

OAKMONT COMMONS
DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS

This DECLARATION, made this 28th day of FEBRUARY, 1985, by RAYMOND H. SMITH, JR., hereinafter referred to as "DEVELOPER".

WITNESSETH:

WHEREAS, Developer proposes to develop a parcel of land in the Borough of Oakmont, County of Allegheny, Commonwealth of Pennsylvania, which is more particularly described in Exhibit "A", attached hereto; and

WHEREAS, said land is to be developed in phases as a planned unit development called Oakmont Commons, and Developer proposes to cause said land to be subjected to the covenants, conditions, easements, restrictions, charges, and liens herein provided for the purpose of preserving and enhancing the value of said land and for the benefit and enjoyment of the persons residing thereon; and

WHEREAS, the land to be developed as Phase I is described in Exhibit "B" attached hereto; and

WHEREAS, Developer has deemed it desirable, for the efficient preservation of the values and amenities in said community, to create an agency to which should be delegated and assigned the powers of maintaining, administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, Developer has, or will have, incorporated under the laws of the Commonwealth of Pennsylvania, as a non-profit corporation, the OAKMONT COMMONS HOMEOWNERS ASSOCIATION for the purpose of exercising the aforesaid functions;

NOW, THEREFORE, Developer hereby declares that all of the land described in Exhibit "B" shall be held, sold and conveyed subject to the following covenants, conditions, easements, restrictions, charges and liens which Shall Run With The Land and shall be binding upon and shall inure to the benefit of all parties having any right, title or interest therein or any part thereof and their respective heirs, devisees, personal representatives, successors and assigns:

ARTICLE I

DEFINITIONS

Section 1. Association shall mean a not-for-profit corporation named Oakmont Commons Homeowners Association, its successors and assigns.

Section 2. Property shall mean that real property described in Exhibit "B", and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 3. Common Property shall mean all real property owned by the Association for the common use and enjoyment of the Owners as shown on the recorded subdivision plan.

Section 4. Common Areas shall mean any part of the Property which the Association maintains for the benefit and enjoyment of the owners.

Section 5. Lot shall mean any plot of land shown upon any recorded subdivision map of the Property, specifically excepting the Common Property.

Section 6. Unit shall mean and refer to a building, or any portion of a building as the case may be, situated upon a Lot and designed and intended for use and occupancy as a residence by a single family.

Section 7. Owner shall mean the record owner, whether one or more persons or entities, of a Lot, but excluding those persons having such interest merely as security for the performance of an obligation.

Section 8. Member shall mean and refer to all those Owners who are members of the Association, as provided in Article II, Section 1 hereof.

Section 9. Developer shall mean and refer to Raymond H. Smith, Jr., his heirs, administrators, successors and assigns.

Section 10. Common Expenses shall mean and include (1) expenses of administration, maintenance, repair and replacement of the Common Areas and Common Property; (2) utility charges not separately billed or charged; (3)

insurance and taxes for the Common Property; (4) expenses declared common by this Declaration or the By-Laws; (5) expenses declared common by the Board.

ARTICLE II

MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 1. Membership. Every Owner of a Lot shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot.

Section 2. Voting. The Association shall have two classes of Voting Membership:

Class A. Class A Members shall be all Owners, with the exception of the Developer, and they shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot, however, shall be exercised as such persons among themselves shall determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. Class B Members shall be the Developer and any successor or assign who takes title for the purpose of development and sale. The Class B members shall be entitled to three (3) votes for each Lot or Unit owned. The Class B membership shall cease and be converted to Class A membership, on the happening of the earliest of the following events:

- (a) when the total of the Class A votes outstanding equals the total votes outstanding in the Class B membership; or
- (b) on March 1, 1995; or
- (c) when in its discretion the Developer so determines.

From and after the happening of the first of these events the Class B members shall be deemed to be Class A members entitled to one vote for each Unit owned as set forth in the preceding paragraph.

ARTICLE III

PROPERTY RIGHTS

Section 1. Owner's Easements of Enjoyment. Every Owner shall have a right shared in common with all other Unit Owners to use the Common Property which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- (a) the right of the Association to limit the number of guests that may use the common facilities;
- (b) the right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Property by guests or Owners;
- (c) the right of the Association to suspend the voting rights and privilege of use of the recreational facilities by an Owner for any period during which any assessment against his Lot remains unpaid, and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations or for the duration of the infraction, whichever is longer;
- (d) the right of the Association to dedicate or transfer all or any part of the Common Property to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed upon by the Members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of each class of members agreeing to such dedication or transfer has been recorded;
- (e) the right of the Developer during the development and construction of the property to modify and amend the areas designated as Lots or Common Property as may be reasonable and appropriate for engineering or architectural reasons and as dictated by marketing experience. Provided, however, that the quantity of Common Property will not be substantially diminished;
- (f) the right of the Developer in and to an easement over, upon, under and through all of the Common Property until completion of all development, construction and sales. Said easement shall include but not be restricted to: installation of improvements and/or repair of utilities, walks, roads, driveways and parking areas; storage of top soil and construction materials; grading, seeding and landscaping; parking for construction vehicles, trailers, workmen and open house or promotional activities; use of units for sales models and construction or project sales offices; erection of signs and temporary structures such as sales offices and construction trailers;
- (g) the right of the Developer to grant easements upon, across, over, under, in and to any part of properties to any public agency, authority or utility for ingress, egress, repair, and maintenance of all utilities, including, but not limited to television cable service, security and similar systems, water, sewer, gas, telephone and electricity; upon termination of the Class B membership, this power shall pass to the Board of Directors of the Association;
- (h) the right of the Association to borrow money for the purpose of repairing or improving any facilities located thereon, and to

give as security therefor a mortgage covering all or any portion of the Common Property; provided, however, that in the event of a default and foreclosure upon any such mortgage the mortgagee must permit continued use of the Common Properties by the owners and their guests, but shall have the right to charge admission and other fees.

Section 2. Delegation of Use. Any Owner may delegate his right of enjoyment to the Common Property and facilities to members of his (or her) family, tenants or contract purchasers who reside on the property.

Section 3. Title to Common Property. Title to the Common Property shall be conveyed to the Association, subject to all prior grants and reservations of coal, oil, gas, mining rights, rights of way, building line, building and use restrictions, all exceptions, easements and conditions as the same may be and appear in proper instruments of record, including those set forth in this Declaration, except real property taxes, which taxes shall be prorated to the date of conveyance. The Common Property to be conveyed to the Association in connection with Phase I is described in Exhibit "C" attached hereto.

Section 4. Rules and Regulations. The Board of Directors may establish reasonable rules and regulations concerning the use of the Common Property and Common Areas, any facilities located thereon, and individual Lots and Units, including the imposition of reasonable user fees and limits upon the number of permitted guests. Copies of such regulations and amendments thereto shall be furnished by the Association to all Owners prior to the rule's effective date. Such regulations shall be binding upon the Owners, their families, tenants, guests, invitees and agents, until and unless such regulation, rule or requirement be specifically overruled, cancelled or modified by the Board, or, in a regular or special meeting, by the vote of the members, including the Class "B" members so long as such membership shall exist. The Board shall have the authority to impose reasonable monetary fines and other sanctions, and monetary fines may be collected as provided in Article IV. Such fines shall be deemed to be liquidated damages and their assessment and collection is hereby consented to by each unit owner, and all persons claiming title through them. Monetary fines or sanctions, assessments or collections, imposed by the Board are not pursuant to any grant of authority conferred by the municipality.

ARTICLE IV

COVENANT FOR ASSESSMENTS

Section 1. Creation of Lien and Personal Obligation of Assessment. The Developer, for each Lot owned by it within the Property, hereby covenants, and each Owner of any Lot or Unit by the acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, is deemed to covenant and agree, to pay the Association: (1) annual assessments or charges; and (2) special assessments, such assessments to be fixed, established and collected from time to time as hereinafter provided; and (3) specific assessments against particular units for fines or other charges. The said assessments, together with interest, costs and reasonable attorney's fees, shall be a

charge on the land and a continuing lien upon the Lot against which the assessment was made and shall also be the personal obligation of the person who was the Owner of such Lot or Unit at the time when such assessment fell due. The said Owner shall remain personally liable for delinquent assessments even if the property is conveyed to a new Owner, who shall not be personally liable for such delinquent assessment unless expressly assuming that obligation.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents of the Property and for the improvement and maintenance of the Common Property and Common Areas, the payment of common area taxes and insurance thereon and repair, replacement and additions thereto, and for the cost of labor, equipment, materials, management and supervision thereof. With respect to buildings containing more than one Unit, assessments may be used for exterior maintenance and repair and for upkeep, repair, maintenance, improvement or replacement of all facilities used in common by more than one Unit. All owners shall be liable for the following assessments: annual assessments, special assessments and specific assessments.

Section 3. Annual Assessments.

3.01 The Annual Assessment shall be established annually by the Board of Directors and shall commence on the first day of the month following conveyance of the Lot or Unit from the Developer to the Owner. Assessments shall be collected and paid quarterly or annually as determined by the Board of Directors. The Developer shall be assessed only one-fourth (1/4) of the assessment for any completed Units remaining in its ownership after completion until such Unit is either sold or occupied. The Board of Directors may, after consideration of current maintenance costs and future needs of the Association, fix the assessment for any year at a lesser amount. Any amount accumulated in excess of the amounts required for actual expenses and reserves shall be credited to each owner according to the number of months the owner was assessed in that year and shall be applied to their next installments, until exhausted. Any net shortages shall be added, using the same formula, to the installments due in the succeeding six (6) months.

3.02 It shall be the duty of the Board at least thirty (30) days prior to the Association's annual meeting to prepare a budget covering the estimated costs of operating the Association during the coming year. The Board shall cause a copy of the budget and assessment to be mailed by United States Mail, first class postage prepaid, or otherwise delivered to each member at least thirty (30) days prior to the annual meeting. The budget and the assessment shall become effective unless disapproved at the annual meeting by vote of at least fifty-one (51%) percent of each class of the total Association membership, including Class B members.

3.03 The Association shall, upon demand at any time, furnish to any Owner a certificate in writing signed by an Officer of the Association setting forth whether all assessments have been paid. Such certificate shall be binding upon the Association.

3.04 In the event the Board is delayed in preparing the annual estimates or a vote of the membership causes a delay, the Owner shall continue

to pay the monthly charges at the then-existing monthly rate established for the previous period until the same shall be determined.

3.05 Until January 1 of the year following the conveyance of the first Lot to an owner, the maximum annual assessment shall be \$120.00 per Lot.

3.06 The annual assessment may not thereafter be increased more than 15% above the maximum assessment for the previous year without a vote of the majority of the membership present in person or by proxy at the annual association meeting. Increases up to that amount may be made by the Board of Directors without the consent of the membership. In addition, the Board may impose charges for the use of the community recreational facilities over and above the regular annual assessment.

3.07 No action shall be taken by the Board or the Association which will limit the rights of the members to the use of the Common Property, or cause an increased assessment, without the affirmative vote of a majority of each class of members.

Section 4. Special Assessments. In addition to the Annual Assessments authorized above, the Board of Directors may levy Special Assessments for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Property or the Common Areas, including fixtures and personal property related thereto, provided that any such Special Assessment shall have the assent of two-thirds (2/3) of the votes of each class of members present, in person or by proxy, at a meeting duly called for this purpose.

Section 5. Specific Assessments. In addition to the foregoing, the Board may levy specific assessments against individual Units where there is a particular charge attributable only to that Unit or a fine has been imposed as provided hereinafter. Such assessment shall be made at a regular meeting of the Board of which the Owner involved has had thirty (30) days' notice to appear.

Section 6. Notice and Quorum for Action . Written notice of any meeting called for the purpose of taking any action authorized under Sections 3 or 4 herein shall be delivered or mailed to all members not less than twenty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called, subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 7. Date of Commencement of Annual Assessments Due Dates. The Annual Assessment shall commence as to each Lot on the first day of the month following the month in which the Developer conveys title to the Lot, except as set forth in Article IV Section 3 as to the Developer. The first Annual Assessments shall be prorated in relation to the number of months remaining in the calendar year. The due date of any Special Assessment under Section 4 hereof shall be fixed in the resolution authorizing such assessment.

Section 8. Effect of Non-payment of Assessments - Remedies of the Association. Any assessment not paid within ten (10) days after the due date shall include a late charge of \$10.00 per month and, if not paid within thirty (30) days, interest at the rate of 15% per annum. The Association may bring an action at law against the Owner or person personally obligated to pay the assessment or foreclose the lien against the property, and there shall be added to the amount of such Assessment the costs of preparing and filing the Complaint in such action, and in the event a judgment is obtained, such judgment shall include interest on the assessment as provided and a reasonable attorney's fee, together with the costs of the action. No Owner may waive or otherwise except liability for the assessments provided for herein by non-use of the Common Property or abandonment of his Lot or Unit. Notice of the delinquency shall be sent to both the Owner and his mortgagee if known prior to the initiation of legal proceedings.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage now or hereafter placed upon the properties subject to assessment, provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to a sale or transfer of such property pursuant to a decree of foreclosure, or any other proceeding in lieu of foreclosure. Such sale or transfer shall not relieve such property from liability for any assessments thereafter becoming due nor from the lien of any such subsequent assessment. Sale or transfer of the Lot or Unit shall not affect the assessment lien. Judicial sale pursuant to an action to foreclose the said first mortgage shall extinguish the lien of such assessments which became due prior to such sale but shall not extinguish the personal liability of the Owner.

Section 10. Reserve for Replacements. The Association shall establish and maintain a reserve fund for replacement of any part of the Common Property and facilities or repair or maintenance of the Common Areas as the Board deems appropriate. The amount shall be collected by assessment of the Lot owners benefited thereby and shall be deemed a common expense. The reserve shall be kept in an interest bearing account and shall only be expended for the purpose of effecting the replacement of Common Property or community facilities and for operating contingencies of a non-recurring nature. The proportionate interest of each Owner shall be considered appurtenant to his Lot and shall not be separately withdrawn, assigned or transferred or otherwise separated from the Lot or Unit and shall be deemed to be transferred with such Lot or Unit.

Section 11. Working Capital Fund. The Association shall establish and maintain a working capital fund for the initial months of the project operation equal to at least two months' estimated common area charge for each lot. The Declarant shall collect two months' estimated common area charge at the time of closing and transfer this to the Association within sixty (60) days after the closing. This sum is in addition to and not an advance of regular monthly payments.

ARTICLE V

INSURANCE

Section 1. Owner's Coverage. Each Owner shall keep his Unit insured against loss or damage by fire and such other hazards as are covered under standard extended coverage provisions and comprehensive public liability insurance, under policies issued by a company or companies approved by the Board of Directors and providing for payment of monies sufficient to cover the full cost of replacing or repairing the same under insurance policies payable, in case of loss or damage, to the Owner or to the Association as their interests may appear, such rights to be evidenced by the standard clause to be attached to each policy, and shall deliver to the Association evidence of such insurance and the renewal thereof from time to time upon request. Further, the Association shall have the right to require the Owner of any Lot, Unit or other structure damaged or destroyed by fire or other peril to rebuild, reconstruct, repair, rehabilitate, and/or refurbish the Unit or structure situate upon the Lot in a manner comparable to its prior condition within a reasonable time after such damage or destruction.

Section 2. Association Coverage. The Board, or such other person as the Board may appoint as insurance trustee, shall obtain and maintain to the extent obtainable, without prejudice to the right of each Unit Owner to insure his own unit for his own benefit, the following insurance policies:

(1) Insurance on the Common Property in an amount equal to the full replacement value and with a replacement cost endorsement which provides for the payment of all losses without deduction or allowance for depreciation. Such coverage shall afford protection against, at least, the following:

A. Loss or damage by fire or other hazards covered by the standard extended coverage endorsement and additional extended coverage endorsement;

B. Such other risks as shall customarily be covered with respect to projects similar in construction, location and use, including, but not limited to, vandalism, malicious mischief, and such other insurance as the Board may from time to time determine;

C. Public liability insurance in such amounts as the Board may from time to time determine is necessary. Said insurance shall cover each member of the Board, its officers and the managing agent or manager, as well as each Owner from liability in connection with the Common Property or facilities or any decision or work performed in connection therewith;

D. Workmen's Compensation insurance to the extent necessary to comply with any applicable law;

E. Such other policies of insurance, including officers and directors liability insurance and fidelity bonds as are or shall hereafter be considered appropriate by the Board.

(2) The premiums for the insurance coverage shall be a common expense levied by the Board against the Owners.

(3) The Board, or its designee, shall have the exclusive authority to adjust losses under the said insurance policies.

(4) Each Owner shall be responsible for obtaining insurance on his or her Unit, the additions and improvements thereto, on all personal property wherever situated and personal liability.

ARTICLE VI

PARTY WALLS

Section 1. General Rules or Laws to Apply. Each wall which is built as part of the original construction of the townhouses on the Property and placed along the common boundary between two Lots or Units shall constitute a party wall and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and of liability for property damage due to negligent or willful acts or omissions shall apply thereto.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use, unless the party wall is damaged by the act or omission of one Owner, in which event the Owner causing such damage shall be solely responsible for the entire repair and cost thereof.

Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it and, if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owner to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts of omissions.

Section 4. Weatherproofing. Notwithstanding any other provision of this Article, an Owner who, by his negligent or willful act, causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 5. Right to Contribution Runs with Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the Land and shall pass to such Owner's successor in title.

Section 6. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision of a majority of all the arbitrators shall be final and conclusive of the question involved. The rules of the American Arbitration Association shall govern all such proceedings and this shall be a common law arbitration pursuant to the provisions of 42 Pa. C.S.A. §7341 or successor legislation.

ARTICLE VII

SEPARATE MORTGAGES, TAXES, UTILITY CHARGES

Section 1. Mortgages. Each Owner shall have the right to mortgage or encumber his own respective Lot or Unit. No Owner shall have the right or authority to mortgage or otherwise encumber in any manner whatsoever the Common Property.

Section 2. Taxes. Taxes on the Common Property shall be treated as part of the Common Expenses.

Section 3. Utilities. Each Owner shall pay for his own telephone, electricity, water, sewer, and/or other utilities which are separately metered or billed to each user by the appropriate Utility Company. Utilities not separately metered or billed shall be treated as part of the Common Expenses.

Section 4. Financial Statements. Any holder, insurer or guarantor of a first mortgage shall be entitled, upon written request, to an audited financial statement for the immediately preceding year, if one is available, or to have an audited statement prepared at their expense if one is not otherwise available.

ARTICLE VIII

UTILITY SERVICE CONNECTIONS

The rights and duties of the Owners of Lots or Units within the Property with respect to utility service connections, including sanitary and storm sewer, water, electric and telephone lines and related facilities, shall be governed by the following:

- (a) Wherever utility service connections, or any portion thereof, lie in or upon a Lot or Unit owned by other than the Owner of a Lot or Unit served by the connections, or in or upon the Common Property, the Owner of any Lot or Unit served by the connections shall have the right and license from time to time to enter upon the Lots or to have the respective utility companies enter upon the Lots or Common Property in or upon which the connections, or any portion thereof, lie in order to repair, replace and generally maintain said connections to the full extent necessary for such purposes.
- (b) Whenever utility service connections serve more than one Lot or Unit, the Owner of each Lot or Unit served by the connections shall be entitled to the full use and enjoyment of such portions of said connections as service his Lot or Unit and shall have the same license and right as are provided immediately hereinabove with respect to portions lying in or upon Lots owned by other Owners.

- (c) In the event of a dispute between Owners with respect to the repair, replacement or maintenance of any connections, or with respect to the sharing of the cost thereof, then upon written request of one of such Owners addressed to the Association, the matter shall be submitted to its Board of Directors, which shall decide the dispute and the decision of the Board shall be final and conclusive on the parties.

ARTICLE IX
ENCROACHMENTS

Each Lot and Unit within the Property is hereby declared to have an easement over all adjoining Lots for the purpose of ingress, egress and regress to and from the living quarters erected on on said lot, and for the purpose of accommodating any encroachment due to engineering errors, errors in original construction, settlement of the structure, roof overhangs, architectural or other appendages, drainage of rainwater from roofs or any other cause. There shall be valid easements for the maintenance of any encroachments so long as they shall exist, and the rights and obligations of Owners shall not be altered in any way by the encroachment or settlement; provided, however, that in no event shall a valid easement for encroachment be created in favor of an Owner or Owners. In the event a Unit or other structure on any Lot is partially or totally destroyed and then repaired or rebuilt, the Owners of each Lot and Unit agree that the same encroachment may be re-established, and that there shall be valid easements for the maintenance of such encroachments so long as they shall exist.

ARTICLE X
ARCHITECTURAL CONTROL

Section 1. No building addition, fence, wall or other structure, addition or alteration of any nature shall be commenced, erected or maintained upon the Property, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the color, nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association or by an Architectural Committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within sixty (60) days after said plans and specifications have been submitted to it, or in any event, if no suit to enjoin the addition, alteration or change has been commenced prior to the completion thereof, approval shall not be required and this Article will be deemed to have been fully complied with. This Article shall not apply to dwelling units or other structures constructed by the Developer or to any successor in interest to the Developer who is engaged in new construction upon the Property.

Section 2. Owners may plant flowers and shrubs on their own Lot provided they assume the responsibility for their maintenance, and provided the

landscaping plan is submitted to and approved by the Board of Directors or its designated committee.

ARTICLE XI

USE RESTRICTIONS - GENERAL REGULATIONS

Section 1. Use Restrictions. The Property is intended to be used for the following purposes, and their use is hereby restricted as follows:

- (a) Unit Restrictions. No Lot or Unit may be divided or subdivided into a smaller unit, nor may any portion of any Lot or Unit be added to or incorporated into another Unit, nor any portion less than all thereof sold or otherwise transferred. Notwithstanding anything contained herein, the Developer has the right to use any Lots or Units owned by it for models and for sales offices and administrative offices.
- (b) Use of Common Property. The Common Property and facilities may be used by all Unit Owners and/or residents, their families, tenants, guests and invitees, subject to such rules and regulations as may be established by the Association.
- (c) Unit Maintenance. Each Owner shall furnish and be responsible, at his own expense, for all of the maintenance, repairs and replacements within his own Lot and Unit and also for all exterior maintenance required in and about their Unit, including snow removal, care of yards and gardens and repair and painting of the Unit. If any required maintenance is not performed within twenty (20) days after the Association has given the Unit owner written notice to do so the Association may, in its discretion, perform such maintenance and charge the Unit owner for any expense involved, which charge may be enforced as provided in Article IV hereof as an assessment against said Unit.
- (d) Prohibited Use. No articles of personal property belonging to any Owner shall be stored on any portion of the Common Property without the prior written consent of the Board. Nothing shall be done or kept in any Unit or in the Common Areas which violates the law or which will increase the rate of insurance on any building or contents thereof.
- (e) Exterior Attachments. Owners shall not cause or permit anything to be placed on the outside walls of any building, and no awning, canopy, shutter, radio or television antenna shall be affixed to or placed upon the exterior walls or roofs without the written consent of the Board of Directors.
- (f) Nuisances. No noxious or offensive activity shall be carried on upon any Lot or in any Unit, nor shall anything be done thereon

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which may be or may become an annoyance or nuisance to the neighborhood.

- (g) Signs. No sign of any kind shall be displayed to the public view on any Lot or Unit except one sign on not more than one square foot identifying the residence of a professional, one sign of not more than five square feet advertising the property for sale or rent, or signs used by the Developer to advertise the property during the construction and sales period.
- (h) Garbage and Refuse Disposal. Trash, garbage and other waste shall be kept only in sanitary containers and shall be disposed of in such manner as may be prescribed from time to time in rules and regulations by the Association.
- (i) Residential Use. All Lots and Units shall be for private residential purposes only.
- (j) Laws. All valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed on the Property by the residents.
- (k) Laundry-Lines. Laundry poles and lines outside of Units are prohibited except that one portable laundry dryer, not more than seven feet high, may be used in the rear of each unit on days other than Sundays and legal holidays, and such dryer shall be removed from the outside when not in actual use.
- (l) Temporary Structures. No structure of a temporary character, dog house, trailer, tent, shack, garage, barn or other out-building shall be used on any Lot at any time either temporarily or permanently except by the Developer in completing the Development.
- (m) Pets. No animals, livestock, fowl or poultry of any kind shall be raised, bred or kept in any Unit on any Lot or on the Common Property, except that dogs, cats or other household pets may be kept in the Units, subject to the rules and regulations adopted by the Association. All household pets must be kept leashed when outside the Unit.
- (n) Balconies. No rugs, clothes, sheets, blankets, laundry of any kind, or other article shall be hung from the balconies. Balconies and/or patios shall be kept free and clear of rubbish, debris and other unsightly materials.

Section 2. Rules and Regulations. The Board of Directors may establish reasonable rules and regulations concerning the use of the Common Property and Common Areas, any facilities located thereon, and individual Lots and Units, including the imposition of reasonable user fees and limits upon the number of permitted guests. Copies of such regulations and amendments thereto shall be furnished by the Association to all Owners prior to the rule's effective date. Such regulations shall be binding upon the Owners, their families, tenants,

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guests, invitees and agents, until and unless such regulation, rule or requirement be specifically overruled, cancelled or modified by the Board, or, in a regular or special meeting, by the vote of the members, including the Class "B" members so long as such membership shall exist. The Board shall have the authority to impose reasonable monetary fines and other sanctions or to seek injunctive relief. Such fines shall be deemed to be liquidated damages and their assessment and collection is hereby consented to by each Owner, and all persons claiming title through them.

Section 3. Procedure. The Board shall not impose a fine, suspend voting or infringe upon any other rights of a member or other occupant for violations of rules until the following procedure is followed:

(a) Demand. Written demand to cease and desist from an alleged violation shall be served upon the alleged violator specifying:

- (i) The alleged violation;
- (ii) The action required to abate the violation; and
- (iii) A time period, not less than ten (10) days, during which the violation may be abated without further sanction, if such violation is a continuing one, or a statement that any further violation of the same rule may result in the imposition of a sanction after notice and hearing if the violation is not continuing.

(b) Notice. At any time within twelve (12) months of such demand, if the violation continues past the period allowed in the demand for abatement without penalty, or if the same rule is subsequently violated, the Board shall serve the violator with written notice, personally or by regular or certified mail, of a hearing to be held by the Board in executive session. The notice shall contain:

- (i) The nature of the alleged violation;
- (ii) The time and place of the hearing, which time shall not be less than ten (10) days from the giving of the notice;
- (iii) An invitation to attend the hearing and produce any statement, evidence and witnesses on his behalf; and
- (iv) The proposed sanction to be imposed.

(c) Hearing. The hearing shall be held in executive session pursuant to this notice affording the member a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of notice and the invitation to be heard shall be deemed adequate if a copy of the notice together with a statement of the date and manner of delivery is entered by the officer, director or agent who delivered such notice. The notice requirement shall be deemed satisfied if the alleged violator appears at the meeting. The Minutes of the meeting

shall contain a written statement of the results of the hearing and the sanction, if any, imposed.

ARTICLE XII

RIGHTS OF ELIGIBLE MORTGAGE HOLDERS AND ELIGIBLE INSURERS OR GUARANTORS

Section 1. Notice of Action. Upon written request to the Owners Association, identifying the name and address of the holder, insurer or guarantor and the unit or lot number or address, any such eligible mortgage holder or eligible insurer or guarantor shall be entitled to timely written notice of:

- (a) Any condemnation loss or any casualty loss which affects a material portion of the project or any unit estate on which there is a first mortgage held, insured, or guaranteed by such eligible mortgage holder or eligible insurer or guarantor, as applicable;
- (b) Any delinquency in the payment of assessments or charges owed by an owner of a unit estate subject to a first mortgage held, insured or guaranteed by such eligible holder or eligible insurer or guarantor, which remains uncured for a period of sixty (60) days;
- (c) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Owners Association;
- (d) Any proposed action which would require the consent of a specified percentage of eligible mortgage holders as specified below or in Article XII, §2.

Section 2. Other Provisions for Eligible Mortgage Holders. To the extent permitted by applicable law, eligible mortgage holders which have registered with the Association shall also be afforded the following rights:

- (a) Any restoration or repair of the project, after a partial condemnation or damage due to an insurable hazard, shall be performed substantially in accordance with the Declaration and the original plans and specifications, unless other action is approved by eligible holders holding mortgages on unit estates which have at least fifty-one (51%) per cent of the votes of unit estates subject to eligible holder mortgages.
- (b) Any election to terminate the legal status of the project after substantial destruction or a substantial taking in condemnation of the project property must require the approval of eligible holders holding mortgages on unit estates which have at least fifty-one (51%) per cent of the votes of unit estates subject to eligible holder mortgages.
- (c) Unless the formula for reallocation of interests in the common areas after a partial condemnation or partial destruction of a condominium project is fixed in advance by the constituent docu-

ments or by applicable law, no reallocation of interests in the common areas resulting from a partial condemnation or partial destruction of such a project may be effected without the prior approval of eligible holders holding mortgages on all remaining unit estates, whether existing in whole or in part, and which have at least fifty-one (51%) per cent of the votes of such remaining unit estates subject to eligible holder mortgages.

- (d) When professional management has been previously required by any eligible mortgage holder or eligible insurer or guarantor, whether such entity became an eligible mortgage holder or eligible insurer or guarantor at that time or later, any decision to terminate professional management by the Owners Association shall require the prior consent of owners of unit estate to which at least sixty-seven (67%) per cent of the votes in the Owners Association are allocated and the approval of eligible holders holding mortgages on unit estates which have at least fifty-one (51%) per cent of the votes of unit estates subject to eligible holder mortgages.

ARTICLE XIII

LEASING

Units may be rented or leased only by written leases. 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.

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 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, and all leases shall contain provisions to this effect. Copies of all leases shall be submitted to the Board insure compliance with this Article.

ARTICLE XIV

CONDEMNATION

Whenever all or any part of the Common Property shall be taken (or conveyed in lieu of and under threat of condemnation by the Board acting on the written direction of all Owners) by any authority having the power of condemnation or eminent domain, the Association shall represent all Owners but each Owner shall be entitled to notice thereof. The award made for such taking shall be payable to the Association as Trustee for all Owners to be disbursed as follows:

If the taking involves a portion of the Common Property on which improvements have been constructed, then, unless within sixty (60) days after such taking all of the Class "B" members (if such membership shall then exist) and at least seventy-five (75%) percent of the Class "A" members of the Association shall otherwise agree, the Association shall restore or replace such improvements so taken on the remaining land included in the Common Property to the extent lands are available therefor, in accordance with plans approved by the Board of Directors of the Association. If such improvements are to be repaired or restored, the above provisions in Article V hereof regarding the disbursement of funds in respect to casualty damage or destruction which is to be repaired shall apply. If the taking does not involve any improvements on the Common Property, or if there is a decision made not to repair or restore, or if there are net funds remaining after any such restoration or replacement is completed, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board of Directors of the Association shall determine.

ARTICLE XV

PHASED DEVELOPMENT

The Developer may submit additional parts of the land described in Exhibit "A" to the provisions of this Declaration to be used as residential areas, Common Property or Common Areas and cause them to be subjected to the covenants, conditions, easements, restrictions, charges and liens herein provided without the consent of the members. This will be accomplished by recording a Supplementary Declaration or similar instrument subjecting such land to the scheme of this Declaration, including all of the covenants, conditions, easements, restrictions, charges, and liens appropriate thereto. Title to any Common Property in any successive phase shall be conveyed to the Association, subject to all prior grants and reservations of coal, oil, gas, mining rights, rights of way, building line, building and use restrictions, all exceptions, easements, and conditions as same may be and appear in prior instruments of record, including those set forth in this Declaration, a Supplementary Declaration, or similar instrument, except current real property taxes, which taxes shall be prorated to the date of conveyance. Additional phases shall be added at the discretion of the Developer, provided that if any of the units are insured by the Veterans Administration or Federal Housing Administration, FHA/VA approval shall be required if development is not completed within seven (7) years of recording of this Declaration. All intended improvements shall be substantially completed prior to annexation of each phase. All such improvements shall be consistent with the initial improvements in terms of quality of construction.

ARTICLE XVI

GENERAL PROVISIONS

Section 1. Enforcement. Enforcement of these covenants and restrictions, and the administrative rules and regulations adopted pursuant thereto, shall be by any proceeding at law or in equity against any person or persons

violating or attempting to violate any covenant, condition, or restriction, imposed by this Declaration either to restrain violation or to recover damages, or to collect any liens or charges imposed pursuant to this Declaration, and against the land to enforce any lien created by these covenants, and failure by the Association or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. The Board may also impose fines or other sanctions, collection of which shall be as provided in Article IV hereof. The expense of enforcement by the Association (including reasonable attorney's fees) shall be chargeable to the Lot Owner violating these covenants and restrictions, and shall constitute a lien on the Lot, collectable in the same manner as assessments hereunder. Before an individual Owner may act to enforce any provisions of this Declaration notice must be given to the Board of Directors and the Board given a reasonable opportunity to take appropriate action.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provision which shall remain in full force and effect.

Section 3. Amendment. This Declaration may be amended by an instrument signed by the Owners of Lots representing not less than seventy-five (75%) percent of the votes eligible to be cast by the Members of the Association, except as to the following:

- (a) The consent of sixty-seven (67%) per cent of the Owners and eligible mortgage holders shall be required to terminate the legal status of the project;
- (b) The consent of sixty-seven (67%) per cent of the Owners and fifty-one (51%) per cent of the eligible holders holding mortgages on lots shall be required to add or amend any material provisions of the constituent documents of the project, which establish, provide for, govern or regulate any of the following:
 - (1) Voting;
 - (2) Assessments, assessment liens or subordination of such liens;
 - (3) Reserves for maintenance, repair and replacement of the common areas;
 - (4) Insurance or Fidelity bonds;
 - (5) Rights to use of the Common Property;
 - (6) Responsibility for maintenance and repair of the several portions of the Common Property;
 - (7) Expansion or contraction of the project or the addition, annexation or withdrawal of property to or from the project;

- (8) Boundaries of any Lot or Unit;
- (9) The interests in the Common Property;
- (10) Convertibility of units into common areas or of common areas into units;
- (11) Leasing of Dwelling Units;
- (12) Imposition of any right of first refusal or similar restriction on the right of an Owner to sell, transfer or otherwise convey his or her Dwelling Unit or Lot;
- (13) Any provisions which are for the express benefit of mortgage holders, eligible mortgage holders or eligible insurers or guarantors or first mortgages on Dwelling Units or Lots.

(c) Any such amendment shall be effective upon recordation in the Office of the Recorder of Deeds of Allegheny County. The recital in any such amendment that it has been executed and acknowledged by the specified percentage of Owners shall be conclusive and binding on all persons.

Section 4. Maintenance of the Common Property. The Association, subject to the rights of the Owners set forth in this Declaration, shall be responsible for the exclusive management and control of the Common Property and all improvements thereon (including furnishings and equipment related thereto), and shall keep it in good, clean, attractive and sanitary condition, order and repair, pursuant to the terms and conditions hereof.

Section 5. Services. The Association may obtain and pay for the services of any person or entity to manage its affairs or any part thereof and any other personnel as the Association's Board of Directors shall determine to be necessary or desirable for the proper operation of the Property. Such personnel may be furnished or employed directly by the Association or by any person or entity with whom or with which it contracts. If the Association enters into a management agreement, it shall be by written contract cancelable upon no more than ninety (90) days written notice. The Association may obtain and pay for legal and accounting services necessary or desirable in connection with the operation of the Property or the enforcement of this Declaration. The Association may but shall not be required to arrange as an Association expense with others to furnish water, trash collection, sewer service and other common services to each Unit.

Section 6. 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.

Section 7. Implied Rights. The Association may exercise any other right or privilege given to it expressly by this Declaration or by law, 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.

Section 8. Notice of Sale, Lease or Mortgage. In the event an Owner sells, leases or mortgages the Owner's property, the Owner will be required to give to the Association, in writing, the name and address of the purchaser, lessee or mortgagee of the property, and all leases shall be subject to this Declaration and to the authority of the Board of Directors to regulate the conduct of any person on the Property.

Section 9. Captions. Captions are for convenience and reference only and are in no way to be construed as defining, limiting or modifying the scope or intent of the various provisions of this Declaration.

Section 10. Gender. As used in this Declaration, the word person shall mean and include where appropriate, an individual, corporation, partnership or other entity; the plural shall be substituted for singular and the singular for the plural where appropriate and words of any gender shall mean to include any other gender.

Section 11. Matters of Dispute. Matters of dispute or disagreement between Association members or with respect to interpretation or application of the provisions of this Declaration or the By-Laws shall be determined by the Board of Directors, which determination shall be binding on all Association members.

Section 12. Liability of the Board. The Members of the Board and its officers shall not be personally liable to the Owners or others for any mistake of judgment or for any acts or omissions made in good faith. The Owners shall indemnify and hold harmless each of the members of the Board and each of the Officers against all expenses or liability to others arising out of their position as an officer or member of the Board or arising out of contracts made by them or any of them on behalf of the Owners unless any such contract shall have been made in bad faith or contrary to the provisions of this Declaration. They shall not be liable for any mistake of judgment or negligence except for their own willful malfeasance, misfeasance, misconduct or bad faith. The Association may obtain as a common expense the type of insurance commonly known as Directors and Officers Liability coverage in order to encourage service on the Board of Directors and to fund this obligation.

Section 13. Notices. Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postage prepaid, to the last known address of the person who appears as Member or Owner on the records of the Association at the time of such mailing.

Section 14. FHA/VA Approval. So long as there is a Class B membership and any mortgages are issued pursuant to the requirements of the Veterans Administration or the Federal Housing Authority, the following actions will require the approval of the Federal Housing Administration or the Veterans Administration: Annexation of additional property, dedication of Common Areas or Common Property and amendment of this Declaration.

Section 15. Pennsylvania Municipality Planning Code. This Declaration shall be construed to grant the Borough of Oakmont all of the rights, duties, and responsibilities provided for by the Pennsylvania Municipalities Planning Code (53 P.S. §10101, et. seq.) as amended, and the Borough of Oakmont Zoning Ordinance, as they may refer to the Common Property and any right of access.

Section 16. 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 Ronald Reagan, President of the United States.

WITNESS the execution hereof, the day and year first above written.

WITNESS:

Pam Haider _____ Raymond H. Smith, Jr. _____ (SEAL)
Raymond H. Smith, Jr.

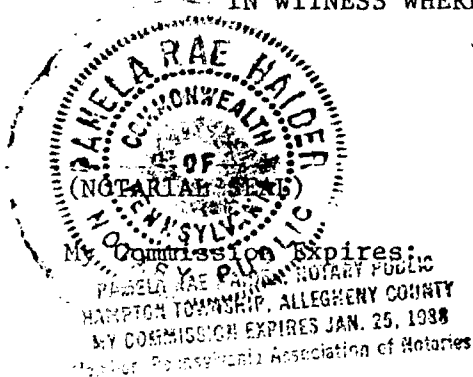
* * * * *

COMMONWEALTH OF PENNSYLVANIA :
: SS:
COUNTY OF ALLEGHENY :

On this 28th day of February, 1985, before me, a Notary Public, the undersigned officer, personally appeared RAYMOND H. SMITH, JR., who acknowledged that he executed the foregoing instrument for the purposes therein contained, and to the end that it be recorded as such.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Pamela Rae Haider
Notary Public



ALL THAT CERTAIN lot or piece of ground situate in the Borough of Oakmont, County of Allegheny and Commonwealth of Pennsylvania, bounded and described as follows:

Beginning at a point on the Northerly side of the Plum Creek Branch of the Penn Central Railroad (66-feet wide) at the southeast corner of property now or formerly of Frank Mattes and Frank J. Mattes; thence along property now or formerly of Frank Mattes and Frank J. Mattes and property now or formerly of the Borough of Oakmont, North 34° 19' West, a distance of 642.13-feet to a point; thence by property now or formerly of the Borough of Oakmont, North 25° 36' East, a distance of 592.765-feet to a point on the Southerly side of Bauersmith Road, 50-feet wide; thence by the Southerly line of Bauersmith Road, North 81° 48' East, a distance of 22.035-feet to a point; thence continuing along the Southerly line of Bauersmith Road, 60-feet wide, North 81° 48' East, a distance of 1,098.63-feet to a point on line of the Lynn Oaks Plan as recorded in the Recorder's Office of Allegheny County, Pennsylvania in Plan Book Volume 43, pages 80 and 81; thence by the line of said Lynn Oaks Plan and property now or formerly Satler Park, South 50° 43' East, a distance of 832.70-feet to a point on the Westerly side of an unnamed 24-foot street; thence by the Westerly line of the 24-foot unnamed street, South 37° 25' 30" West, a distance of 57.99-feet to a point on the Northerly side of the aforesaid Plum Creek Branch of the Penn Central Railroad; thence by the Northerly side of the Plum Creek Branch of the Penn Central Railroad in a Westerly direction by a curve to the right having a radius of 367.00-feet, an arc distance of 208.46-feet to a point; thence by the same, North 66° 43' West, a distance of 257.52-feet to a point; thence by the same, by a curve to the left, having a radius of 614.52-feet, an arc distance of 831.57-feet to a point at the end of Dark Hollow Road, 50-feet wide; thence by the line dividing the Plum Creek Branch of the Penn Central Railroad and Dark Hollow Road, 50-feet wide, South 35° 45' West, a distance of 578.96-feet to a point; thence by the same, by a curve to the right having a radius of 659.71-feet, an arc distance of 138.44-feet to the point of beginning.

Containing 22.436 acres.

EXHIBIT "A"



FAHRINGER, McCARTY, GREY, INC.
LANDSCAPE ARCHITECTS AND ENGINEERS

1620 GOLDEN MILE HIGHWAY, MONROEVILLE, PA. 15146 ☐ PHONE (412) 327-0591

February 25, 1985

MEMBERS

DAVID C. FAHRINGER, A.S.L.A.
ROBERT B. McCARTY, N.S.P.E.
HAROLD C. GREY, A.S.L.A.
RICHARD K. SCHNEIDER, A.S.L.A.
DALE K. EARL, A.S.L.A.

Metes and bounds description of Phase I in the Oakmont Commons Plan situate in the Borough of Oakmont, County of Allegheny, Pennsylvania.

PHASE I

Beginning at a point on the southerly side of Bauersmith Road (a 60 ft. street) not opened and on line of lands of the Borough of Oakmont; said point of beginning being the northwesterly corner of Phase I in the Oakmont Commons Plan (to be recorded) and also being the northwesterly corner of a tract of land conveyed by Rudy Valentic, et al to Raymond H. Smith, Jr. by deed recorded in the Recorder of Deeds office, Allegheny County, Pennsylvania in Deed Book Volume 6894, Page 193, and dated June 21, 1984; thence along the southerly side of said Bauersmith Road N 81° 48' 00" E, 607.38 feet to a point; thence through lands of which this is a part S 11° 37' 00" E, 145.04 feet to a point; thence through same S 78° 23' 00" W, 34.94 feet to a point; thence through same S 11° 37' 00" E, 97.69 feet to a point; thence through same N 78° 23' 00" E, 100.00 feet to a point; thence through same S 11° 37' 00" E, 172.79 feet to a point on the southerly side of Dark Hollow Road; thence along the southerly side of said Dark Hollow Road in a westerly direction by a curve to the left having a radius of 614.52 feet an arc distance of 283.99 feet to a point; thence along same S 35° 45' 00" W, 186.49 feet to a point; thence crossing said Dark Hollow Road and through lands of which this is a part N 54° 15' 00" W, 152.89 feet to a point; thence through lands of which this is a part N 33° 57' 30" W, 35.00 feet to a point; thence through same N 41° 00' 11" W, 6.045 feet to a point;

thence through same N 41° 29' 00" W, 36.015 feet to a point; thence through same N 33° 57' 30" W, 117.585 feet to a point; thence through same N 35° 12' 39" W, 33.02 feet to a point; thence through same N 04° 23' 00" E, 127.00 feet to a point; thence through same N 26° 50' 00" E, 57.18 feet to a point; thence through same S 87° 03' 00" E, 77.00 feet to a point; thence through same in a northerly direction by a curve to the left having a radius of 430.00 feet an arc distance of 23.83 feet to a point; thence through same N 00° 13' 30" W, 31.455 feet to a point; thence through same by a curve to the left having a radius of 25.00 feet an arc distance of 36.32 feet to a point; thence through same by a curve to the right having a radius of 315.00 feet an arc distance of 102.735 to a point; thence through same by a curve to the left having a radius of 25.00 feet an arc distance of 38.36 feet to a point; thence through same N 63° 07' 36" W, 30.00 feet to a point; thence through same by a curve to the left having a radius of 25.00 feet an arc distance of 39.27 feet to a point; thence through same N 62° 42' 00" W, 57.52 feet to a point; thence through same by a curve to the left having a radius of 135.00 feet an arc distance of 49.325 feet to a point on line of lands of the aforementioned Borough of Oakmont; thence along line of lands of said Borough of Oakmont N 25° 36' 00" E, 11.72 feet to the point of beginning.

Containing 6.456 Acres.



MEMBERS
DAVID C. FAHRINGER, A.S.L.A.
ROBERT B. McCARTY, N.S.P.E.
HAROLD C. GREY, A.S.L.A.
RICHARD K. SCHNEIDER, A.S.L.A.
DALE K. EARL, A.S.L.A.

February 25, 1985

Metes and bounds description of Phase I in the Oakmont Commons Plan situate in the Borough of Oakmont, County of Allegheny, Pennsylvania.

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thence through same N 41° 29' 00" W, 36.015 feet to a point; thence through same N 33° 57' 30" W, 117.585 feet to a point; thence through same N 35° 12' 39" W, 33.02 feet to a point; thence through same N 04° 23' 00" E, 127.00 feet to a point; thence through same N 26° 50' 00" E, 57.18 feet to a point; thence through same S 87° 03' 00" E, 77.00 feet to a point; thence through same in a northerly direction by a curve to the left having a radius of 430.00 feet an arc distance of 23.83 feet to a point; thence through same N 00° 13' 30" W, 31.455 feet to a point; thence through same by a curve to the left having a radius of 25.00 feet an arc distance of 36.32 feet to a point; thence through same by a curve to the right having a radius of 315.00 feet an arc distance of 102.735 to a point; thence through same by a curve to the left having a radius of 25.00 feet an arc distance of 38.36 feet to a point; thence through same N 63° 07' 36" W, 30.00 feet to a point; thence through same by a curve to the left having a radius of 25.00 feet an arc distance of 39.27 feet to a point; thence through same N 62° 42' 00" W, 57.52 feet to a point; thence through same by a curve to the left having a radius of 135.00 feet an arc distance of 49.325 feet to a point on line of lands of the aforementioned Borough of Oakmont; thence along line of lands of said Borough of Oakmont N 25° 36' 00" E, 11.72 feet to the point of beginning.

Containing 6.456 Acres.

EXCEPTING THEREFROM *Parcels* 18, 19, 20, 21, 22, 23, 24, 25, 26 and 41, as shown on the Oakmont Commons Plan as recorded in the Office of the Recorder of Deeds of Allegheny County, Pennsylvania, at Plan Book Volume 133, pages 53-56.

Oakmont

DEVELOPMENT:
OAKMONT COMMONS

DEVELOPER:
RAYMOND H. SMITH, JR.

58 50
043
PMM

DECLARATION OF
COVENANTS, CONDITIONS
AND RESTRICTIONS

JAY D. GLASSER, ESQ.
HOLLINSHEAD AND MENDELSON
ATTORNEYS AT LAW
230 GRANT BUILDING
PITTSBURGH, PENNSYLVANIA 15219
(412) 355-7

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF ALLEGHENY

RECORDED on this 21st day of March, 19 85, in the Recorder's Office
of the said County, in Deed Book Volume 7048, page 308.

GIVEN under the hand and the seal of the said office the day and year aforesaid



RECORDED
Michael J. Kelly

ORDER OF DEEDS
- ALLEGHENY COUNTY, PA
MAR 21 10 48 AM '85

OAKMONT COMMONS

FIRST AMENDMENT TO DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS

THIS AMENDMENT made this 4th day of March, 1987, by
RAYMOND H. SMITH, JR. (hereinafter "Developer").

WHEREAS, on March 21, 1985 a Declaration of Covenants, Conditions and
Restrictions for Oakmont Commons, a planned unit development located in the
Borough of Oakmont, Allegheny County, Pennsylvania (hereinafter the "Declara-
tion") was recorded in the Office of the Recorder of Deeds of Allegheny County,
Pennsylvania, at Deed Book Volume 7048, page 308; and

WHEREAS, on March 21, 1985 the Oakmont Commons Plan was recorded in
the Office of the Recorder of Deeds of Allegheny County, Pennsylvania, at Plan
Book Volume 133, pages 53 to 56; and

WHEREAS, Developer wishes to amend the said Declaration to submit
additional land to the provisions of the Declaration pursuant to the provisions
of Article XV of said Declaration.

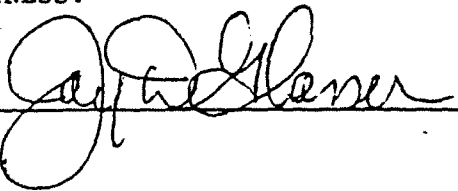
NOW, THEREFORE, Developer hereby amends the Declaration of Covenants,
Conditions and Restrictions for Oakmont Commons by adding the additional real
estate described in Exhibit "B-1" attached as Phase II of the development.
Developer hereby declares that all of the land described in Exhibit "B-1" shall
be held, sold and conveyed subject to the covenants, conditions, easements,
restrictions, charges and liens described in the Declaration, all of which shall
run with the land and shall be binding upon and inure to the benefit of all
parties having any right, title or interest therein and their respective heirs,
 devisees, grantees, personal representatives, successors and assigns.

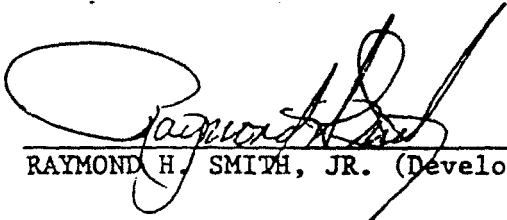
Developer further declares that the land to be deeded to the Oakmont Commons Homeowners Association in connection with Phase II is described in Exhibit "C-1" attached hereto.

Except as modified, amended, revised and expanded above, Developer, for himself and his heirs, administrators, successors and assigns, hereby restates, republishes and reaffirms the Declaration.

IN WITNESS WHEREOF, this document has been executed the day and year first above written.

WITNESS:





RAYMOND H. SMITH, JR. (Developer)

OAKMONT COMMONS
SECOND AMENDMENT TO THE
DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS

THIS SECOND AMENDMENT TO DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS ("Second Amendment") is made the 1 day of March,
199~~8~~⁹, by the OAKMONT COMMONS HOMEOWNERS ASSOCIATION ("Association").

WITNESSETH:

WHEREAS, on March 21, 1985, Raymond H. Smith, Jr. ("Developer") caused a Declaration of Covenants, Conditions and Restrictions for Oakmont Commons, a planned unit development located in the Borough of Oakmont, Allegheny County, Pennsylvania (the "Declaration") to be filed in the Office of the Recorder of Deeds of Allegheny County, Pennsylvania at Deed Book Volume 7048, page 308; and

WHEREAS, on March 4, 1987, the Developer caused a First Amendment to Declaration of Covenants, Conditions and Restrictions ("First Amendment") to be filed in the Office of the Recorder of Deeds of Allegheny County, Pennsylvania at Deed Book Volume 7515, page 548;
and

WHEREAS, under Article XVI, Section 3, the Declaration may be amended by a writing signed by Owners representing seventy-five percent (75%) of the members of the Association; and

WHEREAS, the Association wishes to amend the Declaration as follows, with seventy-five percent (75%) of the members of the Association having approved the amendment by signing a writing evidencing their approval, a copy of which is maintained in the records of the Association.

NOW, THEREFORE, the Association hereby files this Second Amendment, which covenants, conditions, easements, restrictions, charges and liens which Shall Run With The Land and shall be binding upon and shall inure to the benefit of all parties having any right, title or interest therein or any part thereof and their respective heirs, devisees, personal representatives, successors and assigns.

I. AMENDMENTS. The Declaration is amended as follows:

A. ARTICLE I, Definitions:

1. The definition of Lot in Section 5 is amended as follows:

Lot shall mean any plot of land shown upon any recorded subdivision map of the Property which has not yet been developed as a single family residence, but specifically excepting the Common Property.

2. The definition of Owner in Section 6 is amended as follows:

Owner shall mean the record owner, whether one or more persons or entities, of a Lot or Unit, but excluding those persons having

such interest merely as security for the performance of an obligation.

B. ARTICLE II, Membership and Voting Rights in the Association:

1. Section 1, Membership is amended as follows:

Every Owner of a Lot or Unit shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot.

2. Section 2, Voting is deleted and the following substituted in its stead:

Each Lot or Unit shall be entitled to a single vote in the Association. When a Unit or Lot is owned by more than one person or entity, all such persons and each such entity shall be a member of the Association, but no more than one vote may be cast with respect to that Unit or Lot. The multiple owners of a Lot or Unit may file with the Association a designation of the member with voting rights on behalf of that Unit or Lot. In the absence of such a designation, the vote to which such Unit or Lot is entitled shall be cast as those members who are owners of the Unit or Lot and present at the meeting at which the vote is taken shall agree, or if only one of the members who is an owner of the Lot or Unit is present at the meeting, as that member shall determine.

C. ARTICLE III, Property Rights, is amended as follows:

1. Wherever Lot or Unit is used alone in Article III, it shall be deemed to include the other;

2. Sections 1(e) and (f) are deleted;

3. Section 1(g) is amended to read as follows:

The right of the Association to grant easements upon, across, over, under, in and to any part of the Property to any public agency, authority or utility for ingress, egress, repair, and maintenance of all utilities, including, but not limited to television cable service, security and similar systems, water, sewer, gas, telephone and electricity.

4. Section 2 is amended to read:

Any Owner may delegate his or her right of enjoyment to the Common Property and facilities to those members of Owner's family, Owner's tenants or Owner's contract purchasers, who reside on Owner's Lot or Unit.

5. Section 4, is amended to read:

Rules and Regulations. The Board of Directors may establish reasonable rules and regulations concerning the use of the Common Property and Common Areas, any facilities located thereon or on any individual Lots and Units, including the imposition of reasonable user fees and limits upon the number of permitted guests. Copies of such rules and regulations and amendments thereto shall be furnished by the Association to all Owners prior to the effective date. Such regulations shall be binding upon the Owners, their families, tenants, guests, invitees and agents, until and unless such regulation, rule or requirement is specifically overruled, cancelled or modified by the Board, or, in a regular or special meeting, by the vote of the membership. The Board shall have the authority to impose reasonable monetary fines and other sanctions, and monetary fines may be collected as provided in Article IV. Such fines shall be deemed to be liquidated damages and their assessment and collection is hereby consented to by each Unit Owner, and all persons claiming title through them. Monetary fines or sanctions, assessments or collections, imposed by the Board are not pursuant to any grant of authority conferred by the municipality.

D. ARTICLE IV, Covenant for Assessments, is amended as follows:

1. Section 1 is amended by the capitalization of the word "Units" in subpart (3), and the addition of the words "or Unit" after the word "Lot" in the second sentence.

2. Section 2 is amended by the capitalization of the word Owners in the last sentence.

3. Section 3.01 is amended to read as follows:

The Annual Assessment shall be established annually by the Board of Directors. Assessments shall be collected and paid quarterly or annually as determined by the Board of Directors. The Board of Directors may, after consideration of current maintenance costs and

future needs of the Association, fix the assessment for any year at a lesser amount. A pro rata portion of any amount accumulated in excess of the amounts required for actual expenses and reserves shall be credited to each Owner and shall be applied to their next installments, until exhausted. Any net shortages shall be added, using the same formula, to the installments due in the succeeding six (6) months.

4. Section 3.02 is amended to read as follows:

It shall be the duty of the Board at least forty (40) days prior to the Association's annual meeting to prepare a budget covering the estimated costs of operating the Association during the coming year. The Board shall cause a copy of the budget and assessment to be hand delivered or mailed by United States Mail, first class postage prepaid to each member at least thirty (30) days prior to the annual meeting. The budget and the assessment shall become effective unless disapproved at the annual meeting by vote of at least fifty-one (51%) percent of membership present at the annual meeting, if a quorum is present.

5. Section 3.03 is amended to read as follows:

The Association shall, upon the written request of an Owner, furnish to that Owner: i) a certificate setting forth whether all assessments due for the Lot or Unit in question have been paid; and a resale certificate to any Owner at or prior to the closing on a sale of a Lot or Unit, containing such items as are required under Pennsylvania law. Such certificate shall be binding upon the Association, and shall be signed by an officer of the Association.

6. Section 3.05 is deleted in its entirety and Sections 3.06 and 3.07 renumbered accordingly.

7. Current Section 3.06 is amended to read as follows:

The annual assessment may not be increased more than 15% above the maximum assessment for the previous year without a vote of the majority of the membership present in person or by proxy at the next duly called and held annual association meeting. Increases up to that amount may be made by the Board of Directors without the consent of the membership, except as herein provided. In addition, the Board may impose charges for the use of the community recreational facilities over and above the regular annual assessment.

8. Current Section 3.07 is amended to read:

No action shall be taken by the Board or the Association which will limit the rights of the members to the use of the Common Property, or cause an increased assessment beyond that specified in Section 3.06, without the affirmative vote of a majority of the membership.

9. Section 4 is amended to read:

Special Assessments. In addition to the Annual Assessments authorized above, the Board of Directors may levy Special Assessments for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Property or the Common Areas, including fixtures and personal property related thereto, provided that any such Special Assessment shall have the assent of two-thirds (2/3) of the votes of the membership present in person or by proxy at any annual meeting or special meeting of the Association duly called for this purpose.

10. Section 5 is amended to read:

Specific Assessments. In addition to the foregoing, the Board may levy specific assessments against individual Units and/or Lots where there is a particular charge attributable only to that Unit and/or Lot or a fine has been imposed as provided hereinafter. Such assessment may only be imposed at the annual meeting of the Association or any special meeting of the Board called for that purpose; provided that the Owner involved has had thirty (30) days' prior written notice of the proposed specific assessment, the date time and location of the meeting at which the specific assessment will be considered, and an opportunity to appear and challenge or otherwise address the imposition of the specific assessment at that meeting.

11. Section 7 is amended to read:

Date of Commencement of Special Assessments Due Dates. The due date of any Special Assessment under Section 4 hereof shall be fixed in the resolution authorizing such assessment.

12. Section 8 is amended to read:

Effect of Non-Payment of Assessments - Remedies of the Association. Any assessment not paid within ten (10) days after the due date shall include a late charge of \$10.00 per month and, if not paid within thirty (30) days, interest at the rate of fifteen (15%) percent per annum; provided, however, that the Owner involved has had thirty (30) days' prior written notice of the date, time and location of a special meeting of the Association at which the late charge will be considered, and been given an opportunity to appear and challenge or otherwise address the imposition of the late charge at that special meeting . The Association may bring an action at law against the Owner or person personally obligated to pay the assessment or foreclose the lien against the property, and there shall be added to the amount of such Assessment the costs of preparing and filing the Complaint in such action, and in the event a judgment is obtained, such judgment shall include interest on the assessment as provided and a reasonable attorney's fee, together with the costs of the action. No Owner may waive or otherwise avoid liability for the assessments provided for herein by non-use of the Common Property or abandonment of his Lot or Unit. Notice of the delinquency shall be sent to both the Owner and his mortgagee if known prior to the initiation of legal proceedings.

13. Section 10 is amended to read:

Reserve for Replacements. The Association shall establish and maintain a reserve fund for replacement of any part of the Common Property and facilities or repair or maintenance of the Common Areas as the Board deems appropriate. The amount shall be collected by assessment of the Owners benefited thereby and shall be deemed a Common Expense. The reserve shall be kept in an interest bearing account and shall only be expended for the purpose of effecting the replacement of Common Property or community facilities and for operating contingencies of a non-recurring nature. The proportionate interest of each Owner shall be considered appurtenant to his or her Lot or Unit and shall not be separately withdrawn, assigned or transferred or otherwise separated from the Lot or Unit and shall be deemed to be transferred with such Lot or Unit.

14. Section 11 is deleted in its entirety.

E. ARTICLE V, Insurance, is amended as follows:

1. In Section 2, the word Unit should be capitalized.

2. Section 2(1)(c) should read as follows:

(c) Public liability insurance in such amounts as the Board may from time to time determine is necessary. Said insurance shall cover the Association, its officers, directors, members and agents, from liability in connection with the Common Property or facilities or any decision or work performed in connection therewith;

3. In Section 2(2), the words "Common Expense" should be capitalized.

F. ARTICLE VI, Party Walls, is amended as follows:

1. Section 6 is amended to read:

Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article VI, the matter shall be submitted to arbitration under the Uniform Arbitration Act as adopted in Pennsylvania. Each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision of a majority of all the arbitrators shall be final and conclusive of the question involved. The rules of the American Arbitration Association shall govern all such proceedings and this shall be a common law arbitration pursuant to the provisions of 42 Pa. C.S.A. § 7341 or successor legislation.

G. ARTICLE VII, Separate Mortgages, Taxes, Utility Charges, is amended as follows:

1. Section 4 is amended to read:

Financial Statements. Any holder, insurer or guarantor of a first mortgage on any Lot or Unit shall be entitled, upon written request, to an audited financial statement of the Association for the immediately preceding year, if one is available, or to such financial statements as were prepared by or on behalf of the Association for the immediately preceding year, or to have an audited statement prepared at the requestor's expense if one is not otherwise available.

H. ARTICLE X, Architectural Control, is amended as follows:

1. Section 1 is amended to read:

No building addition, fence, wall or other structure, addition or alteration of any nature shall be commenced, erected or maintained upon the Property, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the color, nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association or by an Architectural Committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within sixty (60) days after said plans and specifications have been submitted to it, or in any event, if no letter objecting to the addition, alteration or change has been sent to the Owner from the Board or Architectural Committee, objecting to the alteration, addition or change, prior to the completion thereof, approval shall not be required and this Article will be deemed to have been fully complied with.

I. ARTICLE XI, Use Restrictions - General Regulations is amended as follows:

1. The last sentence of Section 1(a) is deleted.

2. Section 1(c) is amended to read:

Unit Maintenance. Each Owner shall furnish and be responsible, at the Owner's expense, for all of the maintenance, repairs and replacements within his or her own Lot and Unit and also, for all exterior maintenance required in and about his or her Lot or Unit, including snow removal, care of yards and gardens and repair and painting of the Unit. If any required maintenance is not performed within twenty (20) days after the Association has given the Unit Owner written notice to do so the Association may, in its discretion, perform such maintenance and charge the Unit Owner for all expenses involved, which charge may be enforced as provided in Article IV hereof as a specific assessment against said Unit.

3. The word "Unit" should be capitalized throughout.

4. Section 1(l) is amended by the deletion of everything after the word "permanently".

5. Section 2 is amended to read:

Rules and Regulations. The Board of Directors may establish reasonable rules and regulations concerning the use of the Common Property and Common Areas, any facilities located thereon, and individual Lots and Units, including the imposition of reasonable user fees and limits upon the number of permitted guests. Copies of such regulations, rules and amendments thereto shall be furnished by the Association to all Owners prior to their effective date. Such regulations shall be binding upon the Owners, their families, tenants, guests, invitees and agents, until and unless such regulation, rule or requirement be specifically overruled, cancelled or modified as herein provided. The Board shall have the authority to impose reasonable monetary fines and other sanctions or to seek injunctive relief. Such fines shall be deemed to be liquidated damages and their assessment and collection is hereby consented to by each Owner, and all persons claiming title through them.

6. Section 3 is amended to read:

Procedure. The Board shall not impose a fine, suspend voting or infringe upon any other rights of a member or other occupant of a Unit or Lot for violations of rules until the following procedure is followed:

- (a) Initial Violation. Written demand to cease and desist from an alleged violation shall be served upon the alleged violator specifying:
 - (i) The alleged violation;
 - (ii) The action required to abate the violation; and
 - (iii) A time period, not less than ten (10) days from the date of the notice, during which the violation may be abated without further sanction, if such violation is a continuing one, or a statement that any further violation of the same rule may result in the imposition of a sanction after notice and hearing if the violation is not continuing.
- (b) Continuing or Subsequent Violation. At any time within twelve (12) months of such demand, if the violation continues past the period allowed in the demand for abatement without penalty, or if

the same rule is subsequently violated, the Board shall serve the violator with written notice, personally or by regular or certified mail, of a hearing to be held by the Board in executive session. The notice shall contain:

- (i) The nature of the alleged violation;
 - (ii) The time and place of the hearing, which time shall not be less than ten (10) days from the giving of the notice;
 - (iii) An invitation to attend the hearing and produce any statement, evidence and witnesses on his behalf; and
 - (iv) The proposed sanction to be imposed.
- (c) Hearing. The hearing shall be held in executive session pursuant to this notice affording the member a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of notice and the invitation to be heard shall be deemed adequate if a copy of the notice together with a statement of the date and manner of delivery is entered by the officer, director or agent who delivered such notice. The notice requirement shall be deemed satisfied if the alleged violator appears at the meeting. The Minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed.

J. ARTICLE XII, Rights of Eligible Mortgage Holders and Eligible Insurers or Guarantors, is amended as follows:

1. Section 1 is amended to read:

Notice of Action. Upon written request to the Association, identifying the name and address of the holder, insurer or guarantor and the Unit or Lot number or address, any such eligible mortgage holder or eligible insurer or guarantor shall be entitled to timely written notice of:

- (a) Any condemnation loss or any casualty loss which affects a material portion of the Unit or Lot on which there is a first mortgage held, insured, or guaranteed by such eligible mortgage holder or eligible insurer or guarantor, as applicable;
- (b) Any delinquency in the payment of assessments or charges owed by an Owner of a Unit or Lot subject to a first mortgage held, insured or guaranteed by such eligible holder or eligible insurer or guarantor, which remains uncured for a period of sixty (60) days;

- (c) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association;
- (d) Any proposed action which would require the consent of a specified percentage of eligible mortgage holders as specified below or in Article XII, § 2.

2. Section 2(a) is amended to read:

Any restoration or repair of the Unit or Lot, after a partial condemnation or damage due to an insurable hazard, shall be performed substantially in accordance with the Declaration and the original plans and specifications, unless other action is approved by eligible holders holding mortgages on Units or Lots which have at least fifty-one (51%) percent of the votes of Units or Lots subject to eligible holder mortgages.

3. Section 2(c) is amended to read:

Unless a formula for reallocation of interests in the Common Areas after a partial condemnation or partial destruction is fixed in advance by the Declaration, as it may be amended from time to time, or by applicable law, no reallocation of interests in the Common Areas resulting from a partial condemnation or partial destruction of such a project may be effected without the prior approval of eligible holders holding mortgages on all remaining Units and Lots, whether existing in whole or in part, and which have at least fifty-one (51%) percent of the votes of such remaining Units and Lots subject to eligible holder mortgages.

4. Section 2(d) is amended to read:

When professional management has been previously required by any eligible mortgage holder or eligible insurer or guarantor, whether such entity became an eligible mortgage holder or eligible insurer or guarantor at that time or later, any decision to terminate professional management by the Association shall require the prior consent of Unit Owners to which at least sixty-seven (67%) percent of the votes in the Association are allocated and the approval of eligible holders holding mortgages on Units and Lots which have at least fifty-one (51%) percent of the votes of Units and Lots subject to eligible holder mortgages.

K. ARTICLE XIV, Condemnation, is amended by deleting "all of the Class "B" members (if such membership shall then exist" and "Class "A"" from the second paragraph.

L. ARTICLE XVI, General Provisions is amended by the deletion of Section 14.

II. RATIFICATION. In all other respects, the Declaration and First Amendment are ratified and affirmed and shall remain unchanged.

WITNESS the execution hereof, the day and year first above written.

ATTEST:

OAKMONT COMMONS HOMEOWNERS
ASSOCIATION

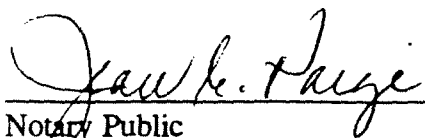
by: _____

Wendy Sulzger (SEAL)

COMMONWEALTH OF PENNSYLVANIA)
)SS:
COUNTY OF ALLEGHENY)

On this 5th day of March, 1998⁹, before me, a Notary Public, the undersigned officer, personally appeared Wendy Sundqvist, who identified himself/herself to be the President of the Oakmont Commons Homeowners Association, and who acknowledged that she/he executed the foregoing instrument for the purposes therein contained, by signing his/her name as such President, and to the end that it be recorded as such.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.



Notary Public

NOTARIAL SEAL

Notarial Seal
Jean E. Paige, Notary Public
Pittsburgh, Allegheny County
My Commission Expires Nov. 8, 1999
Member, Pennsylvania Association of Notaries