This instrument prepared by:
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DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS FOR OTTER WOOD

THIS DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS (hereinafter sometimes referred to as "Declaration"), dated as of October 1, 1986, and executed by **OTTER WOOD, LTD.** (hereinafter sometimes referred to as "Developer");

WITNESSETH:

WHEREAS, Developer is the owner of certain real estate in the County of Davidson, State of Tennessee, as shown in Exhibit "A" attached hereto, and a preliminary plan for which is on file at the City Hall in the City of Forest Hills, Davidson County, Tennessee (said real estate being referred to herein as "Otter Wood" or the "Properties"); and

WHEREAS, Developer desires to provide for the protection and preservation of the values, amenities, desirability and attractiveness of Otter Wood; and

WHEREAS, the Developer desires to establish and provide for a system of administration and continual operation and maintenance of certain Common Use Facilities of Otter Wood as hereinafter described; and

WHEREAS, Developer further desires to establish for Developer's benefit and for the mutual benefit and advantage of all future owners and/or occupants of Lots in Otter Wood certain rights, easements, privileges, obligations, restrictions, covenants, liens, assessments and regulations governing the use and occupancy of Otter Wood and the maintenance, protection and administration of the Common Use Facilities thereof, all of which are declared to be in furtherance of a plan to promote and protect the operative aspects of residency or occupancy in Otter Wood and on all portions thereof, and are intended to be construed as covenants running with the land which shall be binding on all persons hereafter having or acquiring any right, title or interest in all or any portion of the Properties and which shall inure to the benefit of each owner thereof;

WHEREAS, Developer will proceed to subdivide the Properties into Lots by creating two or more sections for which subdivision plats shall be filed;

NOW, THEREFORE, Developer, as legal title holder of the Properties and for the purposes set forth above and further hereinafter set forth, declares as follows:

ARTICLE I

Definitions

The following words when used in this Declaration or any supplemental declaration hereto (unless the context shall prohibit) shall have the following meanings:

1.1. **"Association"** shall mean and refer to Otter Wood Homeowners' Association, Inc., a nonprofit corporation to be organized and existing under the laws of the State of Tennessee, its successors and assigns.

1.2. **"Board"** shall mean and refer to the board of directors of the Association.

1.3. **"Building"** shall mean and refer to a single-family residential building which may be built on each Lot.

1.4. **"Bylaws"** shall mean and refer to the bylaws of the Association attached hereto as Exhibit "B" and made a part hereof, and as may be amended from time to time.

1.5. **"Common Use Facilities"** shall mean and refer to all facilities within the Properties used in common by the Homeowners, including all portions of the roads which are not public or dedicated, all open or common areas, detention areas, nature trails, sidewalks, and any other areas lying within or adjacent to the roads which are desirable for the Association to maintain and landscape.

1.6. **"Declaration"** shall mean and refer to this Declaration of Protective Covenants, Conditions and Restrictions applicable to the Properties and which is recorded in the Office of the Register of Deeds for Davidson County, Tennessee, and which is on file in the City Hall of the City of Forest Hills, Davidson County, Tennessee.

1.7. **"Developer"** shall mean and refer to CRC Equities, Inc., a Tennessee corporation, having a principal place of business in Nashville, Tennessee, its successors and assigns.

1.8. **"Garden Structures"** shall mean and refer to decks, patios, terraces, gazebos, cabanas, hot tubs, barbeques and other similar Lot improvements.

1.9. **"Guidelines"** shall mean and refer to the Site and Architectural Guidelines described in Section 6.2.2.

1.10. **"Homeowner"** shall mean and refer to the record owner, whether one or more persons or entities, of the fee interest in any Lot which is part of Otter Wood, excluding, however, those parties having such interest merely as a security interest for the performance of an obligation.

1.11. **"Lot"** shall either mean and refer to any plot of land to be used for single-family residential purposes and so designated on a Plat of a Section.

1.12. **"Majority of Homeowners"** shall mean and refer to the holders of more than fifty percent (50%) of the total votes of the Members.

1.13. **"Member"** shall mean and refer to any person or persons who shall be a Homeowner, and as such, shall be a Member of the Association.

1.14. **"Mortgagee"** shall mean and refer to the holder of a first lien deed of trust encumbering a Lot.

1.15. **"Otter Wood"** shall mean and refer to that certain residential community known as Otter Wood which is being developed on real property now owned by Developer in the City of Forest Hills, Davidson County, Tennessee, and described in Exhibit "A" attached hereto.

1.16. **"Person"** shall mean and refer to a natural person, as well as a corporation, partnership, firm, association, trust or other legal entity. The use of the masculine pronoun shall include the neuter and feminine, and the use of the singular shall include the plural where the context so requires.

1.17. **"Plans"** shall mean and refer to the survey, site plan, landscape plan, Building and architectural plans, and material samples board described in Section 6.2.

1.18. **"Plat"** shall mean and refer to the plan for one or more Sections of subdivided Lots of Otter Wood which has been filed in the Register's Office for Davidson County, Tennessee.

1.19. **"Properties"** shall mean and refer to any and all of that certain real estate described in Exhibit "A" attached hereto.

1.20. **"SARB"** shall mean and refer to the Site and Architectural Review Board.

1.21. **"Section"** shall mean and refer to a portion of Otter Wood for which a Plat has been filed.

ARTICLE II

Properties Subject to This Declaration, Subdividing, Filing Plats

2.1. **Submission of the Properties to Declaration and Bylaws.** The Developer, as legal title holder in fee of the Properties, hereby submits and subjects the Properties to the provisions of this Declaration and Bylaws. This Declaration shall constitute covenants running with the land and binding upon all parties now owning or hereafter having or acquiring any right, title or interest in the Properties or any part thereof, and shall inure to the benefit of each Homeowner hereof. Every person hereafter acquiring a Lot or any portion of the Properties by acceptance of a deed to any interest in a Lot or any portion of the Properties shall accept such interest subject to the terms of this Declaration, and by acceptance of the same shall be deemed to have consented to and agreed to be bound by the terms, conditions and covenants of this Declaration.

2.2 **Subdividing, Filing Plats.** Developer shall proceed to subdivide the Properties into two or more Sections containing a total of 125 Lots. The roads and utilities of each Section shall connect to the roads of the preceding or adjoining Section and

Developer reserves the right of ingress and egress across each Section and the Properties for the purpose of road and utility connections and completion. The exercise of Developer's right to so subdivide the Properties, record Plats, install utilities and construct roads shall not be subject to the consent or approval of any Homeowner.

ARTICLE III

Membership in Association

3.1. **Members.** Every person or entity who is a Homeowner shall be a Member of the Association for such time as such person or entity is a Homeowner. Membership shall be appurtenant to and may not be separated from ownership of any Lot.

3.2. **Classes of Membership.** The Association shall have two classes of membership:

3.2.1. **Class A.** Class A Members shall be all Homeowners, except for Developer prior to termination of his Class B Membership. If, however, Developer owns one or more Lots upon or after the termination of his Class B Membership, then Developer shall become a Class A Member.

3.2.2. **Class B.** The Class B Membership shall be the Developer, his successors or assigns. The Class B Membership shall terminate and cease upon the first to occur of the specific written termination by Developer or December 31, 1993.

3.3. **Class A Voting.** Except for matters concerning special assessments and amendments to this Declaration, Class A Members shall not be entitled to vote until the termination of the Class B Membership, at which time Class A Members shall be entitled to one vote for each Lot owned. The vote for any one Lot owned by more than one person or entity shall be exercised as they among themselves shall determine, but in no event shall the vote or votes with respect to any jointly owned Lot be cast separately.

3.4. **Class B Voting.** Except for special assessments and amendments to this Declaration, the Class B Member (Developer) shall be the only Member entitled to vote in the Association until such time as the Class B Membership shall cease.

3.5. **Special Assessments and Amendments.** On all matters concerning a special assessment relating to the Common Use Facilities or an amendment to this Declaration, the voting shall, prior to termination of the Class B Membership, be as follows:

3.5.1. **Class A.** The Class A Members shall have one vote for each Lot owned.

3.5.2. **Class B.** The Class B Member shall have two votes for each Lot owned.

ARTICLE IV

Assessments

4.1. **Creation of Lien and Personal Obligation of Assessments.** Each Homeowner of any Lot shall, by acceptance of a deed therefor, whether or not it shall be so

expressed in any deed or other conveyance, be deemed to covenant and agree to all the terms and provisions of these restrictions and promises to pay to the Association both annual assessments and charges and special assessments, such assessments to be established and collected from time to time as hereinafter provided. The annual and special assessments, together with such interest thereon and costs of collection therefor as are hereinafter provided, shall be a charge and continuing lien upon the Lot against which such assessment is made as of the effective date of each assessment. Each such assessment, together with such interest thereon and costs of collection therefor as are hereinafter provided, shall also be the personal obligation of the person or entity who was Homeowner of such Lot at the time when the assessment fell due. In the case of co-ownership of a Lot, all of such co-Homeowners shall be jointly and severally liable for the entire amount of the assessment. For the calendar year 1987, there shall be no assessments levied by the Association. For the calendar year 1988, the maximum annual assessment shall be One Thousand Two Hundred and No/100 Dollars ($1,200.00).

4.2. **Purpose of Annual Assessments.** The annual assessments levied by the Association shall be used exclusively for the improvement, management, maintenance, operation and security of the Common Use Facilities, including, but not limited to, the payment of taxes and insurance thereon, the payment of utilities bills thereon (including water for sprinkler systems), and the repair, replacement and additions thereto, and for the cost of labor, equipment, materials, management and supervision thereof. The annual assessments may not be used for paying for the cost of completing the Common Use Facilities being initially installed by the Developer as shown on the Plat. The Bylaws provide that the annual assessment may be paid monthly, at the option of the Board.

4.3. **Special Assessments.** In addition to the annual assessments hereinabove authorized, the Association may levy special assessments for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of the Common Use Facilities, including the necessary fixtures and personal property related thereto; provided, however, that any such special assessment shall have the assent of two-thirds (2/3) of the Members present and voting in person or by proxy at an annual or special meeting of the Membership at which a quorum is present. Special assessments shall be due and payable on the date(s) which are fixed by the resolution authorizing such assessment. Special assessments may not be used for additions to the Common Use Facilities until termination of the Class B Membership.

4.4. **Commencement.** The assessment for a Lot shall commence upon purchase of the Lot from Developer, or Developer may hereafter set a date for assessments to commence for all Lots which have been purchased from Developer. Assessments on Lots that first become subject to assessments after the beginning of a fiscal year of the Association shall be prorated and paid for the remainder of such fiscal year.

4.5. **Due Date of Annual Assessments.** Unless otherwise provided herein, annual assessments shall be due and payable in full within thirty (30) days after billed to a Homeowner by the Association. The Bylaws contain provisions for payment of the annual assessments in monthly installments, at the option of the Board.

4.6. **Records of Assessment.** The Association shall cause to be maintained in the office of the Association a record of all Lots and assessments applicable thereto which shall be open to inspection by any Homeowner. Written notice of each assessment shall be mailed to every Homeowner of the Lot subject to assessment.

The Association shall, upon demand and payment of a reasonable charge, furnish to any Homeowner a certificate in writing signed by an officer of the Association setting forth whether the assessments against the Homeowner's Lot have been paid, and if not, the amount due and owing. Absent manifest error, such certificates shall be conclusive as evidence for third parties as to the status of assessments against such Lot.

4.7. **Effect of Non-Payment of Assessment or Other Charges.** If any annual or monthly assessment or if any special assessment is not paid on the date when due, or if any sum or charge agreed to be paid by Homeowners in this Declaration is not paid when due, then such assessment, sum or charge shall be delinquent and shall accrue interest thereon at the highest rate permissible under the laws of the State of Tennessee, after the date due. If such assessment, sum or charge is not paid within thirty (30) days after the due date, then the Association may bring an action at law against the Homeowner personally and/or foreclose the lien against the Lot by court action or trustee's sale, as hereinafter provided, and there shall be added to the amount of such assessment, sum or charge all reasonable attorneys' fees and costs incurred by the Association in such action, and in the event a judgment is obtained, such judgment shall include interest on the assessments as indicated above.

4.8. **Enforcement of Lien by Trustee's Sale.** For and in consideration of the privileges and protections granted herein, and the mutual enjoyment and use of the Common Property, and for the express purpose of securing the payment of the assessments, other sums and charges described in Sections 4.1 and 4.7 above; rendering unnecessary court proceedings for the enforcement of the lien described in Sections 4.1 and 4.7 above, each Homeowner accepting a deed to a Lot, for their heirs, administrators, successors and assigns, does hereby transfer and convey unto Ervin M. Entrekin, Trustee, his successors and assigns, each such Lot deeded to such Homeowner, with the appurtenances, estate, title and interest thereto belonging unto the Trustee for the following uses in trust:

Said Homeowners agree to pay all assessments, sums and charges when due and upon demand of said Trustee or the Association, to pay, discharge or remove any and all liens (except a first mortgage or deed of trust lien) which may be hereafter placed against said Homeowner's Lot which shall adversely affect the lien granted herein, and in case the Trustee or his successors or the Association shall hereafter be required to appear in any court or tribunal to enforce, or defend the title to, or possession of, said Lot or the lien granted herein, or appear in any court to prove said indebtedness, all costs and expenses of such appearance or proceedings, together with a reasonable attorney's fee, shall be allowed and be payable by Homeowner upon demand of the Trustee or Association, and upon failure to do any of these things then said Trustee or Association may do any or all of said things, and the amounts so paid shall bear interest from the date of payment at the highest rate then permitted by the laws of the State of Tennessee, and shall be and become a part of the indebtedness secured hereby.

If said assessments, sums or charges, or interest thereon, are not paid promptly when due or within any period of cure allowed above, or if after said Homeowners fail to pay any other sums due as above provided, or further, fail to reimburse the Trustee or Association within thirty (30) days from the date of Trustee's or Association's payment of such sums, this trust conveyance shall remain in full force and effect, and the said Trustee or his successor in trust is hereby authorized and empowered, upon giving twenty (20) days' notice by three (3) publications in any newspaper, daily or weekly, published in Davidson County, Tennessee, to sell said Lot at the front door of the courthouse in said county to the

highest bidder for cash at public outcry, free from the statutory right of redemption, homestead, dower and all other exemptions of every kind which are hereby expressly waived; and the said Trustee or his successor in trust is authorized and empowered to execute and deliver a deed to the purchaser at such foreclosure sale. The Association may bid at any sale under this trust conveyance. The Trustee may at any time after default in the payment of any of the above described indebtedness enter and take possession of said Lot and shall only account for the net rents actually received by him. It is further agreed that in the event the Trustee fails, before selling said Lot, as herein provided, to enter and take possession thereof, the purchaser shall be entitled to immediate possession thereof upon the delivery to him by the Trustee of a deed for said Lot. In case of sale hereunder, the proceeds shall be applied by the Trustee as follows:

(i) To the payment of all costs, charges and expenses of executing this conveyance and enforcing said lien as herein provided; also reasonable attorneys' fees for advice in the premises, or for instituting or defending any litigation which may arise on the account of the execution of this conveyance, or the enforcement of said lien; also the expenses of any such litigation.

(ii) To the payment of all taxes which may be unpaid on said premises.

(iii) To the payment of all unpaid indebtedness herein secured.

(iv) The residue, if any, to be paid to said Homeowners, their order, or to their representatives or assigns.

In the event of the death, absence, inability or refusal to act of said Trustee at any time when action of the foregoing powers and trusts may be authorized, or for any other reason, the lawful owner and holder of said lien is hereby authorized and empowered to name and appoint a successor in trust to execute this trust by an instrument in writing to be recorded in the Register's Office for Davidson County, Tennessee, and title therein conveyed to the above named Trustee shall be vested in said successor. Trustee is authorized to appoint an attorney-in-fact to conduct in his stead and on his behalf and with the same power possessed by said Trustee as granted herein, any and all foreclosure sales authorized above.

The lien described in this Section and in Section 8 above shall be subordinate to the lien of a recorded first mortage or deed of trust encumbering any such Lot. Provided, however, in the event the holder or owner of such mortage or first deed of trust becomes the owner of such Lot after foreclosure thereof, such purchaser shall become subject to the lien reserved herein for the purpose of securing all assessments becoming due from and after the date such purchaser accepts a deed to said Lot or enters into possession of said Lot, whichever shall first occur.

ARTICLE V

Developer's Assessment

5.1. **Exemption.** Until January 1, 1989, Developer and all property owned by Developer shall be exempt from all assessments and the liens therefor of every type. Thereafter, until Developer has sold seventy-five (75) Lots, Developer shall pay an annual assessment for each Lot owned by Developer equal to ten percent (10%) of the annual

assessment for each of the other Lots of Otter Wood, as determined by Article IV, Section 3, of the Bylaws, but not to exceed One Hundred Twenty and No/100 Dollars ($120.00) per year. Further, after Developer has sold seventy-five (75) Lots and until Developer has sold one hundred (100) Lots, Developer shall pay an annual assessment for each Lot owned equal to fifty percent (50%) of the annual assessment for each of the other Lots of Otter Wood, as determined by Article IV, Section 3, of the Bylaws, but not to exceed Six Hundred and No/100 Dollars ($600.00) per year. Such annual assessments shall be paid in installments as determined by the Board in accordance with said Article IV, Section 3, and shall cease to be due from the Developer upon sale to a Homeowner. Anything hereinbefore to the contrary notwithstanding, upon the termination of the Class B Membership, Developer shall pay assessments, only if, and to the extent to which, it is a Class A Member of the Association. Upon termination of the Class B Membership, the Developer may designate in writing to the Association certain Lots which Developer has determined do not contain enough area upon which a Building can be reasonably built. Such Lots so designated by the Developer shall not thereafter be subject to assessment by the Association unless and until they are sold by the Developer. Further, the Developer may elect at any time to transfer any of said Lots to the Association to be used as Common Use Facilities. In the event Developer has not sold all of said Lots not later than twenty (20) years from the date of recording of this Declaration, Developer shall at that time transfer any of said Lots then owned by the Developer to the Association.

ARTICLE VI

Architectural and Building Restrictions

6.1. Approval of Development.

6.1.1. Before commencing the construction, reconstruction, remodeling, alteration of or addition to of any Building, structure, fence, wall, driveway, path or other improvement of any nature on a Lot, the Homeowner shall first submit its Plans, together with a submittal fee in the amount of One Hundred and No/100 Dollars ($100.00) to the SARB for its written approval in accordance with the terms of this Declaration. The Plans shall include and be defined as the following:

6.1.1.1. A surveyed plan by a licensed surveyor, at a scale of one (1) inch equals twenty (20) feet, indicating all proposed changes to the existing site, including grading and "limits of construction" lines, must be provided. The site plan must show the exact location of the Building and all improvements on the Lot, including driveways and parking areas, with dimensions from the property line to the proposed Building. The alignment of the driveway and location of utility lines and equipment must be shown and dimensioned. Any outbuilding (garages, sheds, etc.) must be included on the Plans. All trees to be removed, trees to receive root protection trenching due to construction impact and the limits of disturbance for all trees to be protected during construction ("tree preservation zones") must be clearly delineated.

6.1.1.2. A landscape plan at one (1) inch equals twenty (20) feet scale is required showing the location, quantities and types of species being planted on the Lot. A planting schedule shall be included listing the number of each species, their size and condition (balled/burlapped, container, etc.). Also, a set of landscape planting details must be included with the landscape plan.

6.1.1.3. A set of Building architectural plans at one-four (1/4) inch equals one (1) foot scale showing entrances, window locations and elevations of all sides must be submitted.

6.1.1.4. An exterior construction materials sample board showing actual samples of major materials, finishes and colors must be provided.

6.1.2. The Developer will initially furnish Site and Architectural Guidelines for development and construction which will contain statements of policy, philosophy, guides to and certain requirements for construction and development by Homeowners and their contractors. The SARB may amend the Guidelines from time to time; however, the initial Guidelines established by the Developer shall be binding upon the SARB until the SARB formally amends the Developer's Guidelines and makes available amended versions for Homeowners' use. All Homeowners and their contractors are responsible for contacting the SARB to obtain and verify the current Guidelines in use. The Guidelines are not intended to be and are not to be interpreted as amendments to the Declaration but as a supplement thereto. In the event of a conflict between the Guidelines and the Declaration, the Declaration shall control.

6.1.3. Until termination of the Class B Membership, the SARB and/or the Developer may be contacted by written notice to CRC Equities, Inc., 2100 West End Avenue, Nashville, Tennessee 37203, Attention: Otter Wood Development. By Supplemental Declaration filed in the Register's Office for Davidson County, Tennessee, the Developer or the SARB may change the foregoing address.

6.2. Submittal of Plans. The following procedure with regard to submittal of Plans shall be followed:

6.2.1. The Homeowner or authorized representative (architect or contractor) must submit two (2) sets of the required Plans to the SARB fifteen (15) days prior to scheduled SARB meetings.

6.2.2. The SARB shall meet every thirty (30) days to review submittals. The SARB may decide, in its sole discretion, if any additional meetings are necessary. The SARB may determine, in its sole discretion, the location of its meetings, and shall not be required to give notice of such meetings to anyone. The SARB may conduct its meetings without all members being present and may decide from time to time how many members shall constitute a quorum.

6.2.3. The SARB will inform the responsible party of approval or rejection by a written letter dated no more than forty-five (45) days after the submittal of Plans. If approved, a set of submittal documents shall be stamped "approved" and mailed to the Homeowner or the authorized representative. If a submittal is rejected, the SARB will notify the responsible party by letter. The SARB shall indicate where the applicant's Plans fail to comply with either the Declaration or the current Guidelines in use by the SARB.

6.2.4. The Homeowner may submit at any time a revised submittal package of Plans that takes into account the SARB concerns. The SARB may review submissions prior to the next scheduled meeting and make approvals or rejections. The SARB will inform the applicant by written letter of all approvals or rejections within ten (10) days of the resubmittal. The Homeowner shall not be required to pay the submittal fee

of One Hundred and No/100 Dollars ($100.00) with the revised submittal package of Plans. In the event the Homeowner submits a new package of Plans, the submittal fee of One Hundred and No/100 Dollars ($100.00) will be required.

6.3. **Inspection.** Actual construction (including site preparation) by the Homeowner or his contractor may not commence until the SARB approves the Plans. During construction, the Homeowner or his contractor shall notify the SARB upon fifty percent (50%) completion of the Building or improvements, and thereafter, the SARB shall have five (5) business days to inspect and determine that the subject improvements are being completed in accordance with the approved Plans. Upon the completion of the improvements, and prior to occupancy, the Homeowner or his contractor shall notify the SARB, who shall have ten (10) days thereafter in which to have the improvements inspected by the SARB to insure that the construction was completed in accordance with the Plans approved by the SARB prior to construction. In the event that the SARB shall fail to approve or disapprove in writing the partially completed improvements within five (5) business days or completed improvements within ten (10) days after receipt of notice from the Homeowner or his contractor, such approval shall not be required. In the event a Homeowner has made changes from the Plans approved by the SARB and such changes were not previously approved by the SARB, continued construction shall be halted until the necessary corrections have been made (in the event the improvements are only partially complete) or occupancy of the subject improvements shall be delayed until the necessary corrections have been made (in the event the improvements are completed).

6.4. **Maintenance and Minor Violations.** In the event any Homeowner shall fail to complete improvements according to the approved plans or to maintain the improvements situated upon his or her Lot in a manner satisfactory to the SARB, after ten (10) days written notice to the Homeowner the Association may, upon the vote of two-thirds (2/3) of the Association's Directors, enter upon said Lot and complete, repair, maintain or restore the exterior of the improvements erected thereon. The cost of such exterior maintenance shall be added to and become a part of the assessment to which such Lot is subject and the Homeowner shall be personally liable for the cost of such maintenance so incurred. In addition to the approval of Plans and other matters herein set forth, the SARB shall have the right to waive minor violations and allow minor variances where the same resulted unintentionally or without gross carelessness on the part of any Homeowner and are not materially harmful to the Properties. If such waiver is granted in writing, then thereafter such matters so waived shall no longer be deemed a violation of these restrictions.

6.5. **Meaning of SARB Approval.** The approval of the SARB of the Plans and completed improvements as required above is not intended to be an approval of the structural stability, integrity or design of a completed improvement or of the safety of any component therein, but is required solely for the purpose of insuring compliance with the covenants contained in this Declaration, and further, to insure the harmonious and orderly architectural development and improvement of the Properties. Notice is hereby given to any future occupant of any such completed improvement and all invitees, business guests and other persons who may from time to time enter or go on or about such completed improvements that no permission or approval granted by the SARB with respect to construction pursuant to this Declaration shall constitute or be construed as an approval by them of the structural stability, design of any building, structure or other improvement and no liability shall accrue to the Developer, the SARB, the Association or any Homeowner (other than the owner of the subject improvements) in the event that any such construction shall subsequently prove to be defective.

6.6. **SARB.** The SARB shall consist of five (5) members appointed by Developer, who is empowered to appoint their successors should a vacancy occur, or may remove members and replace them at the Developer's sole discretion until termination of the Class B Membership, and their names shall be maintained at Developer's offices. By Supplemental Declaration the Developer may delegate to the Association the authority and duty to appoint the SARB, and upon termination of the Class B Membership, the authority to appoint the SARB shall automatically be vested in the Association. Plans for any Building or improvements of any kind whatsoever on any Lot must conform to all requirements of this Declaration and to the current Guidelines. The SARB shall be the sole judge or arbitrator of such conformance or non-conformance. Further, the SARB may approve or disapprove Plans when the SARB, in its sole discretion and judgment, determines that the proposed improvements or any feature of the Plans are not architecturally or aesthetically compatible with the Otter Wood development. The SARB may establish its own internal procedures for review and approval of Plans and may change such procedures from time to time in its sole discretion. Until termination of the Class B Membership, the Developer may, in its sole discretion, overrule any decision of the SARB.

6.7. **Governmental Restrictions.** Each Homeowner shall observe all governmental building codes, health regulations, zoning restrictions and other regulations applicable to his Lot. In the event of any conflict between any provision of any such governmental code, regulation or restriction and any provisions of this Declaration, the more restrictive provision shall apply.

6.8. **Exclusive Contractors.** In order to minimize confusion and complications which may result from the construction of a number of residential units upon the Properties at the same time, and in order to insure the maintenance of high quality of construction, the Developer reserves the right to approve contractors authorized and permitted to construct Buildings or other improvements upon Lots within the Properties. Such approval shall not be arbitrarily or unreasonably withheld.

6.9. **Actions Required During Construction.** All contractors and subcontractors must review and satisfy all guidelines for conservation during construction of Buildings or other improvements as established by the SARB. All proposed construction must be accurately staked out on the site, including all Building corners, outbuildings, major decks, terraces and driveways. A set of SARB approved Plans must be on site at all times. The Homeowner is responsible for obtaining all required local building permits. All alterations to the approved Plans must be submitted to the SARB for approval before construction of those alterations can begin. The construction site must be kept clean and orderly. Only the construction sign, in the sign format approved by the SARB, will be permitted on a Lot during construction. Contractors must obtain sign approval from the SARB.

6.10. **Construction Requirements for Contractors.**

6.10.1. No sites are to be cleared of trees or scrub by burning methods.

6.10.2. No lumber, brick, stone, block, concrete or other building materials, nor any other thing used for building purposes, shall be stored on any Lot except for the purpose of construction on such Lot, and then only for such length of time as is reasonably necessary for the construction of the improvements then in progress. No burning of construction materials or fires shall be permitted on any Lot or Common Use Facilities. No trailers, mobile homes nor temporary structures shall be permitted on any Lot during

construction or otherwise unless prior written approval of the SARB is obtained. Provided, however, one portable restroom facility shall be permitted for any Lot on which a residence is being constructed but only for the period of construction. The Developer may erect one or more temporary structures on any Lot or Lots for the purpose of maintaining a sales and construction office until termination of the Class B Membership.

6.11. **Architectural Elements.** The SARB shall be the sole judge of the architectural desirability or compatibilty of any Building or improvements to be erected upon a Lot. No particular architectural style, era or design shall be required or preferred by the SARB, and approval of a particular architectural style, era or design by the SARB as to any proposed Building or other improvement for a Lot shall not result in the SARB being required to approve the same or similar architectural style, era or design for future proposed Buildings or improvements. The SARB shall determine, in its sole discretion, whether or not the architectural design or style of a Building or other proposed improvement to be erected upon a Lot is compatible with the topography and location of the Lot itself, with the best interests of the Otter Wood development, and with other existing Buildings or improvements within Otter Wood.

ARTICLE VII

Improvements, Setback and Use Restrictions

7.1. **Setback Requirements for Lots.** All minimum front yard setbacks are measured from the edge of the fronting road pavement to the front facade of each Building and are shown on the Plat. The SARB shall review and determine, on an individual basis, the actual setback requirements for all Lots depending upon the Plans submitted for construction on each Lot. A minimum setback of fifteen (15) feet is required on all side yards. On corner Lots the required minimum side yard setback is equal to the front setback but not less than fifteen (15) feet. All rear yards are required to have a twenty-five (25) foot minimum setback. The SARB shall have the right to locate all improvements on a Lot in such manner as it may deem appropriate in order to preserve major trees and major tree groupings to insure vistas of open areas, avoid monotony and protect the overall interests of Otter Wood.

7.2. **Environmental Control/Erosion Control.** Each Homeowner shall be responsible for soil testing for his individual Lot to determine the suitability of the soil for construction, and each Homeowner shall be responsible for determining the necessary construction requirements for dealing with any unstable soil existing on the Homeowner's Lot. No development can occur in areas that require soil fill in major drainage swales. No Homeowner shall excavate or extract earth from any of the Lots for any purpose, including a business or commercial purpose. No elevation changes to a Lot shall be permitted which will materially affect the surface grade of a Lot unless the consent of the SARB is obtained.

7.3. **Modifications to Lots.** Contiguous Lots may be combined if the Lots have the same Homeowner for the purpose of placing an approved Building thereon. Individual Lots or a combination of contiguous Lots may not be resubdivided so as to increase the number of Lots that existed prior to such resubdivision.

7.4. **Fences and Walls.** Fences or walls are required to screen all utilities, trash cans and service areas.

7.5. **Driveways and Parking.** No on-street parking shall be allowed on the streets of Otter Wood.

7.6. **Sheds and Outbuildings, Service and Storage Areas.** No outbuildings or storage areas are allowed in front or side yards, or in the backyard setback. No exposed metal sided or concrete block structures are allowed. Temporary structures such as a tent shall be permitted to be erected upon a Lot for the purpose of recreation or entertainment, provided such structures are removed within a reasonable period of time.

7.7. **Swimming Pools.**

7.7.1. Swimming pools, bath houses, and associated equipment are not allowed in the rear yard setback and may be sited in the side yard setback when siting does not interfere with the privacy of adjacent properties, as determined by the SARB.

7.7.2. No above ground pools will be permitted. No pool may have a high diving board. The SARB shall determine the permissible height of the diving board.

7.7.3. Pool and equipment enclosures must relate to the Building and other structures in terms of architectural style, placement, mass and detail.

7.7.4. Night lighting for pools must not be directed toward any adjacent properties.

7.7.5. Homeowners shall be responsible for complying with all building codes in constructing swimming pools.

7.8. **Garden Structures.** All garden structures must be sited and built where they do not require extensive grading or tree removal. Where the overhang of a deck prevents the establishment of plant material below, soil stabilization measures must be employed to prevent erosion.

7.9. **Lighting.** No exterior lighting may be directed off a Lot. Flood lighting is not permitted where exposed to adjacent properties or streets. Illumination necessary for evening activities must be directed downward and be only bright enough to provide for the safe traverse of steps and paths.

7.10. **Signage and Decorations.** Address markers and mail boxes are restricted to those designated by the SARB. Security and other notices, such as "beware of dog", must not be made of highly reflective materials or with bright colors.

7.11. **Utilities.** No overhead utility lines may be installed or built on a Lot. No Building or outbuilding may be cooled or heated by window air conditioning units. Heat pumps, compressors, and other utilities must be screened with plant material, fences or walls. Clotheslines are not permitted. Incinerators for garbage, trash or other refuse shall not be erected on any Lot.

7.12. **Satellite Dishes and Solar Panels.** No satellite dish may be installed on any Lot. No solar panels or collectors may be installed on the roof of a Building or any structure on a Lot if such panels or collectors are visible from adjoining Lots or streets.

7.13. **Pets and Pet Facilities.**

7.13.1. Pet facilities are restricted to the rear yard, consistent with the setback requirements. Chain link fences will only be approved to enclose pen areas for household pets. The entire fence must be sufficiently screened by informal plantings to block views from adjacent properties or streets. The chain link must be painted black or black vinyl. All pet facilities must be maintained and kept clean and free of offensive odors.

7.13.2. No animals, livestock or poultry of any kind shall be raised, bred, pastured or maintained on any Lot, except household pets which shall be kept in reasonable numbers as pets for the sole pleasure of the occupants, but not for any commercial purpose or use. Homeowners shall use reasonable efforts to insure that their pets at all times remain inside of the boundaries of the Homeowner's Lot unless accompanied by their owners and on a leash. The Association, or any individual resident, may take appropriate measures to insure compliance with this provision, including having the animal picked up by the Metropolitan authorities.

7.14. **Tennis Courts.** Tennis courts are restricted to the rear or side yard consistent with the setback requirements. Courts must be built in a manner and location that does not require extensive grading, tree removal or the construction of raised decks. No night lighting of courts is allowed which is directed toward an adjacent property. Surface colors are be restricted to soft colors and are not to be highly reflective.

7.15. **Preservation of Trees.** No site preparation or construction work may begin on any site until tree treatment and protection measures and materials have been reviewed and approved by the SARB. The location of all site improvements must be staked in the field by the Homeowner's contractor to facilitate the designation of tree preservation and root protection trenching areas. Major trees and major tree groupings shall be preserved wherever possible.

7.16. **Maintenance.** All Lots, together with the exterior of all improvements located thereon, shall be maintained in a neat and attractive condition by their respective Homeowners.

7.17. **Nuisances and Unsightly Materials.** No Building or other structure on any Lot shall be used for any commercial or business purpose. Each Homeowner shall refrain from any act or use of his Lot which could reasonably cause embarrassment, discomfort, annoyance or nuisance to the neighborhood. No noxious, offensive or illegal activity shall be carried on upon any Lot. Boats may be stored in enclosed areas and must not be visible from neighboring Lots, streets, roads or open areas. No motorcycle, motorbike or motor scooter shall be permitted to be operated in the streets of Otter Wood except for the purpose of travel outside of the Property and such use shall be by the most direct route available. No all terrain vehicles, such as "dirt bikes", "three or four wheelers", or similar motorized vehicles, nor "go-carts", shall be permitted to be operated on any Lot or the Common Use Facilities.

7.18. **Speeding.** Any vehicle moving in excess of twenty-five (25) miles per hour on streets within Otter Wood shall be considered as speeding and the owner and/or operator of said vehicle will be subject to any fine levied by the Homeowners' Association.

7.19. **Fires and Burning.** No outside fires for burning of leaves, tree limbs or for any other purpose shall be permitted on a Lot or in the Common Use Facilities. Provided, however, fires in outdoor grills for the purpose of cooking shall be permitted on a Lot.

ARTICLE VIII

Easements and Common Areas

8.1. **General.** Until termination of the Class B Membership, Developer reserves an easement for ingress and egress generally across the Properties at reasonable places on the Properties and all Lots for the purpose of completing Developer's intended development and construction. Said ingress and egress easement shall in any event be reasonable and shall not interfere with the construction of improvements on a Lot nor the use and enjoyment of a Lot by a Homeowner.

8.2. **Emergency.** There is hereby reserved without further assent or permit a general easement over all roads shown on the Plat to all policemen and security guards employed by Developer, firemen, ambulance personnel, garbage collectors, mail men, utility personnel, delivery service personnel and all similar persons to enter upon the Properties or any portion thereof which is now or hereafter made subject to this Declaration in the performance of their respective duties. Included in the persons designated to have access to the premises are all public officials of the City of Forest Hills, and all police and fire officers of the Metropolitan Government of Nashville and Davidson County, Tennessee.

8.3. **Common Use Facilities Shown on the Plat.** The Plat contains certain designated Common Use Facilities. The Common Use Facilities are hereby established as perpetual and irrevocable easements and are granted and reserved for the use and benefit in common of all Homeowners of Otter Wood and their agents, servants, family members and invitees. The Common Use Facilities shall be owned, maintained and regulated by the Association. The Developer shall, by quitclaim deed, convey the Common Use Facilities to the Association. Use of the Common Use Facilities shall be subject to and governed by the provisions of this Declaration and the Bylaws, rules and regulations of the Association.

8.4. **No Rights Established for the General Public.** The Common Use Facilities and in particular the streets of Otter Wood, as shown on the Plat, are not public areas or thoroughfares and no rights in the general public are intended to be created hereby or by the recording of the Plat. The streets are private thoroughfares to be owned, maintained, operated and controlled by the Association. The City of Forest Hills has no responsibility for maintenance, repair or replacement of the streets. The Developer and/or the Association reserves the right to control access to Otter Wood by entry onto the streets of Otter Wood or otherwise. The Developer and/or the Association reserves the right to deny entry and access into Otter Wood to any persons who are not authorized to use the streets of Otter Wood pursuant to this Declaration. Soliciting within Otter Wood is expressly prohibited.

8.5. **Easements for Drainage and Utilities.** Portions of the Lots are encumbered with drainage, water, sewer and/or other easements as shown on the Plat, and such easements are declared to be perpetual and irrevocable and for use in common by all Lot Homeowners for drainage or for utilities. Developer reserves the right to transfer all or any portion of such areas to the appropriate governmental authority.

ARTICLE IX

Maintenance of Lots

9.1. If in the opinion of the SARB any Lot within the Properties is not maintained in a manner reasonably consistent with the degree of maintenance of Lots in a first-class residential development and reasonably consistent with the aesthetic quality of Otter Wood, the Association or Developer upon the request of the SARB, after first giving the Homeowner of the Lot thirty (30) days notice, may take all actions necessary to achieve such degree of maintenance of said Lot, and the Homeowner shall pay the cost thereof to the Association upon demand. If the Homeowner fails to pay the same upon demand, such sum may be collected from the Homeowner as an assessment or charge pursuant to Article IV hereof. Provided, however, in the event said Homeowner commences maintenance of said Lot within thirty (30) days after said notice and pursues the completion of said maintenance with reasonable diligence, but in any event to be completed within sixty (60) days after said notice, the Association shall not take any of the aforesaid actions.

ARTICLE X

Sale or Lease of Lots

10.1. **Right of First Refusal.** All Lots are conveyed by the Developer with the understanding and agreement that any Homeowner who desires to sell or lease any Lot or Lots, either improved or unimproved, shall first offer the same for sale or lease to Developer at the same price and on the same terms at which the highest bona fide offer has been made to the Homeowner therefor. A Homeowner desiring to sell or lease any Lot shall give Developer notice via certified mail, return receipt requested, of his desire to sell or lease such Lot(s), together with such other information as may be requested. Within seven (7) days thereafter, Developer may (i) approve the transaction; (ii) furnish a purchaser or lessee approved by the Association who will accept the transaction upon terms as favorable as those stated in the notice; (iii) fail to respond in which event the transaction will be deemed approved. The right of first refusal granted by this Declaration to Developer shall be a continuing right binding upon each subsequent Homeowner even though the right may not be exercised by Developer or subsequently the Association with regard to any proposed sale and extend to the first five (5) years following the date of the sale of a Lot by Developer and thereafter the Association shall automatically succeed to Developer's rights under this Section 1 for the remaining duration of this Declaration. This right of first refusal does not apply to a Mortgagee upon the exercise of any power of sale or upon the Mortgagee becoming the Homeowner of a Lot as a result of the exercise of any power of sale. When a Mortgagee who has become a Homeowner conveys a Lot, this right of first refusal shall become binding upon the purchaser of a Lot from a Mortgagee in the event that purchaser desires to sell the Lot. Provided, however, that in any event such sale or lease shall remain subject to the covenants and restrictions of this Declaration.

10.2. **Sales and Resales.** In order to preserve and protect the decorum of the community, Developer reserves the right to restrict the advertising and placement of signs on or relating to properties for sale or resale within the premises of Otter Wood. No signs indicating a residence is for sale or for lease will be permitted on any Lot or Lots. This does not preclude a Homeowner from using media advertising. This right in the Developer shall continue for a period of five (5) years from the date hereof. Thereafter, this right shall be exercisable by the Association through its Board of Directors.

ARTICLE XI

General Provisions

11.1. **Duration.** These restrictions shall be appurtenant to and run with the land and shall be binding upon all Homeowners and parties hereinafter having an interest in any of the Properties and all parties claiming under them for a period of ninety-nine (99) years from the date of the filing of this Declaration.

11.2. **Enforcement.** All restrictions herein may be enforced by Developer, his successors and assigns until the termination of the Class B Membership, or by the Association, by proceeding at law or in equity against the person, firm or other entity violating or attempting to violate any covenant or covenants, either to restrain the violation thereof or to recover damages, together with reasonable attorneys' fees and court costs. Further, after the termination of Developer's Class B Membership in the Association, in the event the Association fails to act to enforce any restriction herein, any Homeowner of any Lot may enforce these restrictions as aforesaid against any other Homeowner, except, however, the covenants contained in Article 10.1 hereof regarding the Developer's option to purchase shall be enforceable only by Developer and not by his successors or assigns unless specifically assigned thereunto by Developer in writing.

11.3. **Partial Invalidity.** Any invalidation of any one or more of these restrictions by judgment, court order, or statute, or failure on the part of Developer or his successors or assigns to enforce any of said restrictions, shall in no way affect any of the other provisions hereof or be deemed as a waiver of the right to enforce such restrictions any time after the violation thereof.

11.4. **Abatement.** In the event that any Homeowner violates any of the terms or conditions of these restrictions and fails to cure the same within ten (10) days after written notice thereof, then the Developer or the Association, in addition to the other rights and remedies provided for herein, shall have the express right, privilege and license to enter upon any Lot to take any reasonable action to cure such violation, and all reasonable costs thereof shall be at the expense of the Homeowner of such Lot and shall be payable upon demand by the Developer or the Association.

11.5. **Exoneration of Developer, SARB, Board and Officers.** Each Homeowner of any Lot in the Properties or any other party interested in the Properties expressly agrees that:

11.5.1. No duty or obligation is imposed upon Developer to enforce or attempt to enforce any of the covenants or restrictions contained herein, nor shall Developer be subject to any liability of any kind or nature whatsoever to any third party from failing to enforce the same; and

11.5.2. The SARB's approval of any building plans, specifications, site or landscape plans or elevations, or any other approvals or consents given by the SARB pursuant hereto or otherwise shall not be deemed a warranty, representation or covenant that any such Buildings, improvements, landscaping or other action taken pursuant thereto or in reliance thereon complies with any or all applicable laws, rules, building codes requirements or regulations, the sole responsibility for all of same being upon the respective Homeowner; and Developer and the SARB are expressly released and relieved of any and all

liability in connection therewith. Each Homeowner with respect to the improvements on said Homeowner's Lot agrees to indemnify and hold the Developer and the SARB harmless from all loss or damage, including reasonable attorneys' fees, incurred by Developer or SARB as a result of any suit or claim made by any party concerning any feature of construction of any improvements made on said Homeowners' Lot, the noncompliance thereof with such laws, rules, building codes requirements or regulations, or further, any suit or claim made by any injured or alleged injured party claiming to have been damaged or injured by any failure in the structure of any completed improvement or any negligence in design or workmanship of any component of such completed improvements on such Lot.

11.5.3. The Board, officers of the Association, and members of the SARB shall not be personally liable to the Homeowners for any mistake of judgment or for any acts or omissions of any nature undertaken in the performance of their respective duties with regard to the Association except for acts or omissions found by a court of competent jurisdiction to constitute gross or willful negligence or fraud.

11.6. **Other Lands of Developer.** Nothing contained within these restrictions shall be held or construed to impose any restrictions, covenants, or easements on any other land of the Developer, except for the land contained within the description of the Properties, unless specifically submitted and included within these restrictions by a Supplementary Declaration.

ARTICLE XII

Amendment

12.1. The covenants and restrictions of this Declaration may be amended by the Developer with the approval of the Planning Commission of the City of Forest Hills or successor governmental entity, without joinder of any Lot Homeowner, for a period of five (5) years from the date hereof; thereafter, by agreement signed by at least two-thirds (2/3) of the Homeowners whose Lots are then subject hereto, and with approval of the Planning Commission of the City of Forest Hills or any successor governmental entity. Any such amendment shall not become effective until the instrument evidencing such change has been filed of record. Every purchaser or subsequent grantee of any interest in any property now or hereafter made subject to this Declaration by acceptance of a deed or other conveyance therefor, thereby agrees that the covenants and Restrictions of this Declaration may be amended as provided herein.

IN WITNESS WHEREOF, the Developer has caused this Declaration of Protective Covenants and Restrictions to be duly signed this 1st day of JUNE, 1987.

OTTER WOOD, LTD.

By: G H Christianson

G. H Christianson, II, General Partner

STATE OF TENNESSEE)
COUNTY OF DAVIDSON)

Personally appeared before me, a Notary Public in and for the State and County aforesaid, **G. H. Christianson, II**, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to be a general partner of **OTTER WOOD, LTD.**, a Tennessee general partnership, the within named bargainor, and who acknowledged that he as such general partner executed the foregoing instrument for the purpose therein contained by signing the name of the partnership by himself as a general partner.

WITNESS my hand and seal at Nashville, Tennessee, this the 1st day of June, 1987.

Kim H Wright
NOTARY PUBLIC

My commission expires:

1/19/88

OTTER WOOD
85-106

EXHIBIT A

BOOK 7260 PAGE 502

PROPERTY DESCRIPTION

A tract of land in the Second Civil District of Metropolitan Nashville-Davidson County, Tennessee more particularly described as follows:

Beginning at an existing concrete monument on the south right-of-way line of Otter Creek Road, the northeast corner of the property now or formerly of Janet M. Patterson as recorded in Deed Book 1196, Page 427, R.O.D.C., TN; thence,

1. With the south right-of-way line of Otter Creek Road N 71° 46' 42" E 150.69 feet to an existing concrete monument; thence,
2. With the west boundary line of the property now or formerly of Arlene Ziegler as recorded in Deed Book 96, Page 263, R.O.D.C., TN S 13° 32' 46" E 291.22 feet to an existing concrete monument; thence,
3. S 11° 25' 53" W 420.77 feet to an existing concrete monument; thence,
4. S 38° 46' 59" E 229.78 feet to an existing concrete monument; thence,
5. S 69° 42' 19" E 359.71 feet to an existing concrete monument; thence,
6. S 12° 48' 37" W 443.80 feet to an existing concrete monument; thence,
7. S 84° 27' 46" E 467.28 feet to an existing iron pin; thence,
8. With the west boundary line of the property now or formerly of Jack W. Hobbs as recorded in Deed Book 4619, Page 815, R.O.D.C., TN; S 27° 48' 38" W 206.77 feet to an existing iron pin; thence,
9. With the south boundary line of the property now or formerly of Jack W. Hobbs N 84° 42' 51" E 469.14 feet to an existing iron pin; thence,
10. S 66° 56' 24" E 932.52 feet to an iron pin set; thence,
11. N 80° 06' 43" E 403.72 feet to an existing iron pin; thence,
12. N 3° 04' 29" E 365.84 feet to an existing iron pin; thence,
13. With the south boundary line of the property now or formerly of I. F. Elliott as recorded in Deed Book 932, Page 384, R.O.D.C., TN S 87° 33' 22" E 1228.57 feet to an existing iron pin; thence,
14. With the west boundary line of Taggartwood Subdivision as recorded in Plat Book 4175, Page 60, R.O.D.C., TN S 3° 53' 20" E 163.03 feet to an existing iron pin; thence,
15. S 15° 53' 15" E 94.09 feet to an existing iron pin; thence,
16. S 21° 20' 45" E 202.94 feet; thence,
17. With a line severing the property now or formerly of T.C. Summers as recorded in Deed Book 4059, Page 342, Deed Book 3575, Pages 61 and 65, and Deed Book 4855, Page 160, R.O.D.C., TN N 86° 45' 27" W 469.47 feet; thence,
18. S 30° 47' 46" W 40.00 feet; thence,
19. Westwardly, with a curve to the left having a radius of 1308.00 feet, a distance of 196.61 feet; said curve has a chord bearing and distance of N 63° 30' 36" W 196.43 feet; thence,
20. N 67° 48' 59" W 120.00 feet; thence,
21. With a curve to the left having a radius of 483.46 feet, a distance of 189.59 feet; said curve has a chord bearing and distance of

N 79° 03' 02" W 188.38 feet; thence,

22. S 89° 42' 55" W 183.86 feet; thence,

23. With a curve to the left having a radius of 178.91 feet, a distance of 136.83 feet; said curve has a chord bearing and distance of S 67° 48' 20" W 133.52 feet; thence,

24. S 45° 53' 46" W 303.00 feet; thence,

25. With a curve to the right having a radius of 326.06 feet, a distance of 41.84 feet; said curve has a chord bearing and distance of S 49° 34' 21" W 41.81 feet; thence,

26. S 86° 31' 59" E 490.00 feet; thence,

27. S 24° 19' 55" E 345.98 feet; thence,

28. S 57° 35' 56" E 452.77 feet; thence,

29. S 5° 24' 11" E 392.75 feet; thence,

30. S 65° 38' 25" W 486.54 feet; thence,

31. S 22° 36' 12" W 331.60 feet; thence,

32. S 22° 51' 02" E 165.85 feet; thence,

33. S 67° 49' 16" E 561.29 feet; thence,

34. S 30° 37' 57" W 940.99 feet; thence,

35. N 89° 24' 08" W 625.23 feet; thence,

36. With the north boundary line of the property now or formerly of Knight Ridder Broadcasting, Inc. WKRN as recorded in Deed Book 6183, Page 449, R.O.D.C., TN. N 4° 08' 51" E 145.00 feet to an existing iron pin; thence,

37. S 89° 51' 49" W 713.00 feet to an existing iron pin; thence,

38. N 47° 43' 24" W 819.13 feet to an existing iron pin; thence,

39. N 58° 38' 36" W 574.96 feet to an existing iron pin; thence,

40. With the east boundary line of the property now of formerly of Robert C. Fraser as recorded in Deed Book 6309, Page 742, R.O.D.C., TN N 3° 42' 23" E 170.52 feet to a 28"-inch hickory tree; thence,

41. With the north boundary line of the property now or formerly of Robert C. Fraser and the property now or formerly of Thomas A. Story as recorded in Deed Book 6177, Page 193, R.O.D.C., TN N 79° 53' 24" W 525.27 feet to an existing iron pin; thence,

42. With the north boundary line of the property now or formerly of Thomas A. Story N 77° 28' 16" W 123.06 feet to an existing iron pin; thence,

43. With the northerly boundary line of Sherwood Forest Subdivision as recorded in Deed Book 1, Page 277, R.O.D.C., TN N 82° 01' 23" W 180.56 feet to an existing iron pin; thence,

44. N 71° 00' 28" W 259.64 feet to an existing iron pin; thence,

45. N 65° 28' 47" W 129.19 feet to an existing iron pin; thence,

46. With the west boundary line of Sherwood Forest Subdivision N 11° 26' 42" E 1899.02 feet to an existing concrete monument; thence,

47. With the west boundary line of the property now or formerly of Douglas J. Yates as recorded in Deed Book 4391, Page 682, R.O.D.C., TN N 11° 07' 32" E 624.87 feet to an existing iron pin; thence,

48. With the west boundary line of the property now or formerly of Douglas J. Yates, the property now or formerly of Robert C. Patterson, III as recorded in Deed Book 5818, Page 789, and the property now or formerly of Janet M. Patterson as recorded in Deed Book 1196, Page 427, R.O.D.C., TN N 11° 30' 54" E 630.43 feet to an existing iron pin; thence,

49. With the west boundary line of the property now or formerly of

Janet M. Patterson N 13° 31' 19" W 245.92 feet to the point of beginning and containing 231.47 acres more or less.

Tract is described according to survey by Turner Engineering Co., Inc. dated August 14, 1986 Job. 41-60 and a field survey by Ragan-Smith-Murphy and Assoc., Inc. performed August 8, 1986.

Tract is the property of T.C. Summers as recorded in Deed Book 3575, Page 65, Deed Book 4059, Page 342, Deed Book 4855, Page 160, the property of Vaden Lackey, Jr. Trustee as recorded in Deed Book 6911, Page 301, and the property of CRC Equities, Inc. as recorded in Deed Book 6783, Page 422, R.O.D.C., TN.

Tract is subject to TVA tower line easement.

EXHIBIT "B"

BOOK 7260 PAGE 505

BYLAWS

OF

OTTER WOOD HOMEOWNERS' ASSOCIATION

ARTICLE I

Members (Homeowners)

Section 1. Members. Every person or entity who is a Homeowner shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot.

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

(a) Class A. Class A Members shall be all Homeowners, except for Develper prior to termination of his Class B Membership. If, however, Developer owns one or more Lots upon or after the termination of the Class B Membership, then Declarant shall become a Class A Member.

(b) Class B. The Class B Membership shall be the Developer, its successors or assigns. The Class B Membership shall terminate and cease upon the first to occur of the specific written termination by Developer or December 31, 1993.

Section 3. Succession. The Membership of each Homeowner shall terminate when he ceases to be a Homeowner, and upon the sale, transfer or other disposition of his ownership interest in a Lot, his Membership in the Association shall automatically be transferred to the new Homeowner succeeding to such ownership interest.

Section 4. **Regular Meetings.** The first regular annual meeting of Homeowners (the "First Meeting"), subject to the terms hereof, shall be held within one hundred twenty (120) days after Developer has sold and delivered its deed for at least one hundred (100) Lots or three (3) years following the date of recording the Covenants, whichever shall first occur. Subsequent to the First Meeting, there shall be a regular annual meeting of Homeowners within fifteen (15) days after the end of each fiscal year of the Association. All such meetings of Homeowners shall be held at such place in Davidson County, Tennessee, and at such time as specified in the written notice of such meeting which shall be delivered to all Homeowners at least ten (10) days prior to the date of such meeting.

Section 5. **Special Meetings.** Special meetings of all Homeowners may be called by the President or by a majority of the Members of the Board, or by Homeowners having at least three-fifths (3/5) of the votes entitled to be at such meeting. Said special meetings shall be called by delivering written notice to all Homeowners not less than ten (10) days prior to the date of said meeting, stating the date, time and place of said special meeting and the matters to be considered.

Section 6. **Delivery of Notice of Meetings.** Notices of meetings may be delivered either personally or by mail to a Homeowner at the address given to the Board by said Homeowner for such purpose.

Section 7. **Voting.**

(a) **Class A.** Except for matters concerning special assessments and amendments to this Declaration, Class A Members shall not be entitled to vote until the termination of the Class B Membership, at which time Class A Members shall be entitled to one vote for each Lot owned in the Properties. The vote for any one Lot owned by more than one person or entity shall be exercised as they among themselves shall determine, but in no event shall the vote or votes with respect to any jointly owned Lot be cast separately.

(b) **Class B.** Except for special assessments and amendments to this Declaration, the Class B Member (Developer) shall be the only Member entitled to vote in the Association until such time as the Class B Membership shall cease.

(c) **Special Assessments and Amendments.** On all matters concerning a special assessment relating to the Common Use Facilities or an amendment to this Declaration, the voting shall, prior to termination of the Class B Membership, be as follows:

(i) **Class A.** The Class A Members shall have one vote for each Lot owned.

(ii) **Class B.** The Class B Member shall have two votes for each Lot owned.

Section 8. Quorum. A quorum of Homeowners for any meeting shall be constituted by Homeowners represented in person or by proxy and holding a majority of the votes entitled to be cast at such meeting.

ARTICLE II

Board of Directors

Section 1. Number, Election and Term of Office. The Board of Directors of the Association (referred to herein as the "Board") shall consist of five (5) members (herein referred to as "Directors" or "Members of the Board"). Four (4) Directors shall be elected at each regular annual meeting of Association members by the vote of Homeowners. Prior to the First Meeting, the Developer shall appoint five (5) interim Members of the Board (the "Interim Board") to hold office until the First Meeting, and thereafter, the Developer shall be entitled, at its option, to appoint one Board Member who does not have to be a Homeowner. The Interim Board during its existence shall have all powers of the Board as contained in these Bylaws. The First Meeting shall, among other business, elect the other four (4) Members of the Board (the "First Board") or shall elect five (5) members if the Developer waives the right to appoint a member. Those candidates for election as Director

receiving the greatest number of votes cast either in person or by proxy at the meeting shall be elected. Members of the Interim Board shall hold office until the First Meeting. Two (2) Members of the First Board shall hold office until the first regular annual meeting of Association members after the First Meeting, and two (2) other members of the First Board shall hold office until the second regular annual meeting of Association members after the First Meeting. The member appointed by the Developer shall hold office at the pleasure of the Developer. In the event the Developer waives the right to appoint a member, such member shall be elected to hold office for one (1) year or until the next annual meeting of Association members.

Section 2. Qualification. Except for members of the Interim Board, and the Director appointed by the Developer, each Director shall be a Homeowner. If a Director shall cease to meet such qualifications during his term, he shall thereupon cease to be a Director and his place on the Board shall be deemed vacant.

Section 3. Vacancies. Any vacancy occurring in the Board shall be filled by majority vote of the remaining members thereof. Any Director so elected to fill a vacancy shall hold office for a term equal to the unexpired term of the Director which he succeeds. In the event the Developer does not desire to appoint a Director, the Board shall, by majority vote, fill such vacancy for a term of one (1) year at a time.

Section 4. Meetings. A regular annual meeting of the Board shall be held not less than ten (10) days following the regular annual meeting of Homeowners. Special meetings of the Board shall be held upon a call by the President or by a majority of the Board on not less than forty-eight (48) hours' notice in writing to each Director, delivered personally or by mail or telegram. Any Director may waive notice of a meeting, or consent to the holding of a meeting without notice, or consent to any action proposed to be taken by the Board without a meeting. A Director's attendance at a meeting shall constitute his waiver of notice of said meeting.

Section 5. **Removal.** Any Director may be removed from office for cause by the vote of three-fifths (3/5) of the total vote of the Homeowners.

Section 6. **Compensation.** Directors shall receive no compensation for their services as Directors, unless expressly provided for in resolutions duly adopted by the Homeowners.

Section 7. **Quorum.** Three (3) Directors shall constitute a quorum.

Section 8. **Powers and Duties.** The Board shall have the following powers and duties:

(a) to elect and remove the Officers of the Association as hereinafter provided;

(b) to administer the affairs of the Association and the Common Use Facilities, including the purchasing of casualty and liability insurance covering the Common Use Facilities, the Association, the Board and officers;

(c) to formulate policies for the administration, management and operation of the Common Use Facilities;

(d) to adopt rules and regulations, with written notice thereof to all Homeowners, governing the adminsitration, managment, operation and use of the Common Property;

(e) to provide for the maintenance, repair, and replacement of the Common Property and other expenses authorized by the Covenants and payments therefor, and to approve payment vouchers or to delegate such approval to the officers;

(f) to provide for the designation, hiring and removal of employees and other personnel, including accountants and attorneys, and to engage or contract for the services of others, and to make purchases for the maintenance, repair, replacement, administration, management and operation of the Common Property and other expenses authorized by the Covenants;

(g) to appoint committees of the Board and to delegate to such committees the Board's authority to carry out certain duties of the Board;

(h) to determine the fiscal year of the Association and to change said fiscal year from time to time as the Board deems advisable;

(i) to estimate the amount of the annual budget, and to provide the manner of assessing and collecting from the Homeowners their respective shares of such estimated expenses, as hereinafter provided;

(j) unless otherwise provided herein or in the Covenants, to comply with the instructions of a majority of the Homeowners, as expressed in a resolution duly adopted at any annual or special meeting of the Homeowners;

Section 9. Non-Delegation. Nothing in this Article or elsewhere in these Bylaws shall be considered to grant to the Board, the Association or to the Officers of the Association any powers or duties which, by law, have been delegated to the Homeowners.

ARTICLE III

Officers

Section 1. Designation. At each regular annual meeting, the Directors present at said meeting shall elect the following Officers of the Association by a majority vote:

(a) a President, who shall be a Director and who shall preside over the meetings of the Board and of the Homeowners, and who shall be the chief executive officer of the Association;

(b) a Secretary, who shall keep the minutes of all meetings of the Board and of the Homeowners, and who shall, in general, perform all the duties incident to the office of Secretary;

(c) a Treasurer, who shall be responsible for financial records and books of account and the manner in which such records and books are kept and reported; and

(d) such additional Officers as the Board shall see fit to elect.

Section 2. Powers. The respective Officers shall have the general powers usually vested in such Officers; provided that the Board may delegate any specific powers to any other Officer or impose such limitations or restrictions upon the powers of any Officer as the Board may see fit.

Section 3. Term of Office. Each Officer shall hold office for the term of one (1) year and until his successor shall have been appointed or elected and qualified.

Section 4. Vacancies. Vacancies in any office shall be filled by the Board by a majority vote of the remaining members thereof at a special meeting of said Board. Any officer so elected to fill a vacancy shall hold office for a term equal to the unexpired term of the Officer he succeeds. Any Officer may be removed for cause at any time by vote of three-fifths (3/5) of the total members of the Board at a special meeting thereof.

Section 5. Compensation. The Officers shall receive no compensation for their services as Officers.

ARTICLE IV

Assessments

Section 1. Annual Budget. The Board shall cause to be prepared an estimated annual budget for each fiscal year of the Association, said fiscal year to be determined by the Board. Such budget shall take into account the estimated expenses and cash requirements for the year, including but not limited to salaries, wages, payroll taxes, legal and accounting fees, working capital fund, supplies, materials, parts, services, maintenance, repairs, replacements, landscaping, insurance, fuel, power, and all other expenses for carrying out the duties of the Association. To the extent that the assessments and other cash income collected from the Homeowners during the preceding year shall be more or less than the expenditures for such preceding year, the surplus or deficit, as the case may be, shall also be taken into account. The annual budget shall provide for a reserve for contingencies for the year and a reserve for replacements, in reasonable amounts as determined by the Board.

Section 2. **Assessments.** The estimated annual budget for each fiscal year shall be approved by the Board, and copies thereof shall be furnished by the Board to each Homeowner, not later than thirty (30) days prior to the beginning of such year, together with a notice designating the method of payment of the annual assessments. In the event the Board determines monthly or quarterly installments are to be paid, on or before the first day of the first month (or third month if quarterly) and of each succeeding month (or third month if quarterly) of the year covered by the annual budget, each Homeowner shall pay, as his respective monthly assessment for the common expenses, one-twelfth (1/12) [or one-third (1/3) if quarterly] of his proportionate share of the expenses for such year as shown by the annual budget. Such proportionate share for each Homeowner shall be determined by the number of Lots eligible for assessment payments and shall be not less than one one hundred fifteenth (1/115) for each Lot owned. In the event that the Board shall not approve an estimated annual budget or shall fail to determine new monthly or quarterly assessments for any year, or shall be delayed in doing so, each Homeowner shall continue to pay each month the amount of his respective monthly assessment as last determined, and shall be obligated to pay any difference owed as soon as the new assessments are determined. Each Homeowner shall pay his monthly or quarterly assessment on or before the first day of each applicable month to the Association or as may be otherwise directed by the Board.

Section 3. **Partial Year or Month.** For the first fiscal year and thereafter until the First Board is elected, the annual budget shall be approved by the Interim Board. If such first fiscal year, or any succeeding fiscal year, shall be less than a full year, then the monthly or quarterly assessments for each Homeowner shall be proportionate to the number of months and days in such period covered by such budget. Commencing with the date of delivery of a deed to a Lot from Developer, each Homeowner shall pay his assessment for the following month or fraction of a month or following quarter or fraction of a quarter.

Section 4. Annual Report. Within ninety (90) days after the end of each fiscal year covered by an annual budget, or as soon thereafter as shall be practicable, the Board shall cause to be furnished to each Homeowner a statement for such year so ended, showing the receipts and expenditures and such other information as the Board may deem desirable.

Section 5. Supplemental Budget. In the event that during the course of any year, it shall appear to the Board that the monthly or quarterly assessments, determined in accordance with the estimated annual budget for such year, are insufficient or inadequate to cover the estimated expenses for the remainder of such year, then the Board shall prepare and approve a supplemental budget covering the estimated deficiency for the remainder of such year, copies of which supplemental budget shall be furnished to each Homeowner, and thereupon a supplemental assessment shall be made to each Homeowner for his proportionate share of such supplemental budget.

Section 6. Records and Statement of Account. The Board shall cause to be kept detailed and accurate records in chronological order of the receipts and expenditures of the Association, specifying and itemizing the common expenses and limited common expenses incurred. Payment vouchers may be approved in such manner as the Board may determine.

ARTICLE V

Amendments

These Bylaws may be amended or modified from time to time by action or approval of the vote of a majority of the Homeowners casting votes as described in Article I, Section 7 hereof. Such amendments shall be recorded in the Office of the Register of Deeds for Davidson County, Tennessee.

IDENTIFICATION REFERENCE
3 3 6 1 1
JUN 5 2 32 PM '87
FELIX Z. WILSON II REGISTER
DAVIDSON COUNTY, TN