97- 0161982

DECLARATION OF COVENANTS,

CONDITIONS AND RESTRICTIONS

FOR SHAVANO PARK, UNIT - 16F

AND ANNEXATION TO

SHAVANO CREEK HOMEOWNERS ASSOCIATION

(Excluding Lot 1650 - Commercial Lot)

THE STATE OF TEXAS §

COUNTY OF BEXAR §

THIS DECLARATION, made on the date hereinafter set forth by SHAVANO CREEK UNIT - 16F, LTD., a Texas Limited Partnership, hereinafter referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant is the Owner of the below described lots within SHAVANO PARK, UNIT - 16F, Bexar County, Texas (hereinafter called "the Subdivision"), to wit:

> Lots 1637-1649, inclusive, and Lots 1651-1659, inclusive, SHAVANO PARK, UNIT - 16F, Bexar County, Texas, according to plat thereof recorded in Volume 9538, Pages 66-69, Deed and Plat Records of Bexar County, Texas;

WHEREAS, Declarant has created a residential community with designated single-family residential lots "Lots" and "Common Facilities" (as those terms are defined herein) for the benefit of the present and future owners of said Lots on the following described real property owned by Declarant or as to which Declarant has reserved by deed the right to file this Declaration without the necessity of joinder of the owner or lien holder thereof; and

WHEREAS, Declarant has subdivided the above-described real property as shown by the map and plat of the Subdivision, which map and plat has heretofore been filed as the true and correct survey, map, and plat thereof, and which subdivision shall be effectively known as SHAVANO PARK, UNIT - 16F; and

WHEREAS, Declarant desires to ensure the preservation of the values and amenities in said community and for the maintenance of said Common Facilities, and to this end desires to further subject the above-described real property, together with such additions as may hereafter be made thereto as herein provided, to the covenants, restrictions, easements, charges, and liens hereinafter set forth, each and all of which is and are for the benefit of said property and each of the owners thereof; and

WHEREAS, Declarant has deemed it desirable for the efficient preservation of the values and amenities in said community, to annex the Subdivision to an agency to which is delegated and assigned the powers of maintaining and administering the Common Facilities and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, SHAVANO CREEK HOMEOWNERS ASSOCIATION has been incorporated under the laws of the State of Texas as a non-profit corporation for the purposes of exercising the functions aforesaid as to SHAVANO PARK UNIT-16A, and such other real property as may be annexed thereto and become subject to the jurisdiction of said Association; and

WHEREAS, the real property above described as constituting Shavano Park, Unit - 16F lies within and is a part of that area described in Exhibit "A" to the Declarations of Covenants, Conditions and Restrictions for Shavano Park Unit 16A recorded in Volume 3759, Page 0956 of the Real Property Records of Bexar County, Texas, under the terms of which Declarant has the right to annex Shavano Park Unit - 16F to the real property subject to the jurisdiction and assessment of said Shavano Creek Homeowners Association, and Declarant desires so to do as to the residential Lots above described (Lots 1637 - 1649 and Lots 1651 - 1659) only, but does not desire to extend the scheme of residential covenants to Lot 1650 and does not desire to annex said commercial lot (Lot 1650) to the jurisdiction and assessments of said Shavano Creek Homeowners Association;

NOW, THEREFORE, Declarant hereby annexes the above-described Lots property constituting SHAVANO PARK, UNIT - 16F, with the exception of Lot 1650, to the jurisdiction and assessments of Shavano Creek Homeowners Association, and declares that said property shall hereafter be held, transferred, sold, conveyed, occupied, and enjoyed subject to the covenants, restrictions, easements, charges, and liens hereinafter set forth, as follows:

ARTICLE I.

DEFINITIONS

The following words when used in this Declaration or any Supplemental Declaration (unless the context shall prohibit) shall have the following meanings.

(a) "Association" shall mean and refer to SHAVANO CREEK HOMEOWNERS ASSOCIATION, a Texas non-profit corporation, its successors and assigns as provided for herein.

(b) "Properties" shall mean and refer to the above described residential Lots within Shavano Park, Unit - 16F, and additions thereto, as are subject to this Declaration or any Amended or Supplemental Declaration.

(c) "Lot" shall mean and refer to each of the plots of land numbered Lots 1637-1649, inclusive, and Lots 1651-1659, inclusive, SHAVANO PARK, UNIT - 16F, Bexar County, Texas, as shown on the Subdivision Plat.

(d) "Subdivision Plat" shall mean and refer to the map or plat of Shavano Park, Unit - 16F filed for record in Volume 9538, Pages 66-69, Deed and Plat Records of Bexar County, Texas and any amendment thereof upon filing of same for record in the Deed and Plat Records of Bexar County, Texas.

(e) "Living Unit" shall mean and refer to a single family residence and its attached or detached garage situated on a lot.

(f) "Single Family" shall mean and refer to a group related by blood, adoption, or marriage or a number of unrelated roommates equal to the number of bedrooms in a living unit.

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(g) "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot or portion of a Lot, within the Properties, including contract sellers but excluding those having interest merely as security for the performance of an obligation.

(h) "Declarant" shall mean and refer to Shavano Creek Unit - 16F, Ltd., its successors or assigns who are designated as such in writing by Declarant, and who consent in writing to assume the duties and obligations of the Declarant with respect to the Lots acquired by such successor or assign.

(i) "Committee" and "Architectural Control Committee" or "ACC" shall mean and refer to the committee created herein by Declarant subject to the provisions hereinafter provided.

(j) "Common Areas" and "Common Facilities" shall mean and refer to all property leased, owned, or maintained by the Association for the use and benefit of the Members of the Association. Common Facilities may include, but are not necessarily limited to the following: signs, fountains, statuary, parkways, medians, islands, landscaping, walls, safety lanes, bridges, greenbelts, and other similar or appurtenant improvements.

(k) "Member" shall mean and refer to all those owners who are members of the Association as provided herein.

(l) "Builder Member" shall mean such builders approved by Declarant for construction within the Subdivision and who own one or more Lots for construction of a residence and sale to others.

(m) "Board of Directors" and "Board" shall mean and refer to the Board of Directors of Shavano Creek Homeowners Association, the election and procedures of which shall be as set forth herein and in the Articles of Incorporation and By-Laws of the Association.

(n) "Declaration" shall mean and refer to this Declaration of Covenants, Conditions and Restrictions for Shavano Park, Unit - 16F and any amendments, annexations and supplements hereto made in accordance with the terms hereof.

(o) "Master Plan" shall mean that certain preliminary plan of development for that parcel which is more fully described or depicted on Exhibit "A" attached hereto, the original of which plan is maintained at Declarant's offices. The Master Plan reflects non-residential and multi-family development for a portion of said parcel and is not binding on Declarant and may be amended by Declarant from time to time.

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ARTICLE II.

SUBDIVISION PLAT AND CERTAIN EASEMENTS AND USE

Section 1. Subdivision Plat. The Subdivision Plat creates for use as such, subject to the limitations set forth herein, certain streets, setbacks, and easements shown thereon, and such Subdivision Plat further establishes certain dedications, limitations, reservations and restrictions applicable to the Properties. All conditions, easements, dedications, limitations, restrictions and reservations shown on the Subdivision Plat are incorporated herein and made a part hereof as if fully set forth herein, and shall be construed as being adopted in each and every contract, deed or conveyance executed or to be executed by or on behalf of Declarant, conveying said property or any part thereof.

Section 2. Certain Other Easements. There is hereby created in favor of the easement owners, Declarant, the Association, and their assignees, a right of ingress or egress across, over, and under the Properties for the purpose of installing, replacing, repairing, and maintaining all facilities for utilities, including, but not limited to, water, sewer, telephone, electricity, gas, and

appurtenances thereto, and to construct, reconstruct, repair, correct, replace, or maintain any wall, fixture, light, or other structure or item required to be constructed or maintained under the terms hereof or to correct or remove any condition prohibited to be maintained under the terms hereof. Such easements specifically include, but are not limited to the easements described in Article VIII, Section 25 hereof which includes the right of Declarant and the Association to enter upon any or all of Lots 1642-1644 for the purpose of constructing, reconstructing, repairing, or maintaining a masonry perimeter wall to be owned and maintained by the Association as part of the Common Facilities.

Section 3. Use of Easements and Damages. Neither the Declarant nor the Architectural Control Committee nor any member of the Committee shall be liable for any damage done by any utility company or their assigns, agents, employees or servants, using any easements now or hereafter in existence, whether located on, in, under or through the Properties, to fences, shrubbery, trees or flowers or other property now or hereinafter situated on, in, under, or through the Properties. No provision hereof related to placement or nature of structures or conditions on a Lot, nor the approval thereof, express or implied, by the Declarant or the Committee shall affect the rights of easement owners nor enlarge the rights of Lot Owners with regard to the construction or maintenance of improvements or conditions within an easement area.

ARTICLE III.

PROPERTY SUBJECT TO THIS DECLARATION: ADDITIONS OR MODIFICATIONS THERETO

Section 1. Existing Property. The real property which is, and shall be, held, transferred, sold, conveyed and occupied subject to this Declaration are the above-described Lots 1637-1649, inclusive, and Lots 1651-1659, inclusive, as shown on the Subdivision Plat, which real property is sometimes hereinafter referred to as the "Existing Property". As noted above, the commercial lot, Lot 1650, is not subject to this Declaration.

Section 2. Additions to Existing Property. Additional lands may become subject to this Declaration in the following manners:

Additions by Declarant. The Declarant, its successors and assigns, shall have the right to bring within the scheme of this Declaration, and without the consent of Members, additional properties in future stages of the development, and within ten (10) years from the date of this instrument; provided that such additions lie within the area depicted on the Master Plan and described on Exhibit "A" attached hereto and incorporated herein by reference. Declarant, its successors and assigns, shall not be bound to make any additions to the Existing Property or to follow any particular type of development which may be reflected on the Master Plan. Any additions authorized under this and the succeeding subsections shall be made by filing of record a Declaration of Covenants, Conditions and Restrictions or similar instrument with respect to such additional property which shall extend the general scheme of the covenants and restrictions of this Declaration to such property, and the execution thereof by the Declarant shall constitute all requisite evidence of the required approval thereof. Such document may contain such complementary additions and/or modifications of the covenants and restrictions contained in this Declaration as may be applicable to the additional lands and are consistent with the overall development. In no event, however, shall any such instrument be construed so as to revoke, modify or add to the covenants established by this Declaration as they are applicable to the Existing Property.

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ARTICLE IV.

PROPERTY RIGHTS IN THE COMMON FACILITIES

Section 1. Members' Easements of Enjoyment. Each Owner shall have a non-exclusive right and easement of enjoyment in and to the Common Area, if any, which shall be appurtenant to and shall pass with the title to each Lot, subject to the Association's right to promulgate and enforce reasonable restrictions effective as to all Owners regulating the time, manner, and extent of use, and the following:

(a) The right of the Association to suspend the voting rights of an Owner and the Owner's right to use the Common Area 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;

(b) The right of the Association to accept property as Common Area for maintenance or to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility subject to such conditions as may be imposed by the Association.

Section 2. Delegation of Use. Any Owner may delegate his right of enjoyment of the Common Area and facilities to his tenants or contract purchasers while they reside on such Owner's Lot in accordance with the By-Laws of the Association.

ARTICLE V.

CLASSES OF MEMBERS AND VOTING RIGHTS

Section 1. Membership. Every Owner of a Lot shall automatically be a Member of the Association. Membership in the Association shall be appurtenant to, and may not be separated from, ownership of any Lot which is subject to assessment.

Section 2. Classes of Members. The Association now has only one class of membership, that being Class A. The members of the Association are all Owners as defined in Article I, including Declarant and Builder Members. Class A Members shall be entitled to one vote for each Lot in which they hold the interest required for membership for Article I (g), above. When more than one person holds such interest of interests in any Lot, all such persons shall be Members, and the vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any such Lot.

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ARTICLE VI.

COVENANTS FOR ASSESSMENTS

Section 1. Creation of Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned by it within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association: (1) annual assessments or charges and (2) special assessments for capital improvements or extraordinary expenses, such assessments to be fixed, established, and collected from time to time as hereinafter provided. The annual and special assessments, together with such interest thereon and costs of collection thereof as are hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with such interest thereon and cost of collection thereof as hereinafter provided, shall also be the personal obligation of the person who was the Owner of such property at the time the obligation accrued.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used for the purpose of promoting recreation, health, safety and welfare of the Members; preserving or enforcing the rights and obligations of the Owners and the Association, including the costs of collection of any assessments; for the improvement, maintenance and operation of the properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Properties by the Members; or for the administrative costs of the Association.

Section 3. Basis and Maximum of Annual Assessments. The annual assessments for both Improved and Unimproved Lots shall be determined by the Board of Directors in the manner provided for herein after determination of current maintenance costs and anticipated needs of the Association during the year for which the assessment is being made, but until January 1, 1998, the annual assessment for Improved Lots shall not exceed $313.50 and the annual assessment for Unimproved Lots shall not exceed $73.37. From and after January 1, 1998, the maximum annual assessment for Improved Lots and maximum annual assessment for Unimproved Lots may be as provided in Section 5 hereof. A Lot shall be deemed to be an "Improved Lot" when construction of a Living Unit thereon is completed, and a closing of a sale thereof has taken place, or when a Living Unit on the Lot has been occupied as a residence, whichever first occurs. All other Lots shall be "Unimproved Lots". In no event shall the annual assessment for Unimproved Lots ever exceed more than twenty five percent (25%) of the annual assessment for Improved Lots.

Section 4. Special Assessments. In addition to the annual assessments provided for in Section 3, the Association may levy, in any assessment year, a Special Assessment on Improved Lots only, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement on or which is a part of the Common Facilities, or to finance or defray the cost of any extraordinary expense of the Association, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each of the Improved Lot Owners who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all Improved Lot Owners at least 30 days in advance and shall set forth the purpose of the meeting.

Section 5. Change in Basis and Maximum of Annual Assessments. For all annual assessments accruing after January 1, 1998, the maximum annual assessment may be adjusted by majority vote of the Board of Directors but shall not be increased by more than ten percent (10%) above that of the previous year without a vote of the membership. Any increase in the maximum annual assessment of more than ten percent (10%) above that of the previous year shall require approval of two-thirds (2/3) vote of each class of Members voting at a meeting duly called for that purpose.

Section 6. Quorum for Any Action Authorized Under Sections 4 and 5. The quorum required for any action by Members authorized by Sections 4 and 5 hereof shall be as follows:

At the first meeting called, as provided in Sections 4 and 5 hereof, the presence at the meeting of Members, or of proxies, entitled to cast sixty (60) percent of all the votes of each class of membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the requirements set forth in Section 4 and 5, and the required quorum at any such subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting, provided that such reduced quorum requirement shall not be applicable to any such subsequent meeting held more than ninety (90) days following the preceding meeting.

Section 7. Date of Commencement of Annual Assessments: Due Date. The annual assessments provided for herein shall commence as to all Lots on such date as the Board of Directors of the Association may determine, but, in any event, by November 30, 1997. The first annual assessments shall be made for the balance of the year 1997. Beginning January 1, 1998, the assessments for each calendar year shall become due and payable and shall be collected annually in advance. The amount of the annual assessment which may be levied on a Lot for the balance remaining in the first year of assessment shall be an amount which bears the same relationship to the annual assessment provided for in Section 3 hereof as the

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remaining number of months in that year bear to twelve. When a Lot becomes an Improved Lot after the annual assessment for it as an Unimproved Lot has been paid, there shall be payable as of the first day of the month following the month when it becomes an Improved Lot, a sum equal to the difference between the annual assessments for Unimproved Lots and the annual assessment for Improved Lots prorated over the balance of the year then remaining. The due date of any special assessment under Section 4 hereof shall be fixed in the resolution authorizing such assessment.

Section 8. Duties of the Board of Directors. In December of each year, the Board of Directors of the Association shall fix the amount of the annual assessment against each Lot for the following year and shall, at that time, prepare a roster of the Lots and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Owner. Written notice of the assessment shall thereupon be sent to every Owner subject thereto. The Association shall upon demand at any time furnish to any Owner liable for said assessment, a certificate in writing signed by an officer of the Association, setting forth whether said assessment has been paid or the balance due. Such certificate, when signed by an authorized officer or agent of the Association, shall be conclusive evidence of payment of any assessment herein stated to have been paid. The Association may charge a reasonable fee for issuing such a certificate.

Section 9. Effect of Non-Payment of Assessments: The Lien; Remedies of the Association. If any assessment or other sum due the Association hereunder is not paid on the date when due, then such assessment or amount shall become delinquent and shall, together with such interest thereon and cost of collection thereof provided, thereupon becoming a continuing lien on the property which shall bind such property in the hands of the then Owner, his heirs, devisees, personal representatives and assigns. If the assessment is not paid within thirty (30) days after the delinquency date, the assessment shall bear interest from the date of delinquency at the rate of twelve percent (12%) per annum, and the Association may bring an action at law against the Owner to pay the same or to foreclose the Association's lien against the property, and there shall be added to the amount of such assessment all reasonable expenses of collection including the costs of preparing and filing the complaint, reasonable attorney's fees and costs of suit. Each Owner, by his acceptance of a deed to a Lot, hereby expressly vests in the Association, or its agents, the right and power to bring all actions against such Owner personally for the collection of such charges as a debt and to enforce the aforesaid lien by all methods available for the enforcement of such liens, including non-judicial or judicial foreclosure by an action brought in the name of the Association, with a power of sale in connection with said lien. The lien shall be in favor of the Association and shall be for the benefit of all other Lot Owners. No Owner shall be freed of liability for any assessments provided for herein by virtue of non-use of Common Area, or non-existence of Common Area.

In addition to the foregoing charges for delinquent accounts, each owner shall be obligated to pay to the association all actual costs of collection incurred by the Association and such reasonable late charges and collection charges as the Board of Directors may establish, all of which costs and charges shall also be subject to the liens of the Association.

Section 10. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any mortgage or mortgages now or hereinafter placed upon the Lots subject to assessment, provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to the sale or transfer of such Lot pursuant to a decree of foreclosure, or any other proceeding in lieu of foreclosure. Such sale or transfer shall not relieve such Lot from liability for any assessment thereafter becoming due, nor from the lien of any such subsequent assessment.

Section 11. Exempt Property. The charges and liens created herein shall apply only to the Lots, and the remainder of the Properties shall not be subject thereto.

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ARTICLE VII.

ARCHITECTURAL CONTROL COMMITTEE

Section 1. Approval of Plans. No building, fence, wall, outbuilding or other structure or improvement shall be erected, altered, added onto, placed or repaired on any lot in the subdivision until the complete plans including site plans, grading plans, floor plans depicting room sizes and layouts, exterior elevations, any other plans or information deemed necessary by the Architectural Control Committee herein created for the performance of its function ("Required Plans"), are submitted and approved in writing by the Architectural Control Committee as to the conformity and harmony of exterior design with existing structures in the Subdivision, the location with respect to topography, existing trees, and finished elevation, and apparent conformity with the requirements of this Declaration. The Architectural Control Committee sometimes hereinafter referred to as "the Committee" of "the ACC") shall be comprised of three members only and shall be initially composed of Daniel D. Kossl, Barbarann I. Kanute, and Todd P. Helmer, to serve until their successors are named. In the event a vacancy on the Committee shall arise, the remaining member or members of the Committee may fill such vacancy by appointment. If any vacancy continues for a period of 60 days, the Board of Directors may fill such vacancy, provided however, that in the event that Declarant still owns any Lots subject to the jurisdiction and assessments of the Association, the Board shall first give Declarant written notice of such vacancy and 30 days within which to make such appointment and further provided the remaining members of the Committee fail to fill such vacancy by appointment within such 30-day period. The sale of the last Lot owned by Declarant within the Properties and the area subject to annexation to the Association shall be deemed to be an assignment to the Association of Declarant's powers with respect to ACC membership. Committee members shall not be entitled to compensation for their services rendered in such capacity.

A majority of Committee may act for the Committee and no notice of any of its meetings shall be required.

The submitted plans and specifications shall specify, in such for as the Committee may reasonably require, all materials, structural detail, elevations, landscaping detail, and the nature, kind, shape, heights, exterior color scheme, and location of the proposed improvements or alterations thereto. In the event said Architectural Control Committee fails to approve or disapprove such plans and specifications within thirty (30) days after the plans and specifications have been submitted to it, approval will not be required and the provisions of this Section will be deemed to have been fully complied with. The Architectural Control Committee shall be the sole authority for determining whether proposed structures and modifications of proposed structures comply with applicable covenants, conditions, and restrictions and are in harmony of external design with existing structures and the overall plan of development of the Properties. Among other matters, the Committee shall consider the proposed topography, finished grade elevation, and the general appearance of the proposed improvements as may be determined from the front, rear, and side elevations on submitted plans. The Committee's objective is to prevent unusual, radical, uncommon, curious, odd, extraordinary, bizarre, peculiar, or irregular designs or appearances from being built on, in and/or within the Properties and, to the extent possible, ensure the harmonious development of the Properties in conformity with the common plan and design. The Committee is not required to police or enforce compliance with such considerations as minimum size, setbacks, or other specific, objective construction requirements. There shall be no review of any action of the Architectural Control Committee except by procedures for injunctive relief when such action is patently arbitrary and capricious; and under no circumstances shall such Committee, or any of its members, be subject to suit by anyone for damages.

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Section 2. Approved Contractors. No construction of any building, fence, wall, recreational facilities, landscaping or other structure or improvements shall be commenced on, in, or within the Properties until the primary contractor to perform such construction shall have been approved in writing by the Architectural Control Committee. In the event that the

Committee fails to approve or disapprove a written request for the approval of a primary contractor to perform such construction within thirty (30) days after such request is submitted to it, such approval will not be required, and the provisions of this Section will be deemed to have been fully complied with.

Section 3. Other Matters. All matters requiring approval of the Architectural Control Committee whether or not specifically addressed hereinabove or hereinbelow shall require that such approval be in writing, and, with respect to all such matters requiring such approval, in the event the Committee fails to approve or disapprove any of such matters within thirty (30) days after written submission thereof to the Committee, approval will not be required, and the requirement that such approval be obtained shall be deemed to have been fully complied with.

Section 4. Variances. The Architectural Control Committee shall have the right, but not the obligation, to grant variances and waivers relative to deviations and infractions of the Declaration or to correct or avoid hardships to Owners. Upon submission of a written request for same, the ACC may, from time to time, in its sole discretion, permit an owner to construct, erect or install a dwelling which is in variance from the covenants, restrictions or architectural standards which are provided in this Declaration. In any case, however, the dwelling or improvements with such variances must, in the Committee's sole discretion, blend effectively with the general architectural style and design of the neighborhood and must not detrimentally affect the integrity of the subdivision or be incompatible with the natural surroundings. All requests for variances shall be in writing, shall be specifically indicated to be a request for variance, and shall indicate with specificity the particular standard sought to be varied and the nature of the variance requested. All requests for variances shall be deemed to be disapproved if the Committee has not expressly and in writing approved such request within thirty (30) days of the submission of such request. No member of the Committee shall be liable to any owner for any claims, causes of action or damages arising out of the grant of any variance to an owner. No individual member of the ACC shall have any personal liability to any Owner or any other person for the acts or omissions of the ACC if such acts or omissions were committed in good faith and without malice. Each request for a variance submitted hereunder shall be reviewed independently of similar and the grant of a variance to any one Owner shall not constitute a waiver of the Committee's right to deny a variance to another Owner. The decisions of the Architectural Control Committee with respect to variances shall be final and binding upon the applicant.

ARTICLE VIII.

USE RESTRICTIONS

Section 1. Residential Only. The Existing Property shall be used only for the development of private single-family residences, and Common Facilities serving the Owners and residents thereof.

Section 2. Permitted Use. All land included within the Properties shall be used for "residential purposes" only, either for the construction of private single-family residences, including an enclosed private garage for not less than two (2) automobiles or as part of the Common Facilities; provided, however, that only one such private single-family residence may be constructed, or otherwise placed upon, any one Lot. The terms "residential purposes" as used herein shall be held and construed to exclude any business, commercial, industrial, apartment house, hospital clinic and/or professional uses, and such excluded uses are hereby expressly prohibited subject solely to the use by each Builder Member of residences within the Properties as temporary sales offices and model homes for the display and sale of Lots within the Properties and no others. This restriction shall not, however, prevent the inclusion of permanent living quarters for domestic servants or to allow domestic servants to be domiciled with an owner or resident.

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Section 3. Size and Height. No building or structure erected, altered or placed on, within or in the Properties shall exceed forty-five feet (45') in average height (measured from the top of the foundation to the topmost part of the roof) nor be more than two and one-half (2-½) stories in height without the written consent of the Architectural Control Committee; provided, however, that all applicable ordinances, regulations, and statutes with respect to the maximum height of building and structures shall be complied with at all times.

Each single story or one and one-half (1½) story building or structure shall contain not less than 2,200 contiguous square feet of living area, and each two story or two and one-half (2½) story building or structure shall contain not less than 2,400 contiguous square feet of living area, such areas to be exclusive of open or screened porches, terraces, patios, driveways, carports, garages, and living quarters for domestic servants separated or detached from the primary living area.

Section 4. Setbacks. Under its Ordinances, the City of Shavano Park has enacted minimum building setback standards applicable to property within its jurisdiction and the provisions hereof shall in no way be construed as having any effect upon any obligation of any Owner thereunder, or under any amendment or replacement thereof. The following setbacks shall apply as the minimum standards where no other setbacks apply. The front building setback shall be sixty feet (60') from the front Lot line, unless otherwise shown on the recorded plat. The minimum side setbacks shall be twenty-one feet (21') from each side Lot line. the rear building setbacks shall be twenty-one feet (21') from the rear Lot line. The Architectural Control Committee shall have the right to grant variances to the building setback requirements hereby imposed based upon a demonstrated need or hardship.

Section 5. Radio or TV Antennae. No radio or television aerial wires, antennae, discs or dishes, or other radio or television related apparatus or equipment, shall be placed or maintained on any residence or on any other exterior portion of a Lot except with the prior written approval of the Architectural Control Committee which shall have the authority to disapprove the installation of same. With the prior written consent of the Architectural Control Committee, a satellite disc or dish may be placed on a Lot where not visible from a street or adjacent Lots and where such location does not adversely affect the view from an adjacent Lot.

Section 6. Solar Panels and Systems. No solar panels or solar heating or electrical system or similar apparatus shall be placed in or upon any Lot without the prior approval of the Committee which shall have the authority to disapprove the installation of same or to limit the installation of same so that no portion thereof is visible from any street.

Section 7. Athletic Facilities. Tennis court lighting and fencing shall require the prior written approval of the Architectural Control Committee and any Owner desiring to install the same shall submit design and site plans, landscaping plans, and lighting specifications. Landscaping and fencing requirements may be set by the Committee for the purpose of screening courts in an aesthetically pleasing manner. No basketball goals or backboards or any other similar sporting equipment of either a permanent or temporary nature shall be placed on any Lot without the prior written consent of the Committee. The ACC will have the right to regulate the appearance and placement of all sporting apparatus including basketball goals.

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Section 8. Fences. No fence, wall, or hedge shall be built or maintained forward of the front wall line of the main structure, except for decorative walls or fences which are part of the architectural design of the main structure, and retaining walls, provided the Committee approves of same in writing. No chain-link fences may be built or maintained on any Lot, except in connection with tennis courts, provided such fence is vinyl clad, is properly landscaped, and is reasonably screened from public view, or a rear dog run so located and screened as to not be visible from any street. No fence shall exceed six feet (6') in height without written approval by the Architectural Control Committee, which may allow a fence up to eight feet (8') in height on a Lot where site conditions are determined to warrant or require additional height. Declarant has installed, or will install, an eight foot (8') wooden fence on

the rear of Lots 1644-1646 adjoining Lot 1650 and each Owner of said Lots 1644-1646 shall maintain, at such Owner's expense, the portion of such fence which is on his Lot in accordance with the below stated provisions of this Section 8.

Each Owner, by acceptance of a deed to his Lot, expressly agrees to maintain, repair, and replace, if need be, any portion of any wall or fence located on his Lot which may become in disrepair, which may be tilted more than ten (10) degrees from a vertical position, or which for any reason may have become unsightly. A site plan reflecting fence location as well as a diagram detailing materials, elevations, and style is to be submitted and approved by the ACC prior to installation of any fence.

All side street fences and fences along a side Lot line if built, shall be masonry, wood of vertical 1" by 4" or 1" by 6" panels, or a combination of masonry and wood with vertical panels of such size and with the smooth side of any wood facing the street. Masonry columns are required on all side street fences. Wherever masonry or masonry columns are used in the construction of a fence or wall on a Lot, the masonry shall match the primary masonry used on the main residence building on the Lot and all masonry columns shall be no further than 30 feet apart except for fencing along greenbelts or drainage easements. All masonry columns shall be a minimum size of sixteen (16") inches square. All cedar fencing facing a street shall be 1" x 4" inch dog eared fencing. A masonry column is required adjacent to the property line on all wing wall fences.

Notwithstanding the foregoing, the Architectural Control Committee is empowered to waive the aforesaid design and composition requirements for fences and the aforesaid height or setback limitation if, in its sole discretion, such waiver is advisable in order to accommodate a unique, attractive or advanced building concept design or material and the resulting fence, decorative wall and/or retaining wall (whichever is applicable) will not detract from the general appearance of the neighborhood.

Owners are allowed to install fences across drainage easements provided such fences are (1) designed by an engineer, (2) approved by Bexar County and the ACC, and (3) installed and maintained in such a manner as to not interfere with the proper drainage within and across such easements. Openings of sufficient size to permit the free flow of water across such drainage easements must be provided for any such fences. This situation arises on the side Lot lines of Lots 1651, 1654, 1655, and 1659, as shown on the Subdivision Plat.

No fence, wall, hedge, or shrub planting which obstructs sight lines at elevations between two and six feet above roadways shall be placed or permitted to remain on any corner Lot within the triangular areas formed by the street property lines and a line connecting them at points 25 feet from the intersection of the street lines or in the case of a rounded property corner, from the intersection of the street line extended. The same sight line limits shall apply on any Lot within 10 feet from the intersection of street property lines with the edge of a driveway. No tree shall be permitted to remain within such distance of such intersections, unless the foliage is maintained at sufficient height to prevent obstruction of such sight lines.

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Section 9. Garages. A garage able to accommodate at least two (2) but not more than four (4) automobiles must be constructed and maintained for each residence. All attached garages shall face and open to the rear or side Lot line. If the garage is detached from the house, it may open to the front if it is set in the back yard a minimum distance of twenty-one feet (21') from the side and rear Lot lines. Garages will be allowed as builder's sales offices but must be reverted to use as a garage upon the conveyance or occupancy of home by a resident.

Section 10. Roofing. The surface of roofs of principal and secondary structures, including garages and domestic living quarters, shall be of slate, stone, concrete tile, clay title, or other tile or a ceramic nature; or they may be metal, left natural or painted a color approved by the Architectural Control Committee, using standing or battened seams; or they may be of wood shingle or wood shake if they meet minimum fire retardant criteria and are

permitted by governmental authorities. Roofs shall have a pitch of 4:12 or greater. No flat roof shall be permitted except if the roof structure is integral to the architecture of the house and the architectural style is acceptable and approved by the Committee. The Architectural Control Committee shall have the authority to approve other roof treatments and materials if the form utilized will, in its sole discretion, be harmonious with the surrounding homes and Subdivision as a whole.

The Architectural Control Committee shall establish roofing criteria which are directed to (a) generally improving the quality of materials used; (b) encouraging the use of colors which are in harmony with other structures in the subdivision; and (c) establishing minimum pitch requirements.

Section 11. Masonry. The area of the outer walls of the main residence building constructed on any of the above described Lots shall be composed of at least seventy-five percent (75%) masonry, of said walls. In determining compliance with this section, window and door openings surrounded by masonry shall be considered as masonry and windows and door openings surrounded by siding shall be considered as siding. All masonry shall be of any earth-tone unless otherwise approved by the Committee and shall be maintained in such approved colors. No more than twenty-four inches (24") of concrete slab shall be exposed to view from any street, any such excess shall be concealed by an approved masonry or masonry veneer. Masonry or masonry veneer includes stucco, ceramic tile, clay, brick, rock and all other material commonly referred to in San Antonio, Texas as masonry.

Notwithstanding the requirements of this Section, and in addition to variance power granted to the Architectural Control Committee hereinafter, the Committee is empowered to waive one or more requirements of this Section if in its sole discretion, such waiver is advisable in order to accommodate a unique or advanced building concept, design, or material, and, in the opinion of the Committee, the resulting structure or appearance will not detract from the general appearance of the neighborhood.

Section 12. Landscaping, Tree Protection, and Screening. In connection with the initial construction of a residence, each Owner or his builder will furnish the Architectural Control Committee a detailed landscaping plan which shall comply with the requirements from time to time promulgated by the Architectural Control Committee. Any landscaping shown on the plan approved by the Architectural Control Committee must be fully installed on a Lot within ninety (90) days from the first occupancy of the dwelling situated on such lot in accordance with the landscape plan approved by the Committee. Such plans shall be drawn to scale and shall include dimensions and distances, delineation of existing or proposed structures, pavement and other site features, and shall designate by name and location the plant material to be installed. The location, size and type of all existing trees which are to be saved shall also be clearly shown. After a landscaping plan has been approved and instituted, each Owner is required to submit to the Architectural Control Committee a written request for any change in the plan, each such Owner shall at all times maintain the minimum required vegetation, and each Owner shall be charged with the responsibility of replacing any vegetation which shall thereafter dies or is destroyed or removed. Each Owner shall make every effort to preserve significant natural vegetation. Appropriate procedures consistent with sound nursery practices shall be employed in all cases. All lawn areas must be planted with grass or other ground vegetation.

All air conditioning units or other outdoor equipment shall be located where not in view of any street or fully screened by landscaping or fencing so as not to be in view of any street.

In addition to the variance powers of the Architectural Control Committee hereinafter set forth, the Committee shall have the right to grant a variance or waiver of the requirements of this section of the landscaping standards from time to time promulgated in such instances as it shall determine that such waiver is advisable in order to accommodate a unique, attractive or advanced landscaping concept, design or material and the resulting appearance, in the opinion of the Committee, will not detract from the general appearance of

the neighborhood. No such variance or waiver shall be presumed and any such grant of variance or waiver shall be in writing.

Section 13. Guttering. Guttering shall not be required but all dwellings with guttering must be guttered with downspouts being so situated as to minimize adverse drainage consequences for adjoining Lots.

Section 14. Windows and Glass. Windows shall be wood or factory or job-finished painted metal windows in a color approved by the Architectural Control Committee. The design of windows may be double or single hung, casements or projecting, except that, as necessary, sliding windows may be single pane. All glass in exterior windows, except fixed glass, shall be double pane and of a color and type approved by the Committee. No reflective glass is permitted.

Section 15. Siding. Subject to the limitations imposed by Section 11 above, wood siding may be used. All other siding materials, and all siding colors, must be approved by the Committee.

Section 16. Paint and Stain. The exterior colors of all improvements on a Lot, including any repainting of improvements, shall be subject to approval by the Architectural Control Committee.

Section 17. Exterior Lighting. Exterior light fixtures shall be provided at the front door of each residence to illuminate house address number; provided, however, that no light fixture or lantern of any type shall be placed in the front yard, or in the back yard if same is visible from any other portion of the Properties or any streets, of any Lot until the same has been approved by the Committee.

Section 18. Signage. No signs of any kind shall be displayed to the public view on any Lot including, but not limited to, the displaying of any signs which advertise the Lot or improvements for sale or lease, except as expressly permitted herein or by the Architectural Control Committee. Each model home may be advertised by one front yard sign not larger than four feet by eight feet (4' x 8'), which shall have been approved in advance by the Committee as to color and design. The Committee shall establish standardized sign criteria which permits the displaying of one sign per lot uniform in size, color and permitted location on the Lot, which such sign can be used to identify that an Improved Lot is for sale or lease. The Committee specifically reserves the right to establish a separate set of sign standards and criteria for Unimproved Lots and to modify both such standards and criteria from time to time, but in no event shall any sign reference bankruptcy, distressed nature of sale, or foreclosure. Signs used by Declarant to advertise the Properties during the development, construction and sales period shall be permitted, irrespective of the foregoing, but subject to size, design, and other requirements of the Committee.

Section 19. Temporary Structures and Facilities. Except as expressly provided herein, no structure of a temporary character (sales structure, trailer, tent, shack, garage, barn or other outbuildings) shall be used on any Lot at any time for storage or as a residence, either temporarily or permanently. No prefabricated dwelling or building previously constructed elsewhere may be placed or maintained on any Lot. No modular or mobile home, whether or not the wheels have been removed, may be placed or maintained or any Lot. All structures of a temporary character must be approved by the Architectural Control Committee.

Notwithstanding the foregoing provisions, Declarant reserves unto itself and Builder Members acting as such the exclusive right to erect, place, and maintain such facilities in or upon any portions of the Properties as Declarant in its sole discretion may determine to be necessary or convenient while selling Lots, selling or constructing residences and constructing other improvements upon the Properties. Each Builder Member may not, however, utilize more than one mobile trailer or similar vehicle as such a temporary facility. A Builder Member may use a mobile trailer or similar vehicle as a sales or construction office only in

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support of sales and construction activities within Shavano Park, Unit - 16F, but such trailer or similar vehicle shall be parked within a Lot owned by such Member, the location of which shall have been approved in advance by Declarant. In addition, each Owner shall have the right to erect, place, and maintain on his Lot such temporary facilities other than mobile trailers or similar vehicles as may be necessary or convenient for construction of a residence thereon and each Owner engaged in the construction of residences within the Properties for sale shall have the right to erect, place, and maintain temporary facilities for offices, storage, and accumulation of reasonable amounts of construction debris while so engaged in the construction of residences within the Properties.

Section 20. Outbuilding and Exterior Modifications. Every outbuilding, inclusive of such structures as a storage building, pool house, servants' quarters, greenhouse or children's playhouse, shall be compatible with the dwelling to which it is appurtenant in terms of its design and material composition. The design, materials and location of all such buildings shall be subject to the prior written approval of the Committee.

Every proposed addition or exterior modification to any structure or improvement shall be subject to the terms of this Declaration and the plans and specifications for same shall be submitted to the Committee for approval.

Section 21. Animals. No sheep, goats, horses, cattle, swine, poultry, snakes, livestock, or other animals of any kind shall ever be raised, kept, bred, or harbored on any portion of the Properties, except that dogs, cats, or other common household pets (not to exceed a total of three (3) adult animals); adult animal for the purposes of these covenants is an animal which is one (1) year of age or older, may be kept, provided that they are not kept, bred, or maintained for any commercial purposes and provided further that such common household pets shall at all times, except when they are confined within the boundaries of a private single-family residence or Lot upon which same is located, be restrained or controlled by a leash, rope, or similar restraint or a basket, cage, or other container.

Section 22. Accumulation of Trash and Rubbish. Except as otherwise expressly provided in this Section, no trash, rubbish, garbage, manure, putrescible matter or debris of any kind shall be dumped or allowed to accumulate on any portion of the Properties. All rubbish, trash, or garbage shall be kept in sanitary refuse containers with tightly fitting lids, and, except as necessary to effect garbage pickup, said containers shall be kept in an area of the Lot adequately screened from view by planting or fencing.

Reasonable amounts of construction materials and equipment may be stored upon a Lot by the Owner thereof for reasonable periods of time during the construction of improvements thereon provided that the same shall not be stored or kept within any drainage easement area.

Section 23. Utility Easements. Easements for installation and maintenance of utilities, cable television, and drainage facilities have been reserved as shown on the Subdivision Plat and/or as provided by instruments of record or to be recorded. Within these easements, if any, no structure, planting, or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities; or in the case of drainage easements, which may change the direction of flow of water through drainage channels in such easements. The easement area of each Lot, if any, and all improvements in such area shall be maintained continuously by the owner of the Lot, except for those improvements for which a public authority or utility or private company is responsible. Neither Declarant, the Committee, the Association, nor any utility company using the easements herein referred to shall be liable for any damage done by them or their assigns, agents, employees, or servants to shrubbery, grass, streets, flowers, trees, landscape or other property of the owners situated on the land covered by said easements, except as may be required by State, County or Municipal statutes, ordinances, rules or regulations or by the Association or by custom and practice of such utility company.

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Section 24. Drainage Easements. Easements for drainage throughout the subdivision are identified and reserved as shown on the Subdivision Plat.

A. No Owner of any Lot in the subdivision may perform or cause to be performed any act which would alter or change the course of such drainage easements in a manner that would divert, increase, accelerate or impede the natural flow of water over and across such easements. More specifically, and without limitation, no Owner may:

(1) Alter, change or modify the existing natural vegetation or design of the drainage easements in a manner that changes the character of the design or original environment of such easements; or

(2) Alter, change or modify the existing configuration of the drainage easements, or fill, excavate or terrace such easements or remove trees or other vegetation therefrom without the prior written approval of the Architectural Control Committee; or

(3) Construct, erect or install a fence or other structure of any type or nature within or upon such drainage easement; provided however, fences may be permitted in the event proper openings are incorporated therein to accommodate the natural flow of water over said easement; or

(4) Permit storage, either temporary or permanent, of any type upon or within such drainage easements; or

(5) Place, store or permit to accumulate trash, garbage, leaves, limbs or other debris within or upon the drainage easements, either on a temporary or permanent basis.

The failure of any Owner to comply with the provisions of this Article shall in no event be deemed or construed to impose liability of any nature on the Architectural Control Committee and/or Declarant, and such Committee and/or Declarant shall not be charged with any affirmative duty to police, control or enforce such provisions. The drainage easements provided for in this Declaration shall in on way affect any other recorded easement in the Subdivision.

A copy of the Area Grading Plan is attached hereto as Exhibit "B" and the original of this grading plan is maintained in the office of Declarant. Every Owner, builder, and contractor shall ensure compliance with the required elevations and terms of this grading plan in the construction of any residence or other improvements on a Lot. Declarant shall have the right to amend the grading plan for the Subdivision, or one or more Lots within the Subdivision, without requirement of amending this Declaration but will, in such event, advise all affected Owners in writing.

Section 25. Special Wall, Landscaping, Signage, Lighting and Access Easements. Declarant hereby reserves unto itself, the Association, and their respective assigns in writing, wall, landscaping, lighting and signage easements as follows:

ten feet (10') in width along the De Zavala Road Lot lines of Lots 1642-1644 and along the Blackjack Oak Lot line of Lot 1643; and

thirty feet (30') by forty feet (40') easements on the corners of Lots 1643 and Lots 1644, as shown on the Subdivision Plat;

Said easements are reserved for the purposes of construction, repair, reconstruction, cleaning and/or maintenance of a masonry wall, with such signage, lighting, and entry features as Declarant and/or the Association may determine, and for the installation and maintenance of such landscaping and vegetation between the wall and adjoining roadway as Declarant and/or the Association may determine.

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Within said easement areas, Declarant, the Association, and their respective assigns in writing, shall have the right to construct and maintain a masonry wall, and to install and maintain such landscaping and plants as they may determine and shall have the right to erect install and maintain such project features and signage as they may determine. The easement owners shall also have a general right of access upon such Lots for the purpose of such initial construction and thereafter to exercise the other powers reserved unto them under the easement hereby established. Any wall constructed by Declarant pursuant to the rights herein retained, and any signage thereon, shall be the property of the Association following completion of construction and the Association shall thereafter maintain said wall and signage at all times in its original condition, with materials matching its original construction, and shall ensure that the exterior thereof is kept clean and free of all defacing, blemishes, mars, and markings thereon. In the event the Association shall ever fail to promptly make any needed repair, maintenance or cleaning to the wall or signage, or shall fail to properly and neatly maintain the vegetation and landscaping between the wall and right of way, Declarant, its successors and assigns, shall have the right of entry onto said Lots and right to perform such functions at the expense of the Association.

Declarant hereby reserves unto itself and the future owners of Lot 1650 an easement of access upon and across Lots 1644-1656 as may be reasonably necessary for the purpose of construction, reconstruction, repair and maintenance of any wall constructed within the ten foot wall and landscaping easement along the rear line of said Lot 1650 which adjoins Lots 1644-1646.

Section 26. Maintenance of Easements. By acceptance of a deed to any one or more Lots, the Owner thereof covenants and agrees to keep and maintain, in a neat and clean condition, any easement which may traverse any portion of said Lot or Lots, including, without limitation, by removing weeds, mowing grass and trimming shrubbery and trees, if any, within such area.

Section 27. Maintenance of Yards, Irrigation Systems, Etc. The Owners of all Lots shall keep grass and vegetation well mown and trimmed, shall promptly remove all weeds as they grow and all trees, shrubs, vines and plants which die, and shall keep all yard areas in a sanitary, healthful, and attractive manner. Front, side, and back lawns must be mowed at regular intervals, and fences must be repaired and maintained in an attractive manner. No objectionable or unsightly usage of Lots, or condition on any Lot will be permitted which is visible to the public view. Building materials shall not be stored on any Lot except when being employed in construction upon such Lot, and any excess materials not needed for construction and any building refuse shall promptly be removed from such Lot. The drying of clothes in full public view is prohibited and the Owners or occupants of any Lots at the intersection of streets or adjacent to parks, playgrounds or other facilities where the rear yard or portion of the Lot is visible to public view from a street or Common Area shall construct and maintain an inner fence or other improvements to adequately screen from view of streets and Common Areas any of the following: the drying of clothes, yard equipment, wood piles or storage piles which are incident to the normal residential requirements of a typical family. Trash, garbage or other waste materials shall be kept in a clean and sanitary condition.

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All Owners are advised to secure from the Texas Forest Service, local county agent, Texas Extension Forester at Texas A&M University, or elsewhere, information on oak wilt and other diseases which may affect their trees and may spread to trees on other Lots. Each Owner is responsible for taking such action as may be necessary on his property to ensure that oak wilt and other diseases are not spread to the trees of other Owners. Because there is no known cure for oak wilt and oak wilt almost always will spread from a diseased tree to its neighboring oaks, at a minimum, each Owner should:

A. Destroy all infected oaks.

B. Avoid unneeded pruning of trees, especially during the period February 1 - June 1, and immediately apply dressing to all wounds on oaks.

C. Where oak wilt is detected, trench three feet deep in advance of infection front (100 feet is recommended) to stop the spread through connecting roots.

D. Avoid infected oak firewood. As a precaution, do not keep any oak firewood for more than one heating season and cut firewood only in the summer.

E. Use fungicide propiconazole to treat uninfected oaks when you become aware of oak wilt nearby.

The foregoing information regarding oak wilt is provided to alert Owners and neither Declarant or the Association shall be liable to any Owner in connection with the existence or spread of oak wilt on any Lot.

In the event of default on the part of the Owner or occupant of any Lot in observing the above requirements or any of them, such default continuing ten (10) days from date of a written notice thereof deposited in the United States mails, Declarant, or the Association may, without liability to Owner or any occupants in trespass or otherwise, enter upon said Lot, cut or cause to be cut, such lawn, weeds and grass and remove or cause to be removed, such dead vegetation, garbage, trash and rubbish or do any other thing necessary to secure compliance with the terms of this Declaration, so as to place said Lot in a neat, attractive, healthful and sanitary condition, and may charge the Owner or occupant of such Lot for the cost of such work, plus a reasonable administrative charge and reasonable attorney's fees. The Owner or occupant, as the case may be, agrees by the purchase or occupation of the Lot to pay such statement immediately upon receipt thereof. The sum due shall be a charge on the Lot and shall be a continuing lien upon the Lot against which such sums are due, and may be enforced in accordance with the provisions of hereof or otherwise as provided by law.

Until a Living Unit is built on a Lot, Declarant may, at its option, have the grass, weeds and vegetation cut when and as often as the same is necessary in its judgment, and have dead trees, shrubs and plants removed therefrom. Declarant may also, at its option, remove any excess building materials or building refuse situated on a Lot in violation of this covenant. The Owner of such Lot shall be obligated to reimburse Declarant for the cost of any such maintenance or removal upon demand. The sum due shall be a charge on the Lot and shall be a continuing lien upon the Lot against which such sums are due, and may be enforced in accordance with the provisions of hereof or otherwise as provided by law.

Each Owner shall provide and maintain safe and adequate drainage within and across his Lot and no Owner shall construct or maintain any building, fence, walk, landscaping, or any condition which diverts, impedes, backs up, or prevents the drainage and flow of, surface water on, over, or across such Lot.

Each Owner shall be responsible for the maintenance of the Lot upon closing and shall keep the Lot free of unusable building materials, debris, and rubbish during the construction period. Owner shall provide sanitary bathroom facilities to accommodate all contractors and subcontractors during the construction period. It is the goal of the Declarant and the Association to maintain the subdivision in a clean and respectable manner. If Owner reasonably violates this objective, it is Declarant's and/or the Association's option to initiate the cleanup or place facilities on the Lot necessary to maintain the referenced goal at the sole cost and expense of Owner, payable on demand, and secured by a lien on the Lot.

Section 28. Front Yards. No more than ten percent (10%) in area of the front yard area of any Lot, excluding driveways and sidewalks, may be covered by rock or material other than dirt and vegetation except for such driveways and sidewalks as have been approved by the Architectural Control Committee. The "front yard area" shall be defined as that area of a Lot situated between the front Lot line and a line extending from the front of a residence to the side Lot lines.

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Section 29. Sidewalks and Driveways. All driveways and sidewalks shall be concrete, pebble finish concrete, brick, stone, or other hard surfaced material of a finish and composition expressly approved by the Committee. Except with approval of the Committee, no circular driveway shall be more than twenty feet (20') in width. Driveway locations shall be only as approved by the Committee. No more than one curb cut per lot shall be permitted without approval of the Committee. Only natural colored concrete or driveway surfaces may be used and no pastel or bright colors may be used. Builders and contractors are required to clean streets immediately after aggregate finished walks have been washed.

Section 30. Outside Parking and Storage of Vehicles etc. No boat, trailer, tent, recreational vehicle, camping unit, wrecked, junked, inoperable, self propelled or towable vehicle, equipment or machinery of any sort shall be kept, parked, stored, or maintained in any portion of the front yard in the front of the building line of the permanent structure and shall be parked, stored or maintained on other portions of a Lot only within an enclosed structure or a screened area which prevents the view thereof from any Subdivision street, the Common Facilities, or adjacent Lot. No dismantling or assembling of motor vehicles, boats, trailers or other machinery or equipment shall be permitted in any front yard, driveway, or within view of an adjacent street. No commercial vehicle bearing commercial insignia or names shall be parked on any Lot except within an enclosed structure or a screened area which prevents such view thereof from adjacent Lots and streets, unless such vehicle is temporarily parked for the purpose of serving such Lot. No camper, boat, trailer, equipment, or machinery shall be parked in front of any residence for a period in excess of twenty-four (24) consecutive hours. The Board of Directors is empowered to establish additional rules and regulations relating to the parking and storage of vehicles, equipment, and other property both on Lots and the Common Facilities (including subdivision streets) as it may from time-to-time deem necessary to ensure the preservation and appearance of the Subdivision as a first class residential neighborhood and such rules and regulations shall, when promulgated, be in all respects binding on and enforceable against all Lot Owners, provided, however, no such additional rules or regulations shall in any manner revoke or relax any of the restrictions of use set forth in this section. During the construction of improvements on a Lot, necessary construction vehicles may be parked thereon for and during the time of such necessity only.

Section 31. House Numbering. House numbers identifying the address of each house must be placed as close as possible to the front entry and shall be illuminated so that the numbers can be easily read from the street at night. Size, color and material of the numbers must be compatible with the design and color of the house.

Section 32. Lot Subdivision and Consolidation. No Lot shall contain an area of less than seven-tenths (0.7) of an acre. No Lot may be subdivided except with the written consent of Declarant. Any Owner owning two or more adjoining Lots, or portions of two or more such Lots, may with the prior approval of the Architectural Control Committee consolidate such Lots or portions thereof into a single building site for the purpose of constructing one residence and such other improvements as are permitted herein. In such event, and upon replatting such Lots as a single Lot, the consolidated Lot resulting therefrom shall thereafter bear assessments applicable to a single Lot.

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Section 33. No Oil Development. No oil or natural gas drilling, oil or natural gas development or oil refining or quarrying, or mining operations of any kind shall be permitted upon any portion of the Properties, nor shall oil, natural gas, or water wells, tanks, tunnels, mineral excavations or shafts be permitted upon, in or within any portion of the Properties. No derricks or other structures for use in the boring or drilling for oil, natural gas, minerals or water shall be erected, maintained or permitted upon, in or within any portion of the Properties.

Section 34. No Cesspools. No privy, cesspool, or septic tank shall be placed or maintained upon any portion of the Properties.

Section 35. No Individual Water Supply. No individual water supply system shall be permitted on any Lot.

Section 36. Firearms, Projectiles, and Weapons. The discharge of any firearm, including BB guns and pellet guns, within the subdivision or on adjacent lands owned in whole or in part by Declarant or located within Shavano Park, Unit - 16F, is strictly prohibited and each Owner shall ensure that his guests and family members do not violate such prohibition. Additionally, there is prohibited the use of any bow and arrow, slingshot, or other launching or catapulting device except strictly within the confines of a Lot and not involving the hunting or killing of any animal.

Section 37. Nuisances. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. No Owner or occupant shall perform any work that will impair the structural soundness or integrity of another Living Unit or impair any easement or hereditament, nor do any act nor allow any condition to exist which will adversely affect the other Living Units or their Owners or residents.

No exterior lighting of any sort shall be installed or maintained on a Lot where the light source is offensive or a nuisance to neighboring property (reasonable security or landscape, or tennis court lighting is permitted with the approval of the ACC.) No exterior speakers, horns, whistles, bells or other sound devices (except security devices such as entry door and patio intercoms used exclusively to protect the Lot and improvements situated thereon) shall be placed or used upon any Lot. All matters set forth in this Section requiring approval shall be deemed to be the express written approval, in advance, of the ACC.

ARTICLE IX.

GOVERNMENTAL REQUIREMENTS

Section 1. Owner's Acknowledgment. The Properties and Lots lie within the area classified as the Edwards Aquifer Recharge Zone and as such are subject to the rules and regulations of agencies of the State of Texas, including the Texas Water Development Board, governing the use of said land, in addition to any ordinances, statutes, or regulations affecting the Properties enacted by other governmental authorities. Owners are advised that such requirements and prohibitions may relate to the type of fertilizer which may be used, minimum topsoil requirements, inspection of sewer laterals prior to covering, and criteria standards for sewer pipe, among other matters. Each Owner is responsible for ascertaining all such requirements and prohibitions with respect to his Lot and, by acceptance of a deed to a Lot, agrees to abide by the same. No statement herein, nor action by the Declarant, Committee, or Association shall act to relieve an Owner from such duty of compliance.

Section 2.Additional Obligations of Owners (inclusive of Builders and Contractors). By acceptance of a deed to a Lot from Declarant, or by initiating construction of a Living Unit or any other improvements on a Lot, each Owner (inclusive of a Builder Member or any other builders or contractors) assumes the full and complete duty, obligation and responsibility of causing compliance with all applicable certifications, permitting, reporting, construction, rulings, determinations and procedures required under all applicable governmental rules, regulations, and permits governing the improvement of the Lot, including, but not limited to those promulgated or issued by the Environmental Protection Agency and related to Storm Water Discharges from Construction Sites (see Federal Register, Volume 57, No. 175, Pages 41176 et seq.), and those promulgated or issued by the Texas Natural Resources Conservation Commission (TNRCC), related to each Lot, including, without limitation, the provisions of chapters 325 and 331, Texas Administrative Code, and any specific rulings made pursuant to the terms thereof. The foregoing references are made for the sole purpose of expressly advising and disclosing to each Owner (inclusive of all builders and contractors) the need to follow such directives and do not in any way diminish or limit the requirements of this covenant that all Owners (inclusive of all builders and contractors)

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comply with all governmental regulations and any plan resulting from or required by such regulations (such as a Storm Water Pollution Plan) directly affecting each Lot. Each Owner (inclusive of all builder and contractors), by acceptance of a deed from Declarant to a Lot or by undertaking any improvements to a Lot, shall be deemed to have agreed to hold Declarant harmless and indemnify Declarant from and against any and all cost, loss, or damage occasioned by the failure by such Owner (inclusive of all builders and contractors) to abide by any applicable governmental statute, rule, regulation or permit related to the Lot.

Section 3. Remedies of Declarant and the Association. By acceptance of a deed to a Lot, each Builder Member and Owner agrees that Declarant and the Association shall have the right to enter upon any Lot on which one or more conditions or activities prohibited by appropriate governmental authority is maintained, or on which there has been a failure to perform any act required by appropriate governmental authority, for the purpose of curing any such violation, provided that the Owner or Builder Member has been given five days prior written notice and has failed to remedy the complained of violation within such time, and each such Owner and Builder Member indemnifies and holds harmless Declarant and the Association from all cost and expense of such curative action and any cost or expense of penalty or fine levied by any governmental authority as a result of the act or failure to act of the Owner or Builder Member with respect to his Lot or the Properties. The foregoing remedy shall be cumulative of all other remedies for violations of provisions of these covenants.

ARTICLE X.

AMENDMENT AND VARIANCE

This Declaration may be amended until January 1, 2010, by written instrument executed by the Owners of ninety percent (90%) or more of the residential lots subject to the jurisdiction of Shavano Creek Homeowners Association, upon recording of such written instrument in the Real Property Records of Bexar County, Texas, provided that until such date no amendment hereto shall be effective unless approved and executed by Declarant. After January 1, 2010, this Declaration may be amended in like manner by ninety percent (90%) of the Owners of residential lots subject to the jurisdiction of Shavano Creek Homeowners Association but the approval and joinder of Declarant shall not be required after said date. Notwithstanding the foregoing, Declarant shall have the right to file an amendment to this Declaration, without the necessity of joinder by any other Owner of Lots, or any interest therein, for the limited purposes of correcting a clerical error, clarifying an ambiguity, or removing any contradiction in the terms hereof.

The Architectural Control Committee shall have the right to grant a variance from the objective requirements hereof relative to minor deviations or infractions hereof or in such situations as it shall determine necessary to avoid an unduly harsh effect or expense of compliance with the terms hereof or to avoid any Lot, or significant portion thereof, from being unusable. Each request for variance must be in writing and must be specifically approved in writing. No presumption of approval of a request for variance shall arise with the mere passage of time or inaction on the request.

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ARTICLE XI.

ENFORCEMENT

In addition to the remedies for enforcement provided for elsewhere in this Declaration or by law, the violation or attempted violation of the provisions of this Declaration, or any amendment hereto, or of any guidelines, rules, regulations, bylaws, or Articles of Incorporation herein referenced or permitted, by any Owner, his family, guests, lessees or licensees shall authorize Declarant or the Association (in the case of all of the following

remedies) or any Owner [in the case of the remedies provided in (c), below], including Declarant, to avail itself of any one or more of the following remedies:

(a) The suspension by the Association of rights to use any Association property for a period not to exceed thirty (30) days per violation, plus attorney's fees incurred by the Association with respect to the exercise of such remedy;

(b) The right of Declarant or the Association to enter the Lot to cure or abate such violation through self help and charge the expense thereof, if any, to such Owner, plus attorney's fees incurred by the Association with respect to the exercise of such remedy; or

(c) The right to seek injunctive or any other relief provided or allowed by law against such violation and to recover from such Owner all its expenses and costs in connection therewith, including, but not limited to attorney's fees and court costs.

Before the Association may invoke the remedies of a special charge or suspension of privileges as set forth in Section (b) above, it shall give written notice of such alleged violation to Owner, and shall afford the Owner a hearing. If, after the hearing, a violation is found to exist, the Association's right to proceed with the suspension of privileges shall be absolute. Each day a violation continues after notice thereof has been given Owner shall be deemed a separate violation. Failure of the Association, the Declarant, or of any Owner to take any action upon any violation shall not be deemed a waiver of any right to take enforcement action thereafter or upon a subsequent violation. No Owner shall have the right to compel or require the filing of suit by Declarant or the Association.

All assessments, charges and costs imposed by the Association and unpaid when due shall bear interest at the rate of twelve percent (12%) per annum from the date due until paid, said interest to be compounded monthly.

ARTICLE XII.

TITLES

The titles, headings and captions which have been used throughout this Declaration are for convenience only and are not to be used in construing this Declaration or any part thereof.

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ARTICLE XIII.

INTERPRETATION

If this Declaration or any word, clause, sentence, paragraph, or other part thereof shall be susceptible of more than one or conflicting interpretations, then the interpretation which is most nearly in accordance with the general purposes and objectives of this Declaration shall govern.

ARTICLE XIV.

OMISSIONS

If any punctuation, word, clause, sentence, or provision necessary to give meaning, validity, or effect to any other word, clause, sentence, or provision appearing in this Declaration shall be omitted herefrom, then it is hereby declared that such omission was unintentional and that the omitted punctuation, word, clause, sentence or provision shall be supplied by inference.

ARTICLE XV.

GENDER AND GRAMMAR

The singular, whenever used herein, shall be construed to mean the plural, when applicable, and the necessary grammatical changes required to make the provisions here apply either to corporations or individuals, males or females, shall in all cases be assumed as though in each case fully expressed.

ARTICLE XVI.

ADDITIONAL INFORMATION

Rules and Regulations of the Association, and the other documents and information which may affect an Owner, prospective Owner, Builder Member, or contractor for improvements to a Lot are maintained at the offices of the Association and Declarant at the address shown below. Each Owner and prospective Owner is advised to carefully examine each of such documents in addition to these Restrictions to determine his rights and obligations.

EXECUTED effective this 29th day of October, 1997.

SHAVANO CREEK UNIT - 16F, LTD.

By Bitterblue, Inc., General Partner

By: Wm. Eugene Powell
Wm. Eugene Powell, Chief Executive Officer

STATE OF TEXAS

COUNTY OF BEXAR

This instrument was acknowledged before me the 29 day of October, 1997, by Wm. Eugene Powell, Chief Executive Officer of Bitterblue, Inc., a Texas corporation, General Partner of Shavano Creek Unit - 16F, Ltd., a Texas limited partnership, on behalf of said corporation and limited partnership.

Sarah E. Carrington
Notary Public, State of Texas

SARAH E. CARRINGTON
MY COMMISSION EXPIRES
August 2, 2000

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LIENHOLDER'S CONSENT

The undersigned, being the owner and holder of an existing mortgage and lien upon and against the real property known as Shavano Park, Unit - 16F ("Properties"), as more fully described above, and acting solely as mortgagee and lienholder and at the specific request of the Declarant therein named, does hereby consent to and join in this Declaration for the limited purposes herein stated.

The Undersigned hereby join in the execution of this instrument for the sole purpose of subordinating all liens held by the undersigned on the Properties to all of the provisions of the foregoing Declaration of Restrictive Covenants and Conditions for Shavano Park, Unit - 16F (with the exception of Article VI, Section 10 entitled "Subordination of the Lien to Mortgages"). Any Owner who accepts title to any of the Properties subject to this Declaration specifically acknowledges that lienholders are not parties to this Declaration except for the sole purpose of subordinating Liens as set out above, and each Owner who accepts title to any of the Lots hereby specifically and unconditionally releases and discharges said lienholders from any claims or liability with respect to, or arising out of, this instrument except as to actions which may hereafter be taken by lienholder as a successor to the interest of Declarant.

SIGNED this 29th day of October, 1997.

SHAVANO UNIT 16 PROPERTY HOLDING PARTNERSHIP, LTD.

By BITTERBLUE, INC., General Partner

By: Wm Eugene Powell
Wm. Eugene Powell, Chief Executive Officer

STATE OF TEXAS

COUNTY OF BEXAR

This instrument was acknowledged before me the 29th day of October, 1997, by Wm. Eugene Powell, Chief Executive Officer of Bitterblue, Inc., a Texas corporation, general partner of Shavano Unit 16 Property Holding Partnership, Ltd., a Texas limited Partnership, on behalf of said corporation and limited partnership.

SARAH E. CARRINGTON
MY COMMISSION EXPIRES
August 2, 2000

Sarah E. Carrington
Notary Public, State of Texas

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AFTER RECORDING RETURN TO:

Shavano Creek Unit - 16F, Ltd.
3330 Oakwell Court, Suite 110
San Antonio, Texas 78218

Attn: Sarah Carrington

a:\shavano.16F\ccr.final\10-25-97

EXHIBIT "A"

The real property subject to annexation to the Shavano Creek Homeowners Association by Declarant is generally described as all or any part of the area situated in Bexar County, Texas, and lying within the following boundaries, to wit:

> Being bounded on the North by De Zavala Road; bounded on the West By Lockhill Selma Road; bounded on the South by Huebner Road; and bounded on the East by Olmos Creek.

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EXHIBIT "B" - GRADING PLAN
PAGE 1 OF 2

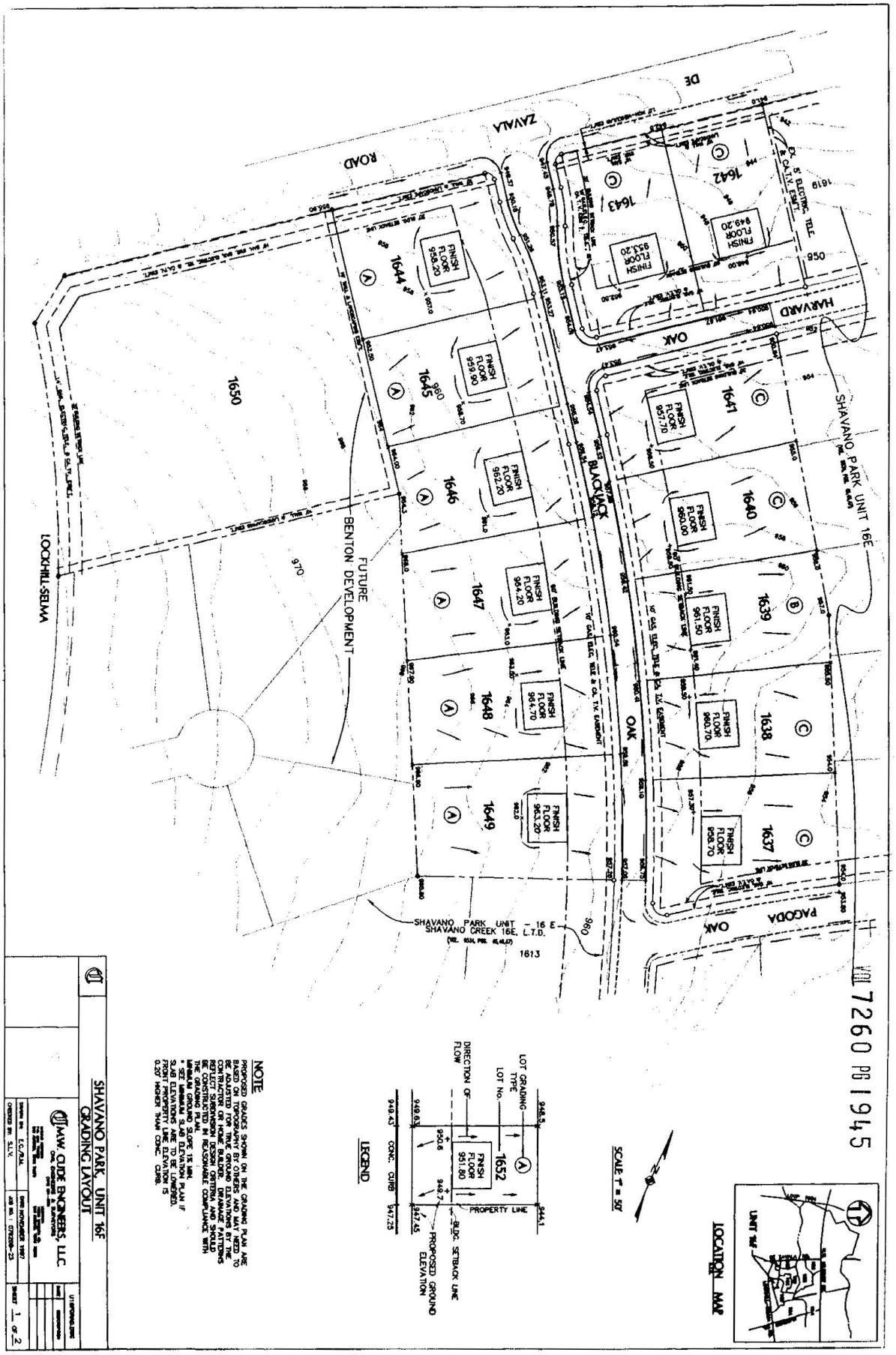

EXHIBIT "B" - GRADING PLAN
PAGE 2 OF 2

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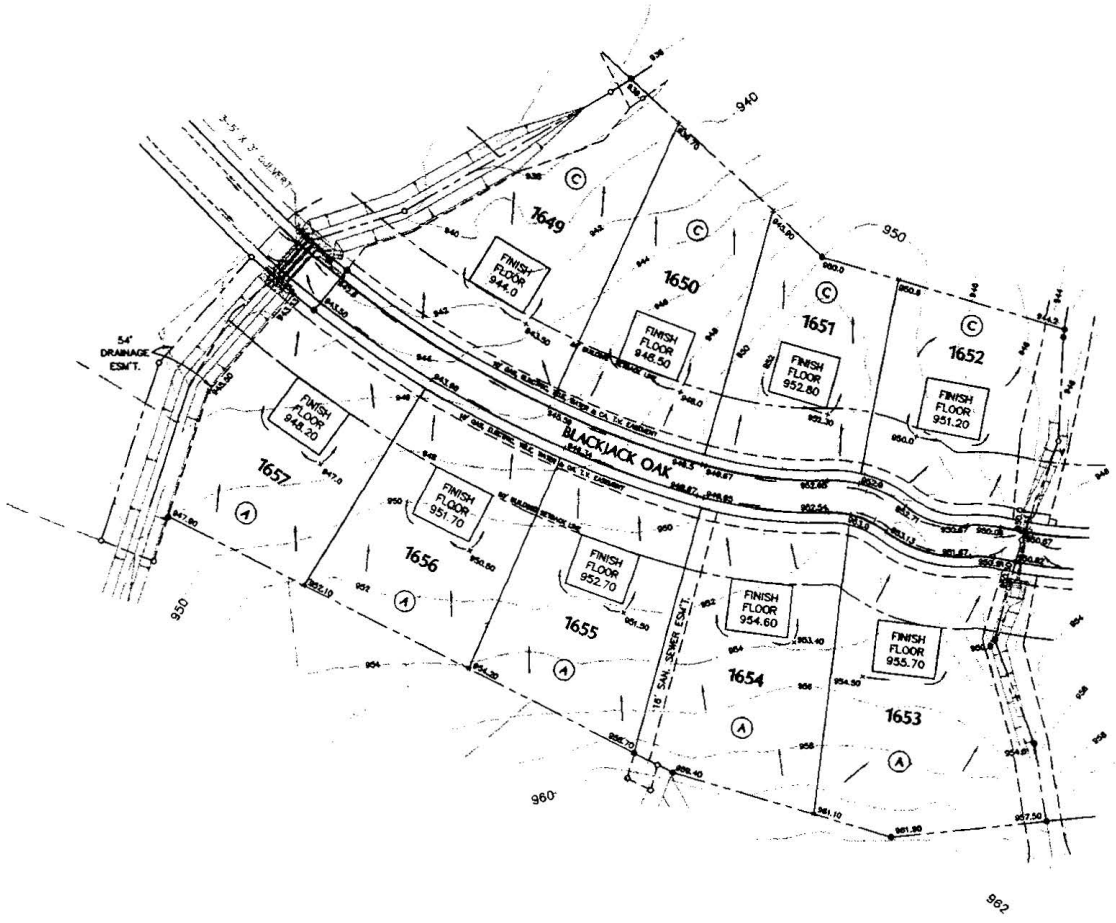
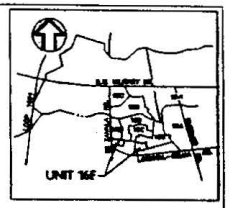
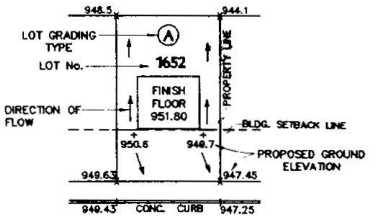




LOCATION MAP

SCALE 1" = 50'



LEGEND

NOTE

PROPOSED GRADES SHOWN ON THE GRADING PLAN ARE BASED ON TOPOGRAPHY BY OTHERS AND MAY NEED TO BE ADJUSTED FOR TRUE GROUND ELEVATIONS BY THE CONTRACTOR OR HOME BUILDER. DRAINAGE PATTERNS REFLECT SUBDIVISION DESIGN CRITERIA AND SHOULD BE CONSTRUCTED IN REASONABLE COMPLIANCE WITH THE GRADING PLAN.
MINIMUM GROUND SLOPE 1% MIN.
* SEE MINIMUM SLAB ELEVATION PLAN IF SLAB ELEVATIONS ARE TO BE LOWERED. FRONT PROPERTY LINE ELEVATION IS 0.20' HIGHER THAN CONC. CURB.

SHAVANO PARK, UNIT 16F
GRADING LAYOUT

M.W. CUDE ENGINEERS, LLC
CIVIL ENGINEERS & SURVEYORS

U16FGRAD.DWG

DATE	DESCRIPTION

DRAWN BY: E.C./R.M. | DATE: NOVEMBER 1997
CHECKED BY: S.L.V. | JOB NO.: 076206-23
SHEET 2 OF 2

RECORDER'S MEMORANDUM

AT THE TIME OF RECORDATION, THIS INSTRUMENT WAS FOUND TO BE INADEQUATE FOR THE BEST PHOTOGRAPHIC REPRODUCTION BECAUSE OF ILLEGIBILITY, CARBON OR PHOTO COPY, DISCOLORED PAPER, ETC.

Any provision herein which restricts the sale, rental, or use of the described real property because of race is invalid and unenforceable under Federal law.
STATE OF TEXAS, COUNTY OF BEXAR
I hereby certify that this instrument was FILED in File Number Sequence on the date and at the time stamped hereon by me and was duly RECORDED in the Official Public Records of Real Property of Bexar County, Texas on:

NOV 18 1997

COUNTY CLERK BEXAR COUNTY, TEXAS

Filed for Record in:
BEXAR COUNTY, TX
GERRY RICKHOFF, COUNTY CLERK

On Nov 14 1997

At 8:52am

Receipt #: 80942
Recording: 53.00
Doc/Mgmt : 6.00

Doc/Num : 97- 0161982

Deputy -Deborah Greiner

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