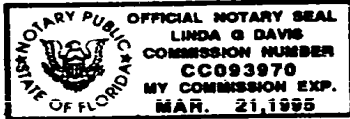
** OFFICIAL RECORDS **
BK 1802 PG 591

STATE OF FLORIDA

COUNTY OF OKALOOSA

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, personally appeared Raimund Herden, General Partner of EMCA Forest Investors to me known to be the person described in and who executed the foregoing instrument and he acknowledged before me that he executed the same. He is personally known to me and did take an oath.

WITNESS my hand and official seal in the County and State last aforesaid this 10th day of December 1993.



Linda G Davis

Notary Public

My commission expires:

EXHIBIT "A"

** OFFICIAL RECORDS **
BK 1802 PG 592

Land Surveyors/Engineers

Gustin, Cothorn & Tucker, Inc.

121 Hart Street
Niceville, Florida 32578

Telephone
(904) 678-5141



LEGAL DESCRIPTION: MAGNOLIA PLANTATION

A parcel of land situated in Section 15, Township 1 South, Range 22 West, Okaloosa County, Florida, being more particularly described as follows:

Commencing at the General Land Office (G.L.O.) monument marking the S.E. corner of said Section 15, run N88°09'55"W along the south boundary thereof 2095.51 feet to the POINT OF BEGINNING; thence continue N88°09'55"W along said south boundary 614.54 feet; thence N88°10'00"W along said south boundary 559.10 feet; thence departing said south boundary N01°50'00"E 624.89 feet; thence N 10°05'07" E 91.75 feet; thence N76°29'08"W 397.86 feet; thence N68°35'04"W 42.16 feet; thence N82°45'36"W 53.03 feet; thence N71°32'42"W 100.09 feet; thence S85°53'39"W 22.53 feet; thence N75°38'23"W 49.05 feet; thence S84°46'58"W 7.86 feet; thence N76°29'08"W 30.18 feet; thence N30°40'28"W 62.20 feet; thence N48°32'33"E 60.60 feet; thence S82°51'43"E 45.03 feet; thence N58°19'39"E 34.06 feet; thence N80°17'32"E 52.78 feet; thence N71°12'52"E 50.19 feet; thence S88°47'07"E 73.27 feet; thence N63°52'04"E 46.54 feet; thence N29°49'33"E 37.15 feet; thence N40°08'26"E 53.61 feet; thence N35°14'25"E 66.73 feet; thence N17°43'15"E 43.20 feet; thence S77°42'10"E 504.95 feet; thence S30°27'56"E 3.99 feet; thence S49°05'35"E 42.96 feet; thence S34°56'15"E 41.86 feet; thence S47°00'09"E 54.94 feet; thence S86°57'44"E 56.72 feet; thence S79°34'19"E 26.15 feet; thence N72°00'51"E 63.79 feet; thence S69°18'47"E 61.32 feet; thence N88°23'07"E 39.93 feet; thence S42°15'22"E 35.79 feet; thence S58°03'03"E 13.62 feet; thence S77°45'06"E 39.07 feet; thence S48°53'36"W 72.65 feet to the point of curvature of a curve concave to the east having a radius of 100.00 feet; thence along said curve in a southerly and southeasterly direction through a central angle of 133°12'56" an arc distance of 232.50 feet (chord = 183.56 feet; chord bearing = S17°42'52") to the point of tangency of said curve; thence S84°19'20"E 401.78 feet; thence S85°48'57"E 670.41 feet; thence S66°15'49"E 43.26 feet to a point on the northwesterly right-of-way line of Forest Drive (right-of-way varies), said point being on a curve concave to the southeast having a radius of 740.00 feet; thence along said curve and northwesterly right-of-way line in a southwesterly direction through a central angle of 06°09'11" an arc distance of 79.47 feet (chord = 79.43 feet, chord bearing = S49°08'55"W) to the point of tangency of said curve; thence S46°04'19"W along said northwesterly right-of-way line 607.32 feet to the point of curvature of a curve concave to the southeast having a radius of 369.68 feet; thence along said curve and northwesterly right-of-way line in a southwesterly direction through a central angle of 30°24'55" an arc distance of 196.24 feet (chord = 193.95 feet, chord bearing = S30°51'52"W) to the POINT OF BEGINNING. Containing 32.15 acres, more or less.

**** OFFICIAL RECORDS ****
BK 1802 PG 593

EXHIBIT "B"
MAGNOLIA PLANTATION
PHASE I
MINIMUM SETBACKS

<u>LOT</u>	<u>FRONT</u>	<u>REAR</u>	<u>LEFT</u>	<u>RIGHT</u>
1	25	30	10	10
2	25	30	10	10
3	25	30	10	10
4	25	35	10	10
5	25	45	10	10
6	25	45	10	10
7	25	45	10	10
8	25	45	10	10
9	25	40	10	10
10	25	40	10	10
11	25	40	10	10
12	25	40	10	10
13	25	30	10	10
14	25	30	10	10
15	25	30	10	10
16	25	30	10	10
17	25	30	10	10
18	25	30	10	10
19	25	30	10	10
20	25	30	10	10
21	25	30	10	10
22	25	30	10	10
23	25	30	10	10
24	25	30	10	10
25	25	30	10	10
26	25	30	10	10
27	20	30	10	10
28	20	30	10	10
29	20	30	10	10
30	20	30	10	10
31	20	30	10	10
32	20	30	10	10
33	20	30	10	10
34	20	30	10	10
35	20	30	10	10
36	20	30	10	10
37	20	30	10	10

** OFFICIAL RECORDS **
BK 1802 PG 594

Minimum set backs
Magnolia Plantation
Phase I
Page two

38	20	30	10	10
39	25	30	10	10
40	25	30	10	10
41	25	30	10	10
42	25	40	10	10
43	25	40	10	10
44	25	45	10	10
45	25	45	10	10
46	25	45	10	10
47	25	45	10	10
48	25	45	10	10
49	25	45	10	10
50	25	45	10	10
51	25	45	10	10
52	25	45	10	10
53	25	45	10	10
54	25	30	10	10
55	25	30	10	10
56	25	30	10	10



FILE# 1305325
OKALOOSA COUNTY, FLORIDA

RCD: DEC 29 1993 @ 9:04 AM
NEWMAN C BRACKIN, CLERK