

DECLARATION **GA 1446 1312**  
OF COVENANTS CONDITIONS AND RESTRICTIONS

THIS DECLARATION, made on the date hereinafter set forth by HILLCREST HOUSING, INC., hereinafter referred to as "Declarant".

WITNESSETH:

WHEREAS Declarant is the owner of certain property in Tallahassee County of Leon, State of Florida, which is more particularly described in Exhibit "A", attached hereto.

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

ARTICLE I  
DEFINITIONS

Section 1. "Association" shall mean and refer to Richview Trace Homeowners Association, its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for

the performance of an obligation.

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Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the owners. The Common Area to be owned by the Association at the time of the conveyance of the first lot is described in Exhibit "B" attached hereto.

Section 5. "Lot" shall mean and refer to any or each of the 19 lots in the subdivision as shown on Exhibit "B" attached hereto. Each lot will have one (1) vote and each will pay the total assessment outlined in Section 3. "Lot" shall not mean nor refer to any of the Common Area.

Section 6. "Declarant" shall mean and refer to Hillcrest Housing, Inc. successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

## ARTICLE II PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- (a) The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;
- (b) the right of the Association to suspend the voting rights and right to use of the recreational facilities by an owner for any period during which any

assessment against his Lot remains unpaid; and for a period not to exceed 60 days for any infraction of its published rules and regulations; ~~381443:1314~~

(c) The right of the Association to dedicate to transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by 2/3rds of each class of members has been recorded.

Section 2. Delegation of Use. Any owner may delegate, in accordance with the By-laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

Section 3. Houses and Boundaries Thereof. Each house built in Richview Trace shall consist of the following:

(a) With regard to common walls the centerline of said walls shall be the boundary.

(b) Each house shall include a parcel of real property as described in the deed by which said land and house is conveyed by Declarant to third party purchasers.

(c) Bearing walls, columns and wiring and other utility installations serving more than one house (if any) shall be commonly owned by the houses being served thereby.

Section 4. Additional Duties and Powers of Association. In addition to the duties and powers of the Association, as hereinabove set forth, and in addition to any powers and duties set forth in the Articles of Incorporation and By-Laws of the Association, the Association shall:

(a) Maintain and otherwise manage all the roadways, common areas and all facilities, improvements and landscaping thereof, together with all property or

facilities or amenities that are owned or built by the Association.

(b) Grant easements where necessary for utilities, cable television and sewer and drainage facilities over the common areas or easement or cross-easement areas.

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(c) Obtain and maintain such policy or policies of insurance as the Association may deem necessary or desirable in protecting the interest of the Association and its members.

(d) Have the authority to employ a manager or other persons and to contract with independent contractors or managing agents to perform all or any part of the duties and responsibilities of the Association.

Section 5. Easements. The following easements are hereby granted and imposed in favor of all of the owners of lots within Richview Trace (unless the applicability thereof is specifically otherwise limited herein), and shall be deemed to be covenants running with the land:

(a) Easements reflected on Exhibit "B" attached hereto, including easements for access, driveway, utilities, sanitary sewer and drainage.

(b) If any house or appendage thereto shall encroach upon any common area, easement area or other lot by reason of original construction by the Declarant, then an easement appurtenant to such encroaching house or appendage, to the extent of such encroachment, shall exist so long as such encroachment shall exist.

(c) If any utilities equipment, roadway, driveway or paved parking pad or area constructed by the Declarant shall encroach upon any easement area, common area or any lot within Richview Trace, then an easement appurtenant to such encroachment, to the extent of such encroachment, shall exist so long as such encroachment shall exist.

(d) Whenever sanitary sewer, water, electricity, cable television, telephone lines or connections are installed within the property, which connections

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or lines or any portions thereof lie in or upon homes or lots owned by other than the owner of a house served by said lines or connections, the owner of any house served by said connections shall have the right and is hereby granted an easement to the full extent necessary therefore to enter upon such lot or to have the utility companies enter upon the lots upon which said connection or lines or any portions thereof lie or are located, to repair, replace and generally maintain said connections as and when the same may be necessary. Whenever sanitary sewer, water, electricity, cable television or telephone lines or connections are installed within the property, which connection or lines serve more than one house, the owner of each such house served by said connection and lines shall be entitled to full use and enjoyment of such portions of said connections and lines as services his house and such owners shall be jointly and equally and equally responsible for the maintenance or repair of any jointly used connections aforementioned.

(c) The health and welfare of the residents of Richview Trace, is enhanced by prompt and efficient collection of garbage of the residents. Accordingly, no homeowner will attempt to impede or interfere with the legitimate efforts of sanitation workers to come upon the lots in Richview Trace to pick up and transport garbage placed by each homeowner in his garbage receptacle, and reciprocal easements are imposed upon each lot for the purpose of allowing such sanitation workers to walk across each lot or lots for the purpose of carrying out his task.

Section 6. Land Use and Building Type. No house shall be occupied or used except for residential purposes by the homeowners, their tenants or social guests, except that Declarant may use houses owned by it for model homesites and for display and sales offices.

Section 7. Party Walls.

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(a) General Rules of Law to Apply. Each wall is built as a part of the original construction of the homes upon the Property and placed on the dividing line between the lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this section, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

(b) Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the owners who made use of the wall in proportion to such use.

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

(d) Weatherproofing. Notwithstanding any other provision of this Article, any owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against the elements.

(e) Right to Contribution Runs with Land. The right of any owner to contribution from any other owner under this Article shall be appurtenant to the land and shall pass to such owner's successors in title.

(f) Resolution of Disputes. In the event of any dispute arising concerning a party wall, or under the provisions of this Articles, the matter shall be

referred to the Board of Directors of the Association and the decision of a majority vote by that Board shall be determinative of the matter and binding upon the parties.

ARTICLE III

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MEMBERSHIP AND VOTING RIGHTS

Section 1. Every owner of a lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. The Association shall have two classes of voting membership:

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

Class B. The Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or
- (b) on January 2, 1991.

ARTICLE IV

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COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned 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 such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, 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 interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Properties and for the improvement and maintenance of the Common Area.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to the Owner, the maximum annual assessment shall be fifty dollars (\$50.00) per Lot.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than 5% above the maximum assessment for the previous year without a vote of the membership.

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(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above 5% by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

(c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment 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 upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for Any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis.

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Section 7. Date of Commencement of Annual Assessments; Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the Common Area. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a lot is binding upon the Association as of the date of its issuance.

Section 8. Effect of Nonpayment of Assessments; Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of 12 percent annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments

thereafter becoming due or from the lien thereof.

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ARTICLE V  
ARCHITECTURAL CONTROL

Section 1. Architectural Control Committee. No building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

Section 2. Nuisances. No noxious or offensive activities shall be carried on, in, upon or around any house or in or upon any common areas, nor shall anything be done thereon which may be or may become an annoyance or a nuisance to the remaining homeowners or any of them which shall in any way interfere with the quiet enjoyment of each of the homeowners of his respective house or which shall in any way increase the rate of insurance for the property.

Section 3. Temporary Structures. No structure of a temporary character, trailer, tent, shack, garage, barn or other building shall be used on any property at any time as a residence either temporarily or permanently; provided, however, Declarant may maintain offices or storage facilities during construction. The Association may maintain a storage and maintenance building in such areas as may be agreed upon.

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**Section 4. Signs.** No sign or billboard of any kind shall be displayed to the public view on any house or any portion of the easement areas except one sign of customary and reasonable dimension advertising the house for sale or rent, or except signs used by Declarant, its business successors or assigns to advertise the property or houses during the construction or sale.

**Section 5. Garbage Disposal.** All rubbish, trash and garbage shall be regularly removed from the property and shall not be allowed to accumulate thereon. All trash, garbage and other waste shall be kept in sanitary containers. All equipment for the storage or disposal of such materials shall be maintained in a clean and sanitary condition, and shall be kept out of the sight of neighbors and other residents in Richview Trace.

**Section 6. Radio and Television Antennas.** No homeowner may construct or use and operate an external radio or television antenna or satellite dish or similar device without the prior written consent of the Architectural Control Committee.

**Section 7. Right to Lease.** The homeowners shall have the absolute right to lease or rent their houses provided that the lease is made subject to the covenants, conditions, restrictions, limitations and uses contained in his Declaration and those contained in the Articles of Incorporation, the By-Laws and any rules and regulations of the Association.

**Section 8. Lawful Use.** No immoral, improper, offensive or unlawful use shall be made of the property or any part of it.

**Section 9. Regulations.** Reasonable regulations concerning the use of the property (including common areas and easement areas and all other areas which the Association owns or maintains) may be made and amended from time to time by the Association. Copies of such regulations and amendments shall be furnished by the Association to all homeowners and residents of the houses upon request.

**Section 10. Pets.** Household pets such as dogs or cats are permitted but no dog

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or cat shall be permitted to run free, and it must be leashed or under the direct control of its owner when it is anywhere on the property other than upon the owner's lot.

Section 11. Vehicles, Boats, Trailers, Recreation Vehicles, Etc. No boats, trailers, campers, motor-homes, camper trailers or recreation vehicles may be parked or stored upon any lot.

Section 12. Miscellaneous.

(a) No laundry, mattresses, bedding materials, etc., or clothing shall be hung on or over patio fences of any home. Clotheslines are prohibited except inside a fenced-in patio and not visible to neighbors.

(b) No window air-conditioning units shall be permitted which would be exposed to the exterior of any building.

(c) No chain link or metal fences are allowed. All fences must be wood and no fence may be erected closer than fifteen (25) feet from the front corner of any home. All fences must be approved by the Architectural Control Committee prior to installation.

ARTICLE VI

GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

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

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the Lot Owners, and thereafter by an instrument signed by not less than seventy-five (75%) of the Lot Owners. Any amendment must be recorded.

Section 4. FHA/VA Approval. As long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: Annexation of additional properties, dedication of Common Area, and amendment of this Declaration of Covenants, Conditions and Restrictions.

Section 5. Limitation of Liability of Association. Notwithstanding the duties of the Association, specifically including, but not limited to, its duty to maintain and repair portions of the property, the Association shall not be liable to homeowners, their invites or guests for injury or damage caused by any latent defect or condition of the property owned, or to be maintained and repaired by the Association or caused by acts of God or by third parties.

Section 6. Development by Declarant. No provisions contained herein shall prevent Declarant, its contractors or subcontractors from performing such work and activities as are reasonably necessary or advisable in connection with the construction of any houses or other improvements upon the property, nor shall said provisions in any way prevent the Declarant from maintaining such sign or signs on the property as may be

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necessary for the sale, lease or other disposition thereof.

Section 7. Variances Variances for minor deviations from this Declaration may be granted by Declarant or the Architectural Control Committee at any time to Declarant or any property owner within the property. Variances for such minor deviations, if any, are discretionary.

Section 8. Titles The titles of each of the paragraphs or subdivisions thereof contained herein are for convenience only and shall be deemed to have no legal effect.

Section 9. Access to Lands Outside Richview Trace Except for the Declarant, no owner of a lot in The Properties shall permit or otherwise authorize any portion of any lot owned by such owner to be utilized as an easement, roadway, driveway, street or other means or method of access, ingress or egress to areas of property not included within the properties. The purpose of this provision is to preserve and protect the integrity of the exterior boundaries of Richview Trace, and to preclude and prohibit any break in those boundaries by any easement, roadway, driveway or street granted, permitted or otherwise created by any homeowner other than the Declarant. The Declarant reserves the right to grant such easements or create such roadways upon land or lots owned by the Declarant as the Declarant in its sole discretion determines necessary, appropriate or desirable.

Section 10. Other Properties Subject to this Declaration Declarant expressly reserves the right to permit the owner of any adjacent property to Richview Trace to make such property subject to the covenants and restrictions set forth herein as those such lands were originally part of this declaration and owned by the Declarant, including without limitation the further right to permit the Owners of lots thereupon to become members of the Association.

Section 11. Entrance Way and Retention Area Maintenance The entrance to the property at Richview Trace, Homeowners Association property and retention areas within the property shall be maintained in good repair including without limitation signs,

landscaping planting, filtering systems in the retention areas, fences, electrical systems and street or security lighting.

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IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 26 day of July, 1990.

*Hillcrest Housing Inc.*

Declarant  
Hillcrest Housing Inc.

BY *Robert C. Dean*

Robert C. Dean, President

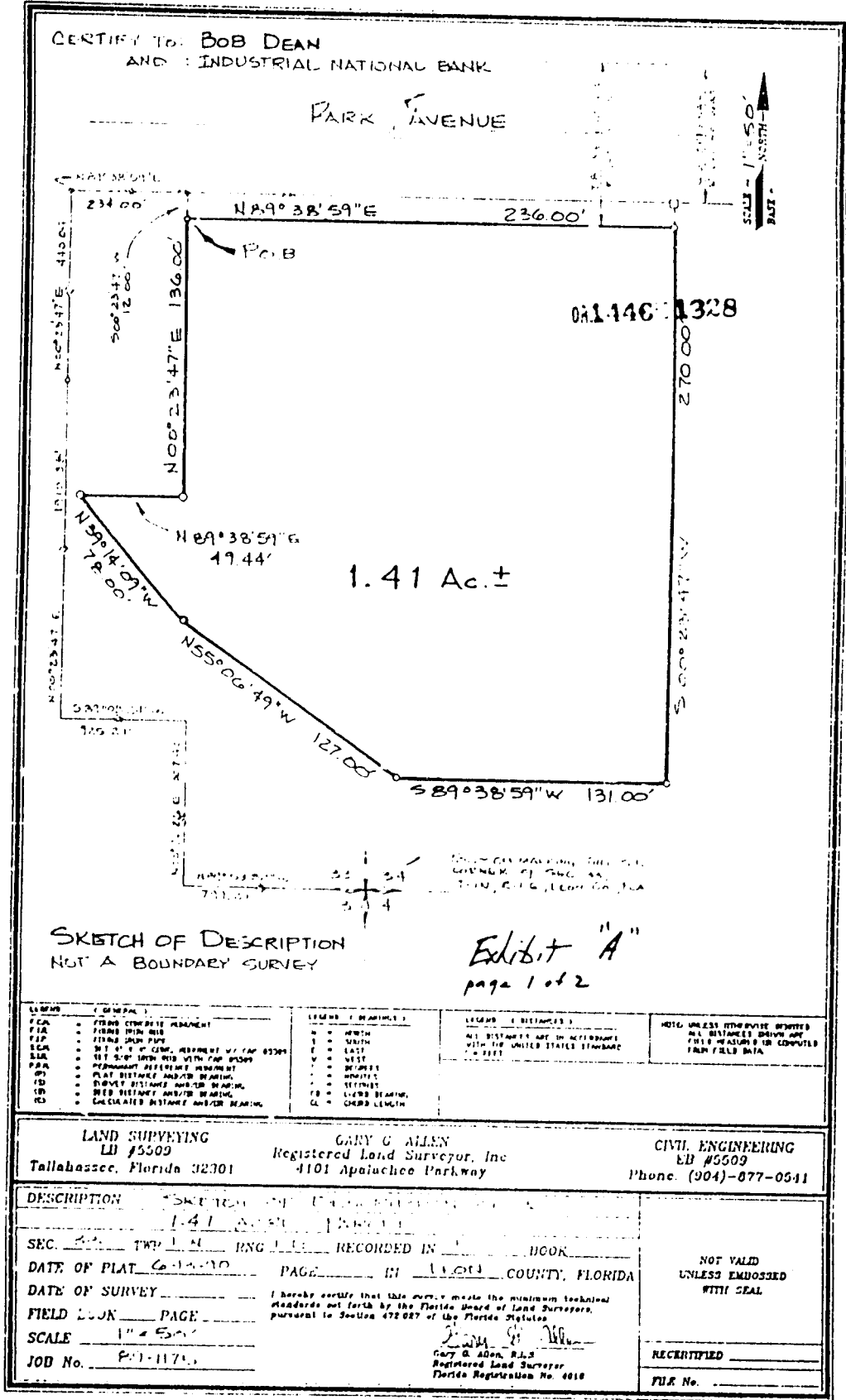
STATE OF FLORIDA  
COUNTY OF LEON

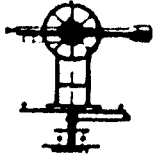
The foregoing Declaration of Restrictive Covenants was acknowledged before me this 26<sup>th</sup> day of July, 1990, by Robert C. Dean.

My Commission Expires:

*George J. Forest*  
NOTARY PUBLIC







GARY ALLEN, P.L.S., President  
MARK HENDERSON, P.L.S.

**GARY GEE ALLEN**  
REGISTERED LAND SURVEYOR, INC.

4101 APALACHEE PARKWAY

TALLAHASSEE, FLORIDA 32301

PHONE: 877-0541

Legal Description of a  
1.41 acre Parcel

**DA1446-1329**

A 1.41 acre parcel of land to be known as Richview Trace, an unrecorded subdivision in Leon County, Florida, being more particularly described as follows:

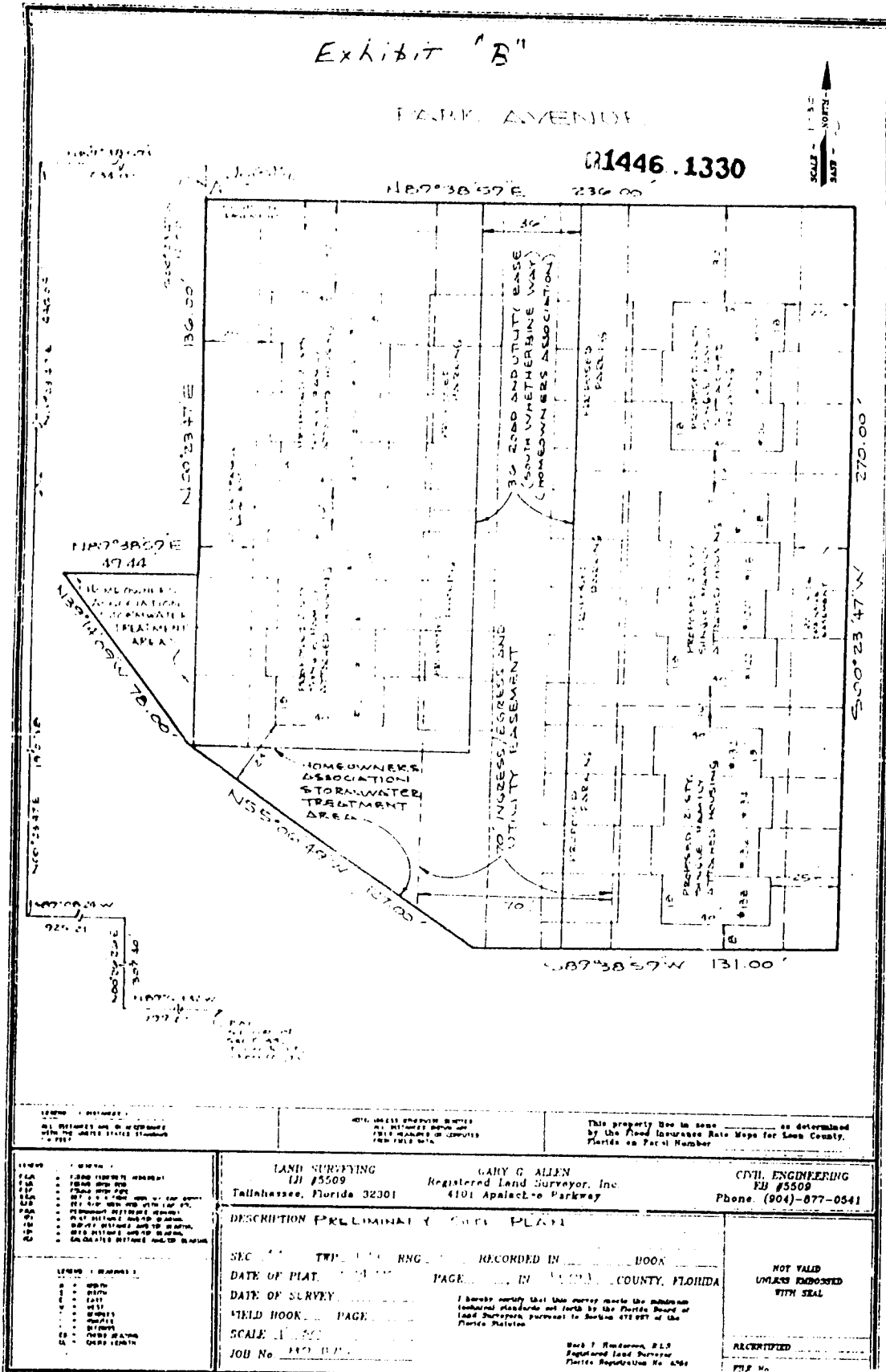
Commence at a concrete monument marking the Southeast corner of Section 33, Township 1 North, Range 1 East, Leon County, Florida, and run North 89 degrees 53 minutes 32 seconds West 799.27 feet to a concrete monument, thence North 00 degrees 26 minutes 26 seconds East 307.40 feet to a concrete monument, thence South 08 degrees 08 minutes 24 seconds West 925.21 feet to the Easterly right-of-way boundary of Richview Road (60 foot right-of-way), thence North 00 degrees 23 minutes 47 seconds East along the Easterly right-of-way boundary 1910.38 feet, thence continue North 00 degrees 23 minutes 47 seconds East along said Easterly right-of-way boundary 440.04 feet to the intersection of the East right-of-way of Richview Road with the South right-of-way of Park Avenue, thence run North 89 degrees 38 minutes 59 seconds East along said South right-of-way a distance of 234.00 feet, thence leaving said South right-of-way run South 00 degrees 23 minutes 47 seconds West 12.00 feet to the POINT OF BEGINNING. From said POINT OF BEGINNING run North 89 degrees 38 minutes 59 seconds East 236.00 feet, thence South 00 degrees 23 minutes 47 seconds West 270.00 feet, thence South 89 degrees 38 minutes 59 seconds West 13.00 feet, thence North 55 degrees 06 minutes 49 seconds West 127.00 feet, thence North 39 degrees 14 minutes 09 seconds West 78.00 feet, thence North 89 degrees 38 minutes 59 seconds East 49.44 feet, thence North 00 degrees 23 minutes 47 seconds East 136.00 feet to the POINT OF BEGINNING; containing 1.41 acres more or less.

This surveyor has not been provided a current title opinion or abstract of matters affecting title or boundary to the subject property. It is possible that there are deeds of record, unrecorded deeds, easements or other instruments which could affect the boundaries.

*Exhibit "A"*  
*page 2 of 2*

Gary G. Allen  
Registered Land Surveyor  
Florida Cert. No. 4016

Job No. 89-1175B  
Date: 6-15-90  
Computer: AST



LEGEND

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LAND SURVEYING  
 TALLAHASSEE, FLORIDA 32301

GARY G. ALLEN  
 Registered Land Surveyor, Inc.  
 4101 Apalachee Parkway

DESCRIPTION PRELIMINARY (COPY PLAT)

SEC. ... TWP. ... RANG. ... RECORDED IN ... BOOK ...

DATE OF PLAT ... PAGE ... IN ... COUNTY, FLORIDA

DATE OF SURVEY ...

FIELD BOOK ... PAGE ...

SCALE ...

JOB No. ...

CIVIL ENGINEERING  
 EIT #5509  
 Phone: (904)-677-0541

NOT VALID  
 UNLESS EMBOSSED  
 WITH SEAL

REGISTERED  
 P.E. No.