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DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
WATERGLYN

Filed:
29th day of November, 1995
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Marjorie C. McEntire
Register of Deeds
McDowell County, N.C.

DRAWN BY AND MAIL TO:
Brian P. Evans, Esquire
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Suite 4200
100 Tryon Street
Charlotte, North Carolina 28202-4006

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DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS

WATERGLYN

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS - WATERGLYN ("Declaration") is made this 29th day of November, 1995 by CRESCENT RESOURCES, INC., a South Carolina corporation, hereinafter referred to as "Declarant".

STATEMENT OF PURPOSE

Declarant is the owner of certain Property located in McDowell County, North Carolina, which is more particularly described on that certain map of Waterglyn Subdivision (the "Subdivision") recorded in Map Book 5, Page 14-18, in the Office of the Register of Deeds for McDowell County, North Carolina.

Declarant desires to construct "Piers" (as hereinafter defined) containing "Boatslips" (as hereinafter defined) over the waters of Lake James, which "Piers," "Boatslips" and "Lake Access Lot" (as hereinafter defined) will be for the common use and benefit of the "Boatslip Lots" (as hereinafter defined), and to provide access to such Piers and Boatslips over the Lake Access Lot. The Piers, Boatslips and Lake Access Lot will be for the common use and benefit of the Owners of the Boatslip Lots, but not for the use or enjoyment of any other Owners. Declarant further desires to provide for the maintenance and upkeep of such Piers, Boatslips and the Lake Access Lot.

Declarant also has constructed or shall construct the "Septic System" (as hereinafter defined) for the use and benefit of the Owners of the "Septic Lots" (as hereinafter defined).

Declarant desires to provide for a system whereby the maintenance and upkeep of the Pier, Boatslips and Lake Access Lot will be paid for only by the owners of the Boatslip Lots; and the maintenance and upkeep of the Septic System used by the Septic Lots (as hereinafter defined) will be paid for only by the owners of such Septic Lots.

To these ends, Declarant desires to subject the real Property described herein to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, each and all of which is, and are, for the benefit of such property and each Owner thereof.

Declarant further desires to create an organization to which will be delegated and assigned the powers of: (a) owning, maintaining and administering the Lake Access Lot, Pier, and Boatslips (hereinafter referred to collectively as the "Common Areas"); (b) administering and enforcing the maintenance of the Septic System used by the Septic Lots; (c) administering and enforcing the covenants and restrictions contained herein; and (d)

**EXHIBIT A
TO
DECLARATION
FOR
WATERGLYN SUBDIVISION**

**True Copy of Articles of Incorporation for
Waterglyn Property Owners Association, Inc.**

**ARTICLES OF INCORPORATION
OF
WATERGLYN PROPERTY OWNERS ASSOCIATION, INC.
A NONPROFIT CORPORATION**

The undersigned natural person of the age of eighteen (18) years or more does hereby make and acknowledge these Articles of Incorporation for the purpose of forming a nonprofit corporation under and by virtue of the laws of the State of North Carolina, as contained in Chapter 55A of the General Statutes of North Carolina, entitled "Nonprofit Corporation Act," and the several amendments thereto, and to that end does hereby set forth:

1. All capitalized terms not otherwise defined herein shall have the same meaning as set forth in the Declaration of Covenants, Conditions, and Restrictions for WATERGLYN SUBDIVISION together with any supplements or amendments thereto (the "Declaration"), which Declaration shall be recorded in the Office of the Register of Deeds for McDowell County, North Carolina.

2. The name of the Corporation is WATERGLYN PROPERTY OWNERS ASSOCIATION, INC. (the "Association").

3. The period of duration of the Association shall be perpetual.

4. The purposes for which the Association is organized are:

(a) to manage, maintain, operate, care for and administer the Common Areas and Septic System as more particularly set forth in the Declaration; and

(b) to enforce the covenants, restrictions, easements, charges and liens as provided in the Declaration and to fix, levy, assess, collect, enforce and disburse the charges

and assessments created under the Declaration, all in the manner set forth in and subject to the provisions of the Declaration; and

(c) to exercise all power and privileges and perform all duties and obligations of the Association as set forth in the Declaration; and

(d) to do any and all other lawful things and acts that the Association from time to time, in its discretion, may deem to be for the benefit of the Common Areas; and

(e) to exercise all powers provided in Chapter 55A of the General Statutes of North Carolina in furtherance of the above-stated purposes.

5. The Association is not organized for pecuniary profit, nor shall it have any power to issue certificates of stock or pay dividends. No part of the net assets or earnings of the Association shall inure to the benefit of any private individual, firm or corporation.

6. The Association shall have members which may be divided into such classes as shall be provided in the Bylaws. All members shall be accepted, appointed, elected or designated in the manner provided in the Bylaws.

7. The address of the principal office of the Association is 400 South Tryon Street, Suite 1300, Charlotte, Mecklenburg County, North Carolina 28201.

8. The address of the initial registered office of the Association is 400 South Tryon Street, Suite 1300, Charlotte, North Carolina 28201 and the initial registered agent of the Association at such address is Stephen M. Schreiner.

9. The business and conduct of the Association shall be regulated by a Board of Directors who shall be elected in the manner and for the terms provided in the Bylaws. The number of directors constituting the initial Board of Directors shall be three, and the names and addresses of the persons who are to serve as the initial directors are:

<u>Name</u>	<u>Address</u>
Susan L. Foster	400 South Tryon St., Suite 1300 Charlotte, North Carolina 28201
Stephen M. Schreiner	400 South Tryon St., Suite 1300 Charlotte, North Carolina 28201
Gilbert D. Stephenson, Jr.	400 South Tryon St., Suite 1300 Charlotte, North Carolina 28201

10. The incorporator of this Association is Brian P. Evans, and his address is Kennedy Covington Lobdell & Hickman, L.L.P., NationsBank Corporate Center, Suite 4200, 100 North Tryon Street, Charlotte, North Carolina 28202-4006.

11. In the event of a dissolution and/or liquidation of the Association, all of the residual assets of the Association shall be distributed to such organizations that are exempt under §501(c) (3) of the Internal Revenue Code of 1986 or corresponding sections of any prior or future Internal Revenue Code at the time of dissolution as shall, in the judgment of the directors, be most likely to fulfill the purposes of the Association.

IN TESTIMONY WHEREOF, the undersigned has set his hand and seal, this _____ day of _____, 1995.

(SEAL)

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

I, _____, a Notary Public of the County and State aforesaid, certify that BRIAN P. EVANS personally appeared before me this day and acknowledged the execution of the foregoing instrument.

Witness my hand and official stamp or seal, this _____ day of _____, 1995.

Notary Public

My Commission Expires:

[SEAL]

EXHIBIT B
TO
DECLARATION
FOR
WATERGLYN SUBDIVISION

Bylaws for
Waterglyn Property Owners Association, Inc.

BYLAWS
OF
WATERGLYN PROPERTY OWNERS ASSOCIATION, INC.

ARTICLE I

NAME AND LOCATION

Section 1. Name. The name of the corporation is WATERGLYN PROPERTY OWNERS ASSOCIATION, INC., hereinafter referred to as the "Association."

Section 2. Location. The principal office of the Association shall be located in either Mecklenburg County, North Carolina or McDowell County, North Carolina. The registered office of the Association may be, but need not be, identical with the principal office.

Section 3. Purpose. The purpose for which the Association is organized are to manage and maintain the Common Area and Septic System to the extent provided for in the "Declaration" (as hereinafter defined), to administer and enforce the terms of the Declaration, and any other purposes allowed by law.

ARTICLE II

DEFINITIONS

All capitalized terms when used in these Bylaws, or any amendment hereto (unless the context shall otherwise require or unless otherwise specified herein or therein) shall have the meanings set forth in that certain Declaration of Covenants, Conditions and Restrictions for Waterglyn Subdivision executed by Crescent Resources, Inc., and duly recorded in the

Office of the Register of Deeds of McDowell County, North Carolina as the same may be amended from time to time (hereinafter referred to as the "Declaration").

ARTICLE III

MEETINGS OF MEMBERS

Section 1. Annual Meetings. The first annual meeting of the Members shall be held in April of 199_____ upon at least thirty (30) days prior notice, and each subsequent regular annual meeting of the Members shall be held in April of each year thereafter, at the hour specified in the notice.

Section 2. Special Meetings. Special meetings of the Members may be called at any time by the President or by the Board of Directors, or upon written request of the Members who are entitled to vote one-fourth (1/4) of all of the votes appurtenant to the Lots.

Section 3. Meetings of Boatslip Lot Owners. Meetings of the Members owning Boatslip Lots may be called at any time by the President or by the Board of Directors, or upon written request of the Members who are entitled to vote one-fourth (1/4) of all of the votes appurtenant to the Boatslip Lots, for the purpose of discussing and voting on matters affecting only the Piers, Boatslips, and Lake Access Lot. Such meetings may be held at the annual meeting of the Members or at a special meeting of the Members owning Boatslip Lots.

Section 4. Meetings of Septic Lot Owners. Meetings of the Members owning Septic Lots may be called at any time by the President or by the Board of Directors, or upon written request of the Members who are entitled to vote one-fourth (1/4) of all of the votes appurtenant to the Septic Lots, for the purpose of discussing and voting on matters affecting only the Septic Lots, Septic Field Lots, and Septic System. Such meetings may be held at the annual meeting of the Members or at a special meeting of the Members owning Septic Lots.

Section 5. Place of Meetings. All meetings of the Members shall be held at such place, within Mecklenburg County, North Carolina or McDowell County, North Carolina, as shall be determined by the Board of Directors of the Association.

Section 6. Notice of Meetings. Written notice of each meeting of the Members shall be given by, or at the direction of, the Secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, not less than thirty (30) days nor more than sixty (60) days before the date of such meeting to each Member entitled to vote thereat, addressed to the Member's address last appearing on the books of the Association, or supplied by such Member to the Association for the purpose of notice. Such notice shall

specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

Section 7. Classes of Lots and Voting Rights. The voting rights of the Membership shall be appurtenant to the ownership of Lots. There shall be two classes of Lots with respect to voting rights.

(a) **Class A Lots.** Class A Lots shall be all Lots except Class B Lots as defined below. Each Class A Lot shall entitle the Owner(s) of said Lot to one (1) vote. When more than one person owns an interest (other than a leasehold or security interest) in any Lot, all such persons shall be Members and the voting rights appurtenant to said Lot shall be exercised as they, among themselves, determine, but in no event shall more than one (1) vote be cast with respect to any Class A Lot.

(b) **Class B Lots.** Class B Lots shall be all Lots owned by Declarant which have not been conveyed to purchasers who are not affiliated with the Declarant. Declarant shall be entitled to three (3) votes for each Class B Lot owned.

Section 8. Relinquishment of Control. 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 number of votes in the Class A membership held by Owners occupying full-time homes in the Subdivision equals the total number of votes outstanding in the Class B membership; or

(b) upon the expiration of five (5) full years after the registration of this Declaration, unless Declarant, in its sole discretion, elects to convert all the Class B Lots to Class A Lots at an earlier time.

Section 9. Quorum. The presence at the meeting of Members entitled to cast, or of proxies entitled to cast, one third (1/3) of the votes appurtenant to the Lots (or to the Boatslips Lots or Septic Lots, if a meeting of the Members owning either Boatslip Lots or Septic Lots) shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration, or these Bylaws. If, however, such quorum shall not be present or represented at any meeting, subsequent meetings may be called, subject to the same notice requirement, until the required quorum is present. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 9. Proxies. At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of his Lot.

Section 10. Action by Members. Except as provided otherwise in the Articles of Incorporation, the Declaration or these Bylaws, any act or decision approved by a vote of no less than two-thirds (2/3) of all votes present at a duly held meeting of the Members at which a quorum is present shall be regarded as the act of the Members.

Section 11. Action by Members Owning Boatlip Lots. Except as otherwise provided in the Articles of Incorporation, the Declaration or the Bylaws, any act or decision approved by a vote of no less than two-thirds (2/3) of all votes present at a duly held meeting of the Members owning Boatlip Lots at which a quorum is present shall be regarded as the act of such Members.

Section 12. Action by Members Owning Septic Lots and Septic Field Lots. Except as otherwise provided in the Articles of Incorporation, the Declaration or the Bylaws, any act or decision approved by a vote of no less than two-thirds (2/3) of all votes present at a duly held meeting of the Members owning Septic Lots and Septic Field Lots at which a quorum is present shall be regarded as the act of such Members.

Section 13. Waiver of Notice. Any Member may, at any time, waive notice of any meeting of the Members in writing and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Member at any meeting of the Members shall constitute a waiver of notice by him of the time and place thereof except where a Member attends a meeting for the express purpose of objecting to the transaction of any business because the meeting was not lawfully called. If all the Members are present at any meeting of the Members, no notice shall be required and any business may be transacted at such meeting.

Section 14. Informal Action by Members. Any action which may be taken at a meeting of the Members or Members owning Lots may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the persons who would be entitled to vote upon such action at a meeting and filed with the Secretary of the Association to be kept in the Association's minute book.

ARTICLE IV

BOARD OF DIRECTORS

Section 1. Number and Qualification. The business and affairs of the Association shall be managed by a Board of three directors, who need not be Members of the Association. At all times following the replacement of the initial Board of Directors, at least two (2) directors shall be Boatlip Lot Owners and at least one (1) director shall be a Septic Lot Owner.

Section 2. Initial Directors. The initial directors shall be selected by the Declarant. Such initial directors shall serve at the election of the Declarant from the date upon which the

Declaration is recorded in the Office of the McDowell County Clerk of Court until such time as their successors are duly elected and qualified.

The names of the persons who shall serve on the initial Board of Directors from the date upon which the Declaration is recorded in the Office of the McDowell County Clerk of Court until such time as their successors are duly elected and qualified are as follows:

<u>Name</u>	<u>Address</u>
Susan L. Foster	400 South Tryon Street, Suite 1300 Charlotte, North Carolina 28201-1003
Stephen M. Schreiner	400 Tryon Street, Suite 1300 Charlotte, North Carolina 282011-1003
Gilbert D. Stephenson, Jr.	400 South Tryon Street, Suite 1300 Charlotte, North Carolina 28201-1003

Section 3. Nomination. Nomination for election to the Board of Directors shall be made from the floor at the first meeting of the Members. After the first election of directors, nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two or more Members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the Members, to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled.

Section 4. Election. Except as provided in Section 6 of this Article, Directors shall be elected at the annual meeting of the Members by written ballot. At such election, the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

Section 5. Term of Office. Each director shall hold office for the term for which he was elected, or until his death, resignation, retirement, removal, disqualification or until his successor is elected and qualified. At the first annual meeting of the Members following the relinquishment of Declarant control as set forth in Section 3.7 of the Bylaws, the Members shall elect one Owner as a Member of the Board of Directors for a term of three (3) years, who shall be the Member receiving the largest number of votes. Members shall also elect one Owner as a Member of the Board of Directors for a term of two (2) years, who shall be the Owner receiving the second largest number of votes. Also, Members shall

elect one Owner as Member of the Board of Directors for a term of one (1) year, who shall be the Owner receiving the next largest number of votes. Following the first annual election after the relinquishment of Declarant control, all Directors shall be elected for three (3) year terms to succeed any Director(s) whose term(s) then expires. Nothing herein contained shall be construed to prevent the election of a Director to succeed himself.

Section 6. Removal. Any director may be removed from the Board, with or without cause, by a majority vote of the Members of the Association. In the event of death, resignation or removal of a director, his successor shall be selected by the remaining members of the Board and shall serve for the unexpired term of his predecessor. The Members may elect a director at any time to fill any vacancy not filled by the directors.

Section 7. Compensation. No director shall receive compensation for any service he may render to the Association. However, any director may be reimbursed for his actual expenses incurred in the performance of his duties.

ARTICLE V

MEETINGS OF DIRECTORS

Section 1. Regular Meetings. Meetings of the Board of Directors shall be held on a regular basis as often as the Board sees fit, but no less often than annually, on such days and at such place and hour as may be fixed from time to time by resolution of the Board. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

Section 2. Special Meetings. Special Meetings of the Board of Directors shall be held when called by the President of the Association, or by any two directors, after not less than three (3) days notice to each director.

Section 3. Quorum. A majority of the number of directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

Section 4. Informal Action by Directors. Action taken by a majority of the directors without a meeting is nevertheless Board action if written consent to the action in question is signed by all of the directors and filed with the minutes of the proceedings of the Board, whether done before or after the action so taken.

Section 5. Chairman. A Chairman of the Board of Directors shall be elected by the directors and shall preside over all Board meetings until the President of the Association

is elected. Thereafter, the President shall serve as Chairman. In the event there is a vacancy in the office of the Presidency, a Chairman shall be elected by the Board of Directors and serve until a new President is elected.

Section 6. Liability of the Board. The members of the Board of Directors shall not be liable to the Owners for any mistake of judgment, negligence, or otherwise except for their own individual willful misconduct or bad faith. The Owners shall indemnify and hold harmless each of the members of the Board against all contractual liability to others arising out of contracts made by the Board on behalf of the Association unless any such contract shall have been made in bad faith or contrary to the provisions of the Declaration or these Bylaws. It is intended that the members of the Board of Directors shall have no personal liability with respect to any contract made by them on behalf of the Association, except to the extent that they are Owner(s).

ARTICLE VI

POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 1. Powers. The Board of Directors shall have power to:

(a) Adopt and publish rules and regulations governing the use of the Common Area and the personal conduct of the Members and their guests thereon, and to establish penalties for the infraction thereof;

(b) Suspend the voting rights and right to use of the Common Area during any period in which such Member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed 60 days for infraction of published rules and regulations;

(c) Exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these Bylaws, the Articles of Incorporation or the Declaration;

(d) Declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors;

(e) Employ a manager, an independent contractor, or such other employees as they deem necessary, and prescribe their duties;

(f) Employ attorneys to represent the Association when deemed necessary;

(g) Grant easements for the installation and maintenance of sewer or water lines and other utilities or drainage facilities upon, over, under and across the Common Area without the assent of the membership when such easements are requisite for the convenient use and enjoyment of the Property;

(h) Appoint and remove at pleasure all officers, agents and employees of the Association, prescribe their duties, fix their compensation and require of them such security or fidelity bond as it may deem expedient; and

(i) Do anything necessary or desirable to carry out the purposes of the Association as set forth herein or as permitted by law.

Section 2. Duties. It shall be the duty of the Board of Directors to:

(a) Cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Members, or at any special meeting when such statement is requested in writing by Members entitled to at least one-third (1/3) of the votes appurtenant to the Lots;

(b) Supervise all officers, agents and employees of the Association, and to see that their duties are properly performed;

(c) As more fully provided in the Declaration:

(1) Fix the amount of the Boatslip Assessments, as defined in the Declaration, against each Boatslip Lot at least thirty (30) days before July 1 of each fiscal year;

(2) Send written notice of each assessment to every Owner subject thereto before its due date and before July 1 of each year;

(3) Fix the amount of any Special Septic System Assessment;

(4) Foreclose the lien against any property for which assessments are not paid within thirty (30) days after due date or to bring an action at law against the Owner personally obligated to pay the same;

(d) Issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. (A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment);

(e) Procure and maintain adequate liability insurance covering the Association and the directors and officers thereof and adequate hazard insurance on the property owned by the Association;

(f) Cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate; and

(g) Cause the Common Areas to be maintained.

ARTICLE VII

OFFICERS AND THEIR DUTIES

Section 1. Officers. The officers of the Association shall be a President and Vice-President, who shall at all times be members of the Board of Directors, a Secretary, and a Treasurer, and such other officers as the Board may from time to time by resolution create.

Section 2. Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the Members.

Section 3. Term. Each officer of the Association shall be elected annually by the Board and each shall hold office for one (1) year or until his death, resignation, retirement, removal, disqualification, or his successor is elected and qualifies.

Section 4. Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority and perform such duties as the Board may, from time to time, determine.

Section 5. Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time by giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 7. Multiple Offices. The offices of Secretary and Treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 4 of this Article.

Section 8. Compensation. No officer shall receive any compensation from the Association for acting as such.

Section 9. Duties. The duties of the officers are as follows:

President

(a) The President shall be the principal executive officer of the Association, and subject, to the control of the Board, shall supervise and control the management of the Association. The President shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments and shall co-sign all checks and promissory notes.

Vice-President

(b) The Vice-President shall act in the place and stead of the President in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board.

Secretary

(c) The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members, shall keep the corporate seal of the Association and affix it on all papers requiring said seal, shall serve notice of meetings of the Board and of the Members, shall keep appropriate current records showing the members of the Association together with their addresses, and shall perform such other duties as required by the Board.

Treasurer

(d) The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors, shall sign all checks and promissory notes of the Association, shall keep proper books of account, shall cause an annual audit of the Association books to be made by a public accountant at the completion of each fiscal year, and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy of each to the Members.

ARTICLE VIII

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COMMITTEES

The Association shall appoint a Nominating Committee, as provided in these Bylaws. In addition, the Board of Directors shall appoint other committees as deemed appropriate in carrying out its purpose.

ARTICLE IX

BOOKS AND RECORDS

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any Member. The Declaration, the Articles of Incorporation and the Bylaws of the Association shall be available for inspection by any member at the principal office of the Association, where copies may be purchased at reasonable cost.

ARTICLE X

ASSESSMENTS

As more fully provided in the Declaration, certain Members are obligated to pay to the Association Boatslip Assessments, Special Boatslip Assessments and Special Septic System Assessments, as defined in the Declaration. Any assessments which are not paid when due shall be delinquent. If an assessment is not paid by its due date, as set forth in the Declaration, the assessment shall bear interest from such due date at the rate of eighteen percent (18%) per annum or the highest rate then permitted by law, whichever is less, plus such late charge as may be established by the Board, and the Association may bring an action at law against the Member personally obligated to pay the same. The late charges, costs of collection and reasonable attorneys' fees related to any such action shall be added to the amount of such assessment, all in accordance with the provisions of the Declaration. No Member may waive or otherwise escape liability for the assessments provided for herein by non-use of the Property.

ARTICLE XI

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CORPORATE SEAL

The Association shall have a seal in circular form having within its circumference the words WATERGLYN PROPERTY OWNERS ASSOCIATION, INC.

ARTICLE XII

AMENDMENTS

Section 1. These Bylaws may be amended, at a regular or special meeting of the Members, by a vote of at least two-thirds (2/3) of all votes present at a duly held meeting of the Members at which a quorum is present in person or by proxy.

Notwithstanding anything in this Section 1 to the contrary, the Class B Member may at its option amend these Bylaws without obtaining the consent or approval of any other person or entity if such amendment is necessary to cause these Bylaws to comply with the requirements of the FHA, VA, Federal National Mortgage Association or similar agency.

Section 2. In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

ARTICLE XIII

MISCELLANEOUS

The fiscal year of the Association shall begin on the first day of July and end on the 30th day of June of every year, except that the first fiscal year shall begin on the date of incorporation.

ARTICLE XIV

INDEMNIFICATION OF DIRECTORS,
AND OFFICERS

The Association shall indemnify any director or officer or former director or officer of the Association or any person who may have served at the request of the Association as a director or officer of another corporation, whether for profit or not for profit, against expenses (including attorneys' fees) or liabilities actually and reasonably incurred by him,

in connection with the defense of or as a consequence of any threatened, pending or completed action, suit or proceeding (whether civil or criminal) in which he is made a party or was (or is threatened to be made) a party by reason of being or having been such director or officer, except in relation to matters as to which he shall be adjudged in such action, suit or proceeding to be liable for gross negligence or willful misconduct in the performance of a duty.

The indemnification provided herein shall not be deemed exclusive of any other rights to which those indemnified may be entitled under any statute, bylaw, agreement, vote of members or disinterested directors or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

The Association may purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Association, or is or was serving at the request of the Association as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against him and incurred by him in such capacity, or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability.

The Association's indemnity of any person who is or was a director or officer of the Association, or is or was serving at the request of the Association as a director or officer of the Association, or is or was serving at the request of the Association as a director or officer of another corporation, partnership, joint venture, trust or other enterprise, shall be reduced by any amounts such person may collect as indemnification (i) under any policy of insurance purchased and maintained on his behalf by the Association or (ii) from such other corporation, partnership, joint venture, trust or other enterprise.

Nothing contained in this Article XIV, or elsewhere in these Bylaws, shall operate to indemnify any director or officer if such indemnification is for any reason contrary to any applicable state or federal law.

END

EXHIBIT "C"
TO
DECLARATION
FOR WATERGLYN BOATSLIPS

500 625

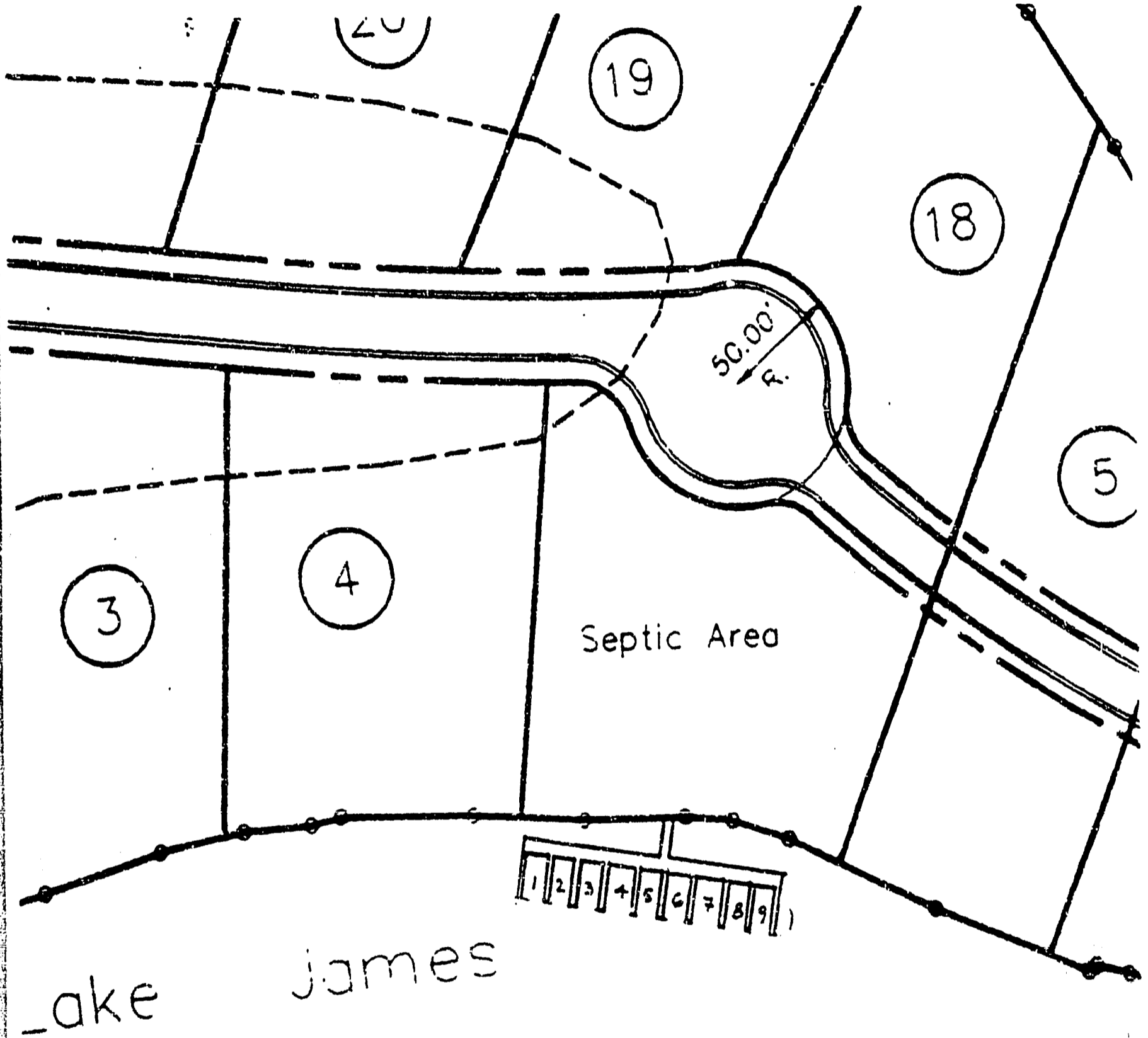


EXHIBIT "D"
TO DECLARATION FOR WATERGLYN

EROSION CONTROL
(Page 1 of 4)

Each owner and Approved Builder shall be responsible for causing the following minimum erosion control practices to be implemented and maintained throughout the course of all earth-disturbing operations until the time of final seeding:

a. Roadway and Homesite Construction Entrance

Prior to the start of any earth-disturbing operation, a stone construction entrance shall be installed on the building site (the "Construction Entrance"). The Construction Entrance shall: (i) if possible, be installed in the same location as the proposed driveway so as to minimize the amount of disturbed area; (ii) extend a minimum of 50 feet from an existing roadway; and (iii) be installed, preserved and replaced, if necessary, in accordance with the standards more particularly set forth on page 2 of this Exhibit D.

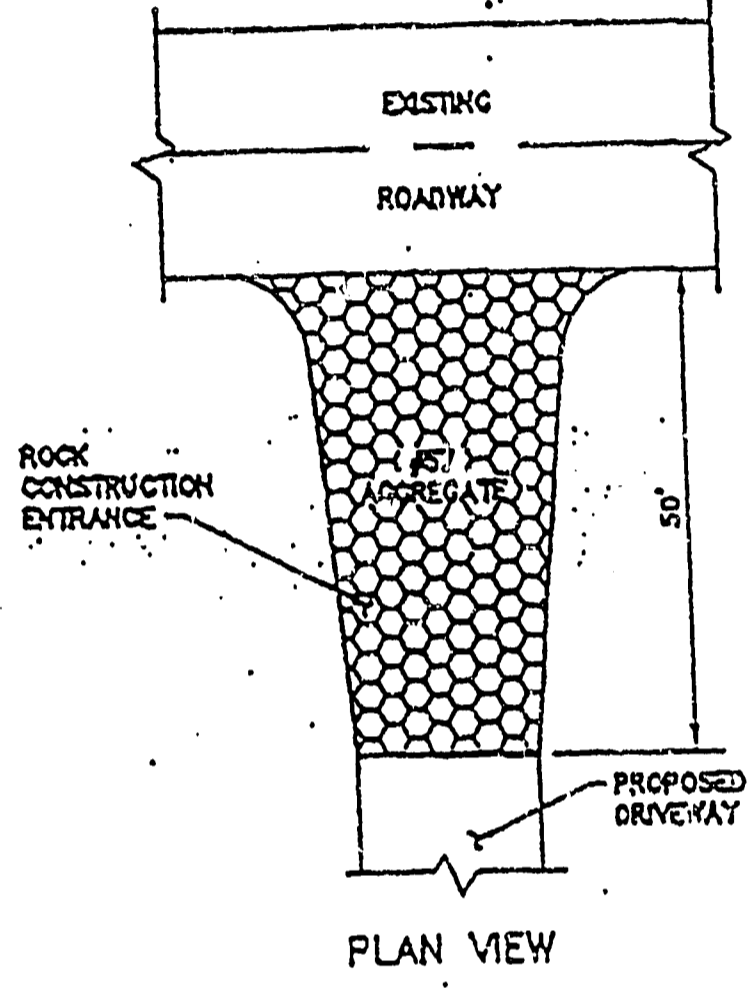
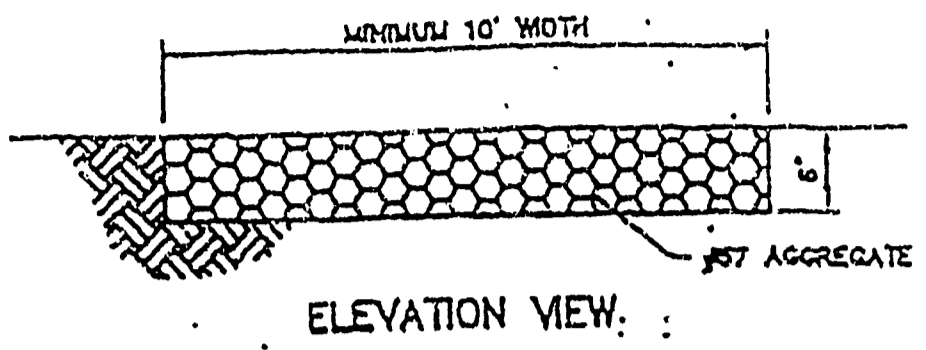
b. Silt Control Devices

Prior to the start of any earth-disturbing operation, a diversion ditch and rock check dam shall be constructed and maintained on the building site (collectively "Silt Control Devices"). The Silt Control Devices shall be located at the boundary of the estimated disturbed area as set forth more particularly on page 3 of this Exhibit D and shall be constructed, preserved and replaced, if necessary, in accordance with the standards set forth on page 4 of this Exhibit D.

EXHIBIT "D"
TO DECLARATION FOR WATERGLYN

EROSION CONTROL
(Page 2 of 4)

500 627



ROADWAY AND HOMESITE
CONSTRUCTION ENTRANCE DETAIL
N. T. S.

CRESCENT RESOURCES
INC

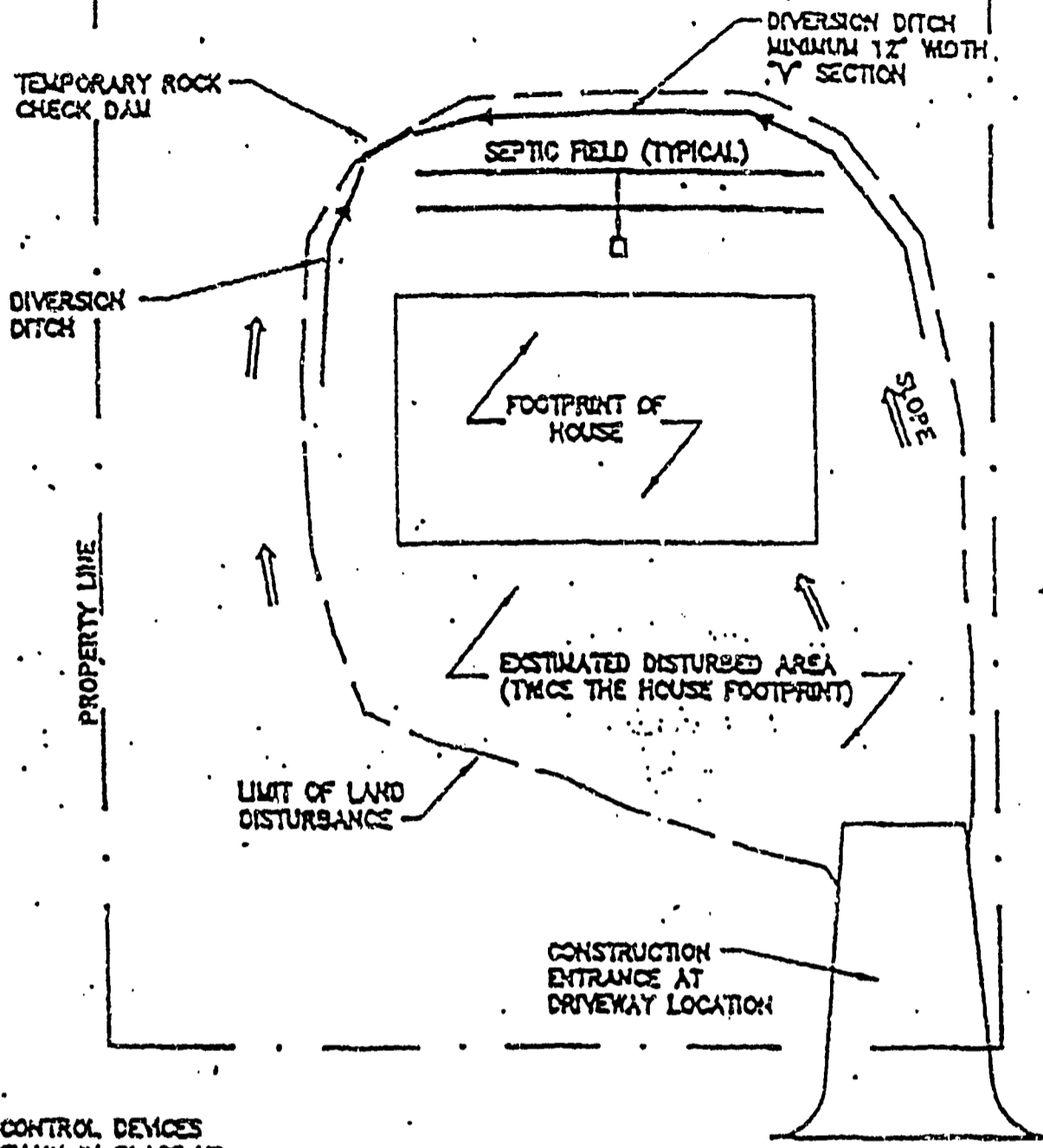
P.O. BOX 1003
CHARLOTTE, NC 28201

PROJECT

EXHIBIT "D"
TO DECLARATION FOR WATERGLYN

EROSION CONTROL
(Page 3 of 4)

500 628



NOTES:

1. SILT CONTROL DEVICES TO REMAIN IN PLACE UP TO TIME OF FINAL SEEDING.
2. ON WATERFRONT LOTS, ALL SEDIMENT CONTROL DEVICES ARE NOT TO ENCRACH ON 50 FT WATERFRONT SETBACK.

TYPICAL EROSION CONTROL MEASURES
FOR INDIVIDUAL HOMESITES

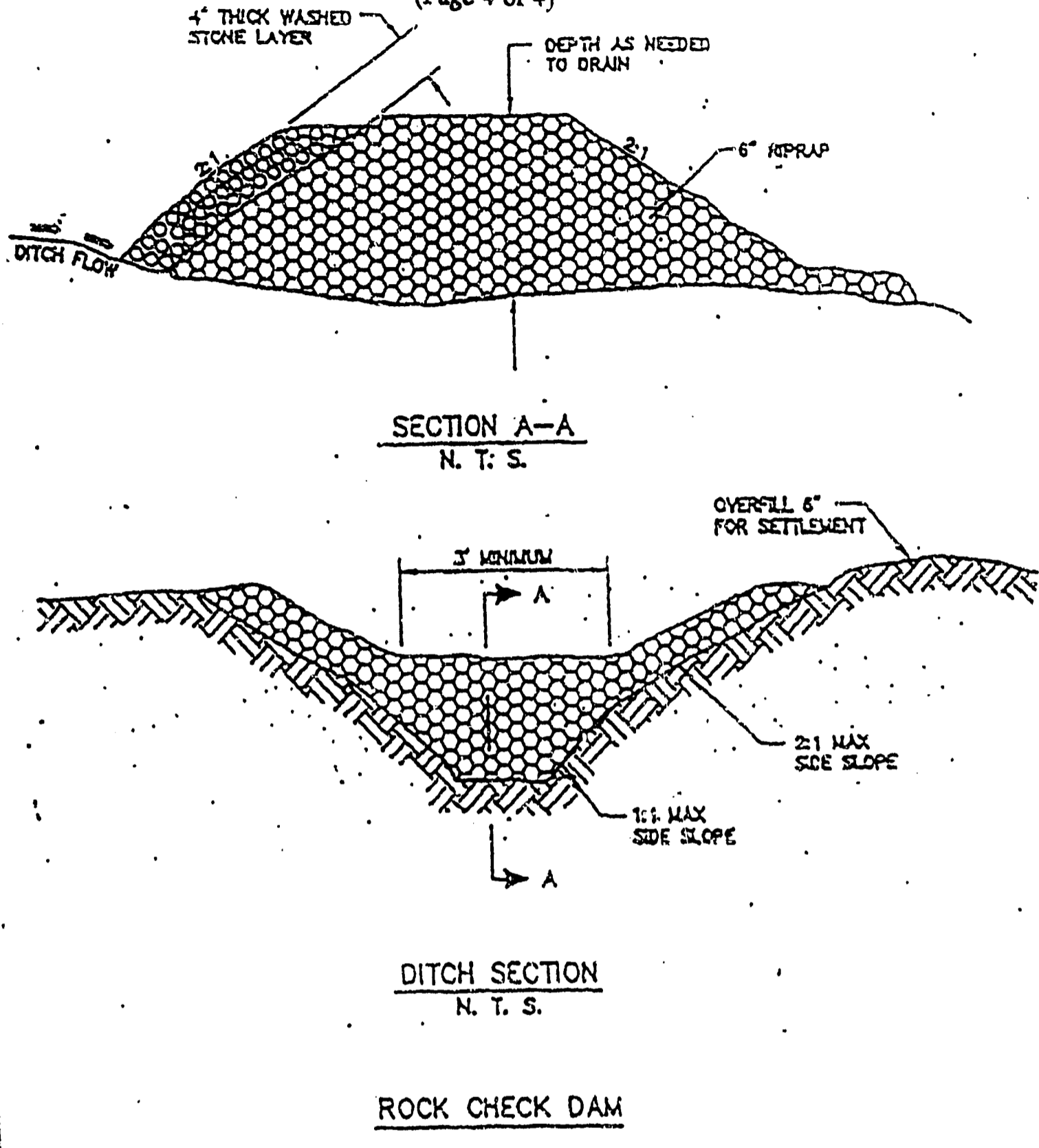
N. T. S.

CRESCENT RESOURCES
INC

P.O. BOX 1003
CHARLOTTE, NC 28201

PROJECT

EROSION CONTROL
(Page 4 of 4)



CRESCENT RESOURCES
INC

P.O. BOX 1003
CHARLOTTE, NC 28201

PROJECT

EXHIBIT "E"
TO
DECLARATION
FOR WATERGLYN PIER ZONES

Bearing Table		
Line	Bearing	Distance
L1	N 30° 46' 15" E	101.98'
L2	S 52° 40' 14" E	35.00'
L3	S 39° 14' 36" W	100.70'
L4	N 54° 33' 54" W	20.00'

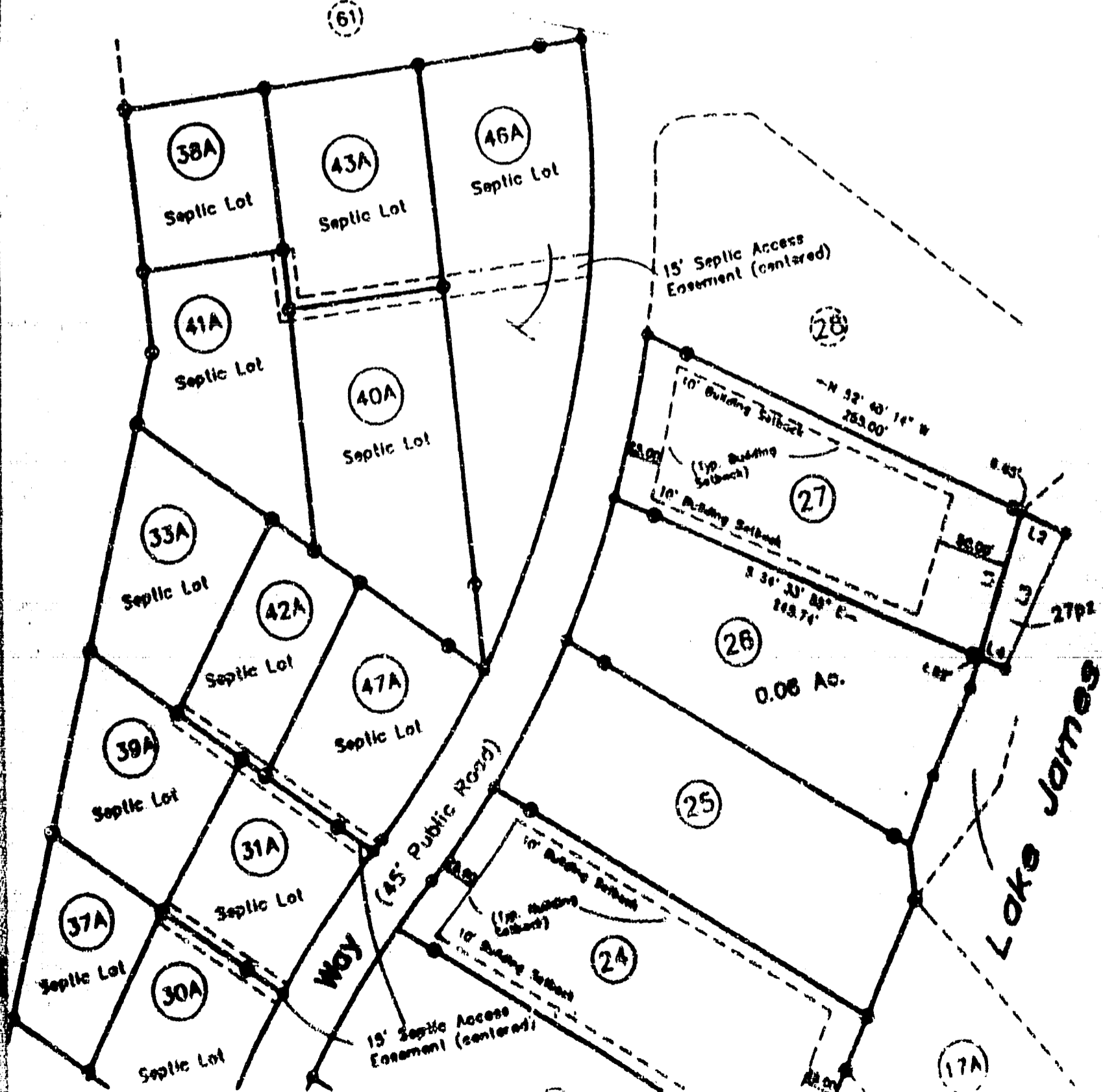


EXHIBIT "E"
TO
DECLARATION
FOR WATERGLYN PIER ZONES

Page 2A of 11 Pages

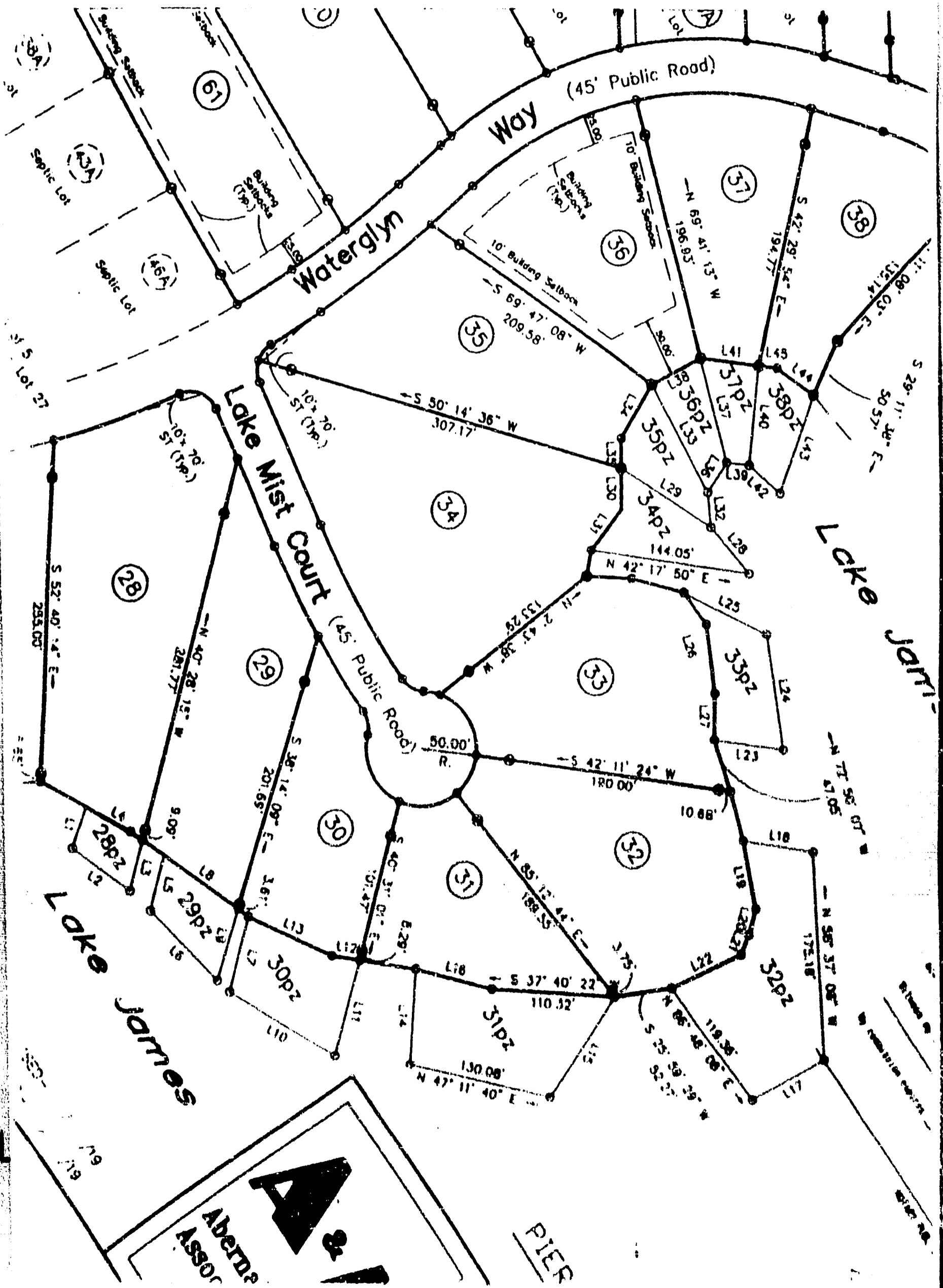


EXHIBIT "E"
TO
DECLARATION
FOR WATERGLYN PIER ZONES

Lake James

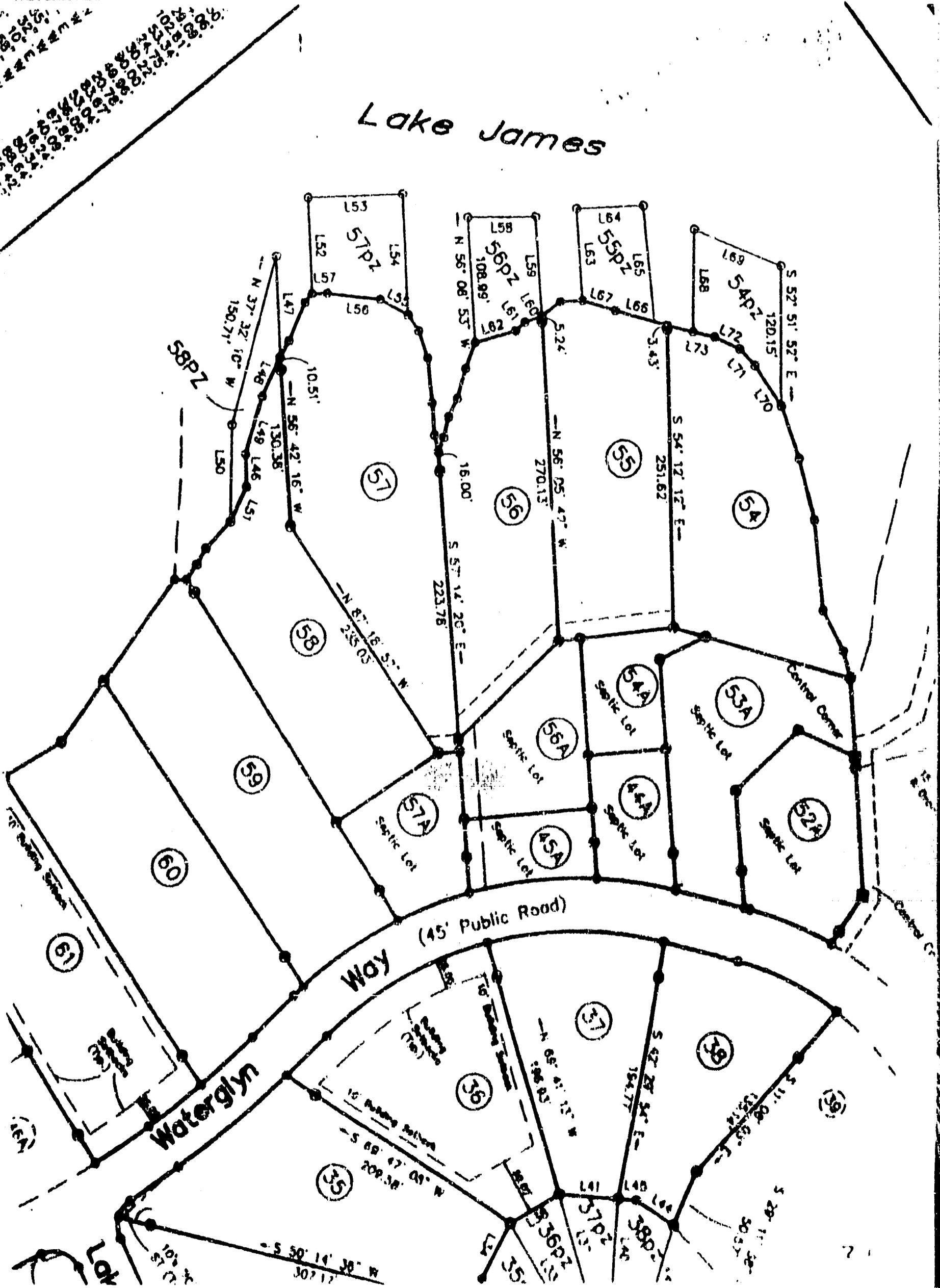


EXHIBIT "E"
 TO
 DECLARATION
 FOR WATERGLYN PIER ZONES

500 633

Page 2C of 11 Pages

BEARING TABLE

Line	Bearing	Distance
L1	S 36° 00' 33" E	37.88'
L2	N 69° 34' 28" E	64.08'
L3	N 40° 38' 23" W	44.91'
L4	S 64° 04' 12" W	59.01'
L5	S 40° 09' 18" E	48.99'
L6	N 78° 49' 30" E	83.78'
L7	N 37° 42' 28" W	63.55'
L8	S 68° 47' 44" W	80.38'
L9	S 39° 57' 10" E	65.37'
L10	N 63° 51' 40" E	108.34'
L11	N 39° 09' 11" W	82.98'
L12	S 42° 51' 33" W	25.57'
L13	S 58° 08' 04" W	81.80'
L14	S 51° 16' 33" E	80.07'
L15	N 21° 12' 23" W	103.22'
L16	S 48° 22' 52" W	71.09'
L17	N 08° 24' 05" E	73.59'
L18	S 43° 10' 10" W	63.69'
L19	S 66° 43' 06" E	59.35'
L20	S 39° 21' 22" E	22.75'
L21	S 31° 05' 02" E	18.02'
L22	S 10° 25' 04" W	59.22'
L23	N 42° 01' 55" E	62.58'
L24	N 63° 37' 33" W	100.39'
L25	S 59° 32' 36" W	82.33'
L26	S 73° 26' 30" E	90.05'
L27	S 54° 04' 25" E	40.38'
L28	S 83° 43' 25" W	52.61'
L29	S 65° 38' 29" W	94.53'
L30	S 55° 02' 44" E	34.60'
L31	S 17° 25' 44" E	44.08'
L32	N 60° 46' 31" W	29.09'
L33	N 84° 29' 17" W	102.81'
L34	S 23° 33' 56" E	53.34'
L35	S 55° 02' 44" E	24.75'
L36	N 21° 26' 35" W	30.22'
L37	N 69° 41' 13" W	90.00'
L38	S 07° 54' 21" W	49.98'
L39	N 40° 23' 02" E	20.78'
L40	N 48° 40' 35" W	83.67'
L41	S 41° 19' 32" W	53.04'
L42	N 75° 34' 10" E	38.05'
L43	N 34° 17' 58" W	87.84'
L44	S 69° 24' 04" W	40.09'
L45	S 41° 19' 32" W	16.24'
L46	N 51° 58' 01" W	60.34'
L47	S 55° 01' 47" E	88.64'
L48	S 27° 08' 47" E	38.42'
L49	S 35° 12' 25" E	50.87'
L50	S 54° 36' 25" E	26.93'
L51	S 28° 53' 37" E	32.15'
L52	N 54° 59' 41" W	83.28'
L53	N 35° 07' 42" E	84.37'
L54	S 55° 11' 02" E	104.86'
L55	S 65° 37' 04" W	28.13'
L56	S 43° 45' 43" W	47.48'
L57	S 35° 07' 12" W	13.57'
L58	N 36° 28' 34" E	80.89'
L59	S 56° 17' 18" E	66.34'
L60	S 16° 41' 45" W	15.88'
L61	S 04° 50' 44" E	11.10'
L62	S 21° 22' 03" W	38.29'
L63	N 56° 37' 41" W	79.70'
L64	N 34° 37' 58" E	60.08'
L65	S 58° 15' 08" E	101.28'
L66	S 52° 47' 42" W	38.29'
L67	S 53° 58' 51" W	30.65'
L68	N 51° 54' 09" W	89.20'
L69	N 59° 15' 57" E	63.40'
L70	N 87° 38' 07" W	41.22'
L71	S 82° 46' 48" W	19.61'
L72	S 61° 12' 06" W	24.35'
L73	S 50° 26' 40" W	19.34'

EXHIBIT "E"
 TO
 DECLARATION
 FOR WATERGLYN PIER ZONES
 Page 3A of 11 Pages

500 634

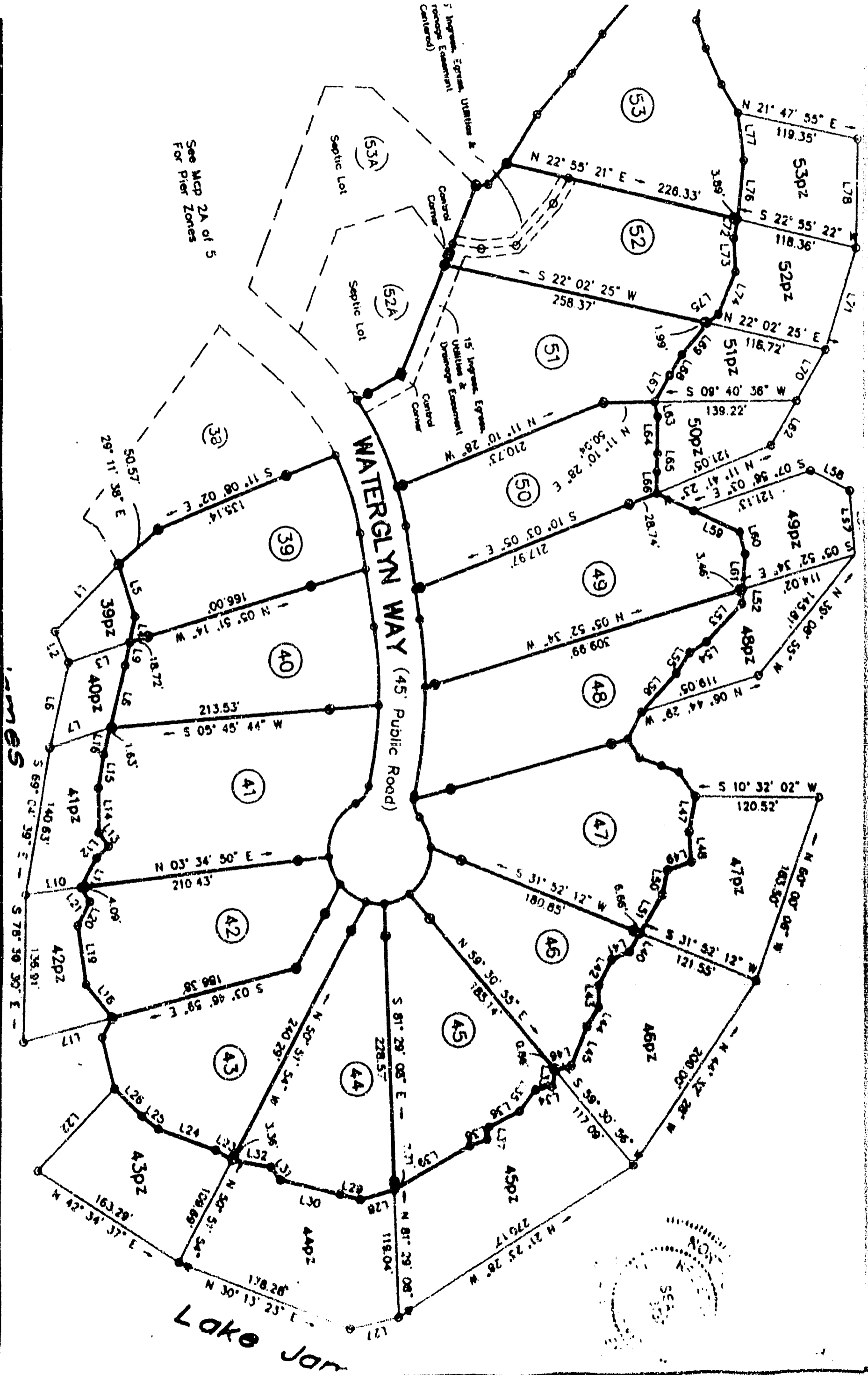


EXHIBIT "E"
TO
DECLARATION
FOR WATERGLYN PIER ZONES
Page 3B of 11 Pages

500 635

Bearing Table

Line	Bearing	Distance
L1	S 34° 17' 58" E	67.84'
L2	N 76° 42' 22" E	31.74'
L3	N 06° 48' 57" W	62.82'
L4	N 67° 25' 10" W	24.52'
L5	S 82° 36' 25" W	50.71'
L6	S 66° 37' 15" E	82.42'
L7	N 07° 21' 33" W	61.77'
L8	N 65° 11' 29" W	60.51'
L9	N 67° 25' 10" W	21.96'
L10	N 03° 34' 50" E	55.00'
L11	N 50° 06' 28" W	32.00'
L12	N 32° 46' 12" W	15.91'
L13	S 64° 37' 10" W	16.09'
L14	N 79° 54' 46" W	42.02'
L15	N 69° 20' 42" W	32.17'
L16	N 65° 11' 29" W	25.94'
L17	N 03° 46' 59" W	90.00'
L18	S 60° 38' 17" W	39.72'
L19	N 87° 38' 33" W	55.83'
L20	N 51° 04' 21" W	25.27'
L21	S 66° 44' 46" W	16.04'
L22	S 34° 58' 06" E	107.36'
L23	S 40° 13' 46" W	18.96'
L24	S 30° 08' 51" W	59.55'
L25	S 47° 11' 51" W	20.29'
L26	S 53° 58' 59" W	36.96'
L27	N 01° 51' 39" W	48.65'
L28	S 05° 06' 26" E	34.76'
L29	S 24° 29' 27" W	20.48'
L30	S 23° 15' 28" W	59.75'
L31	S 63° 39' 12" W	14.81'
L32	S 20° 01' 42" W	38.66'
L33	S 68° 44' 50" E	15.49'
L34	S 00° 36' 53" E	16.42'
L35	S 40° 02' 20" E	25.45'
L36	S 13° 50' 30" E	33.27'
L37	S 71° 37' 06" E	11.63'
L38	S 09° 57' 50" E	17.64'
L39	S 19° 01' 16" E	84.56'
L40	S 48° 33' 45" E	19.91'
L41	S 13° 28' 20" E	18.93'
L42	S 51° 36' 47" E	27.48'
L43	S 79° 07' 03" E	19.67'
L44	S 47° 08' 25" E	21.67'
L45	S 56° 43' 33" E	38.97'
L46	S 04° 06' 52" E	16.73'
L47	S 69° 02' 30" E	33.87'
L48	S 83° 23' 04" E	28.38'
L49	S 06° 09' 56" E	24.54'
L50	S 67° 50' 10" E	23.60'
L51	S 48° 33' 45" E	42.17'
L52	S 74° 59' 34" E	13.09'
L53	S 34° 46' 40" E	49.67'
L54	S 22° 06' 28" E	19.23'
L55	S 44° 59' 41" E	23.10'
L56	S 37° 00' 55" E	49.52'
L57	N 83° 18' 25" W	59.34'
L58	S 36° 19' 33" W	42.55'
L59	N 33° 39' 27" E	40.80'
L60	N 65° 38' 11" E	20.95'
L61	S 74° 58' 34" E	32.23'
L62	N 48° 44' 16" W	49.73'
L63	N 68° 56' 10" E	14.09'
L64	S 79° 22' 00" E	35.28'
L65	S 74° 23' 33" E	16.60'
L66	S 79° 06' 46" E	20.48'
L67	N 49° 31' 09" W	28.71'
L68	N 47° 32' 10" W	22.73'
L69	N 39° 09' 55" W	38.55'
L70	S 48° 44' 16" E	55.82'
L71	N 61° 43' 30" W	97.16'
L72	S 66° 49' 38" E	18.24'
L73	S 62° 07' 35" E	29.83'
L74	S 56° 00' 22" E	41.96'
L75	S 25° 57' 34" E	13.70'
L76	N 72° 40' 10" W	53.36'
L77	N 67° 04' 15" W	44.39'
L78	S 78° 22' 30" E	99.10'

EXHIBIT "E"
TO
DECLARATION
FOR WATERGLYN PIER ZONES

Page 4B of 11 Pages

500 637

4 B

BEARING TABLE

Line	Bearing	Distance
L1	N 28° 45' 26" W	28.43'
L2	N 50° 04' 41" E	51.73'
L3	N 88° 49' 32" E	29.70'
L4	S 19° 38' 15" E	32.72'
L5	S 78° 27' 53" W	25.49'
L6	S 52° 41' 47" W	52.18'
L7	N 09° 17' 48" E	57.58'
L8	N 25° 04' 45" E	20.68'
L9	S 66° 12' 54" E	24.46'
L10	S 22° 30' 49" W	74.71'
L11	N 74° 19' 17" W	12.30'
L12	N 23° 08' 55" E	54.00'
L13	N 31° 12' 44" E	28.98'
L14	S 82° 29' 32" E	34.24'
L15	S 28° 59' 17" W	83.81'
L16	N 60° 29' 40" W	29.83'
L17	N 28° 07' 00" E	13.38'
L18	N 40° 21' 12" E	56.51'
L19	N 43° 21' 09" E	20.40'
L20	S 47° 02' 17" E	48.25'
L21	S 48° 54' 36" W	83.84'
L22	N 58° 55' 52" W	36.85'

EXHIBIT "E"
TO
DECLARATION
FOR WATERGLYN PIER ZONES

500 638

Page 5A of 11 Pages

5A

Lake

car
under
by letter
approved
that this plat
blotting of
of *WATTS*

WATTS

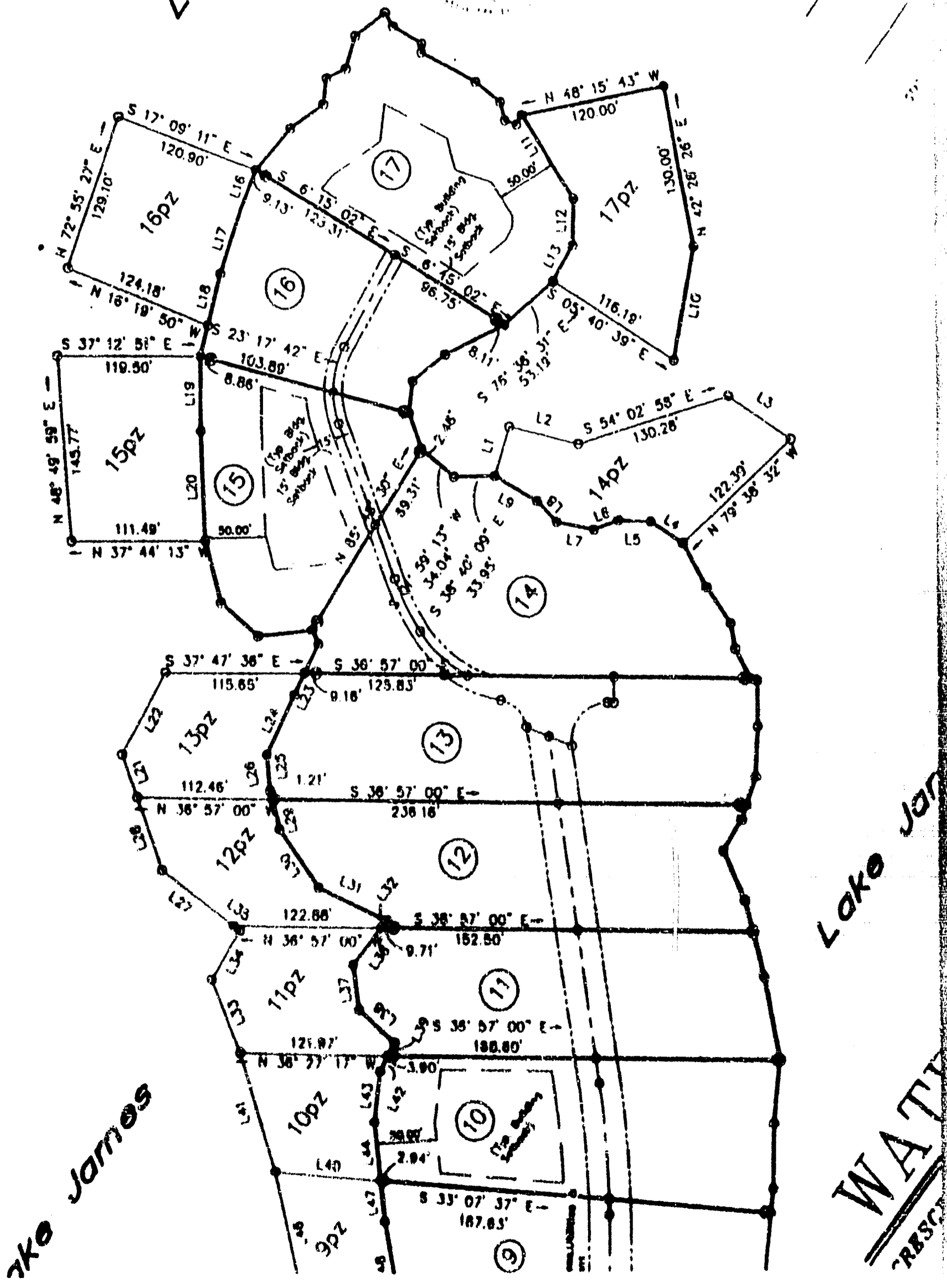


EXHIBIT "E"
TO
DECLARATION
FOR WATERGLYN PIER ZONES

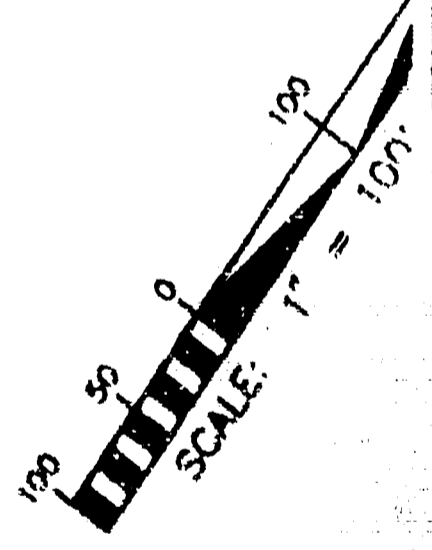
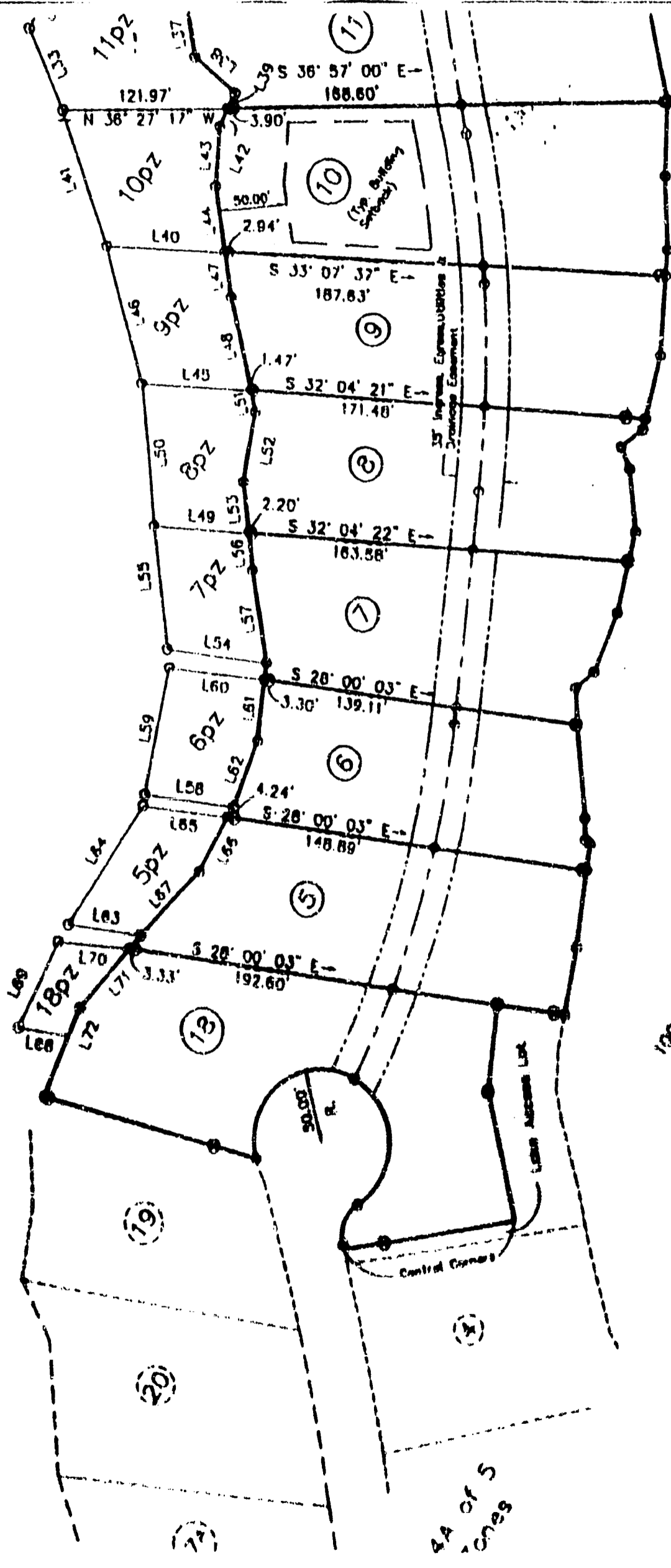
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Page 5B of 11 Pages

5 B

Lake James

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A CRESCENT PIER



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EXHIBIT "E"
TO
DECLARATION
FOR WATERGLYN PIER ZONES

500 640

Page 5C of 11 Pages

5C

Bearing Table		
Line	Bearing	Distance
L1	N 70° 55' 16" E	40.38'
L2	S 24° 01' 19" E	58.36'
L3	S 04° 40' 21" E	61.08'
L4	N 04° 39' 13" W	31.61'
L5	N 35° 24' 14" W	26.63'
L6	N 57° 40' 58" W	21.85'
L7	N 25° 49' 00" W	31.01'
L8	N 08° 21' 15" E	23.37'
L9	N 07° 46' 32" W	39.91'
L10	N 64° 11' 08" E	90.00'
L11	S 20° 49' 21" W	78.50'
L12	S 54° 39' 35" W	37.69'
L13	S 82° 36' 06" W	32.37'
L14	VOID	
L15	VOID	
L16	S 74° 34' 24" W	35.95'
L17	S 72° 03' 27" W	53.62'
L18	S 68° 05' 55" W	41.48'
L19	S 53° 08' 39" W	57.77'
L20	S 51° 12' 01" W	88.67'
L21	N 33° 17' 06" E	35.64'
L22	N 82° 25' 17" E	74.31'
L23	S 79° 15' 02" W	19.25'
L24	S 79° 00' 16" W	53.29'
L25	S 47° 38' 32" W	28.12'
L26	S 39° 49' 10" W	7.00'
L27	N 01° 08' 40" W	72.72'
L28	N 33° 17' 06" E	61.02'
L29	S 39° 49' 10" W	24.62'
L30	S 17° 44' 31" W	55.64'
L31	S 12° 47' 07" E	61.90'
L32	N 88° 04' 14" W	6.80'
L33	N 30° 24' 29" E	61.30'
L34	N 84° 20' 51" E	45.10'
L35	N 01° 08' 40" W	6.54'
L36	N 88° 04' 14" W	38.18'
L37	S 44° 52' 09" W	34.78'
L38	S 04° 04' 22" W	38.53'
L39	S 80° 32' 23" W	11.90'
L40	N 33° 07' 37" W	87.58'
L41	N 38° 19' 16" E	99.23'
L42	S 80° 32' 23" W	14.12'
L43	S 59° 40' 58" W	40.66'
L44	S 46° 43' 16" W	47.17'
L45	N 32° 29' 59" W	80.57'
L46	N 40° 08' 40" E	103.50'
L47	S 46° 43' 16" W	32.52'
L48	S 42° 46' 09" W	70.09'
L49	N 32° 04' 27" W	70.17'
L50	N 49° 41' 19" E	100.44'
L51	S 42° 46' 09" W	16.43'
L52	S 65° 20' 36" W	49.62'
L53	S 47° 59' 41" W	39.47'
L54	N 28° 24' 51" W	73.81'
L55	N 47° 42' 42" E	86.21'
L56	S 47° 59' 41" W	28.16'
L57	S 45° 19' 08" W	85.36'
L58	N 28° 34' 56" W	68.53'
L59	N 88° 14' 05" E	91.87'
L60	S 28° 10' 12" E	70.80'
L61	S 61° 08' 04" W	44.16'
L62	S 75° 36' 26" W	48.63'
L63	N 27° 58' 37" W	53.75'
L64	N 88° 17' 16" E	98.78'
L65	S 28° 08' 00" E	63.53'
L66	S 83° 53' 00" W	43.79'
L67	N 80° 53' 39" W	61.88'
L68	N 27° 43' 52" W	37.42'
L69	N 81° 03' 47" E	86.74'
L70	S 36° 44' 34" E	82.80'
L71	N 83° 30' 42" W	54.63'
L72	S 76° 27' 53" W	20.66'

collecting and disbursing the assessments and charges hereinafter created, in order to efficiently preserve, protect and enhance the values and amenities in the Subdivision, including the Common Areas and Septic System, to ensure specific rights, privileges and easements in the Common Areas and Septic System, and to provide for the maintenance and upkeep of the Common Areas and Septic System.

To that end, the Declarant has or will cause to be incorporated under North Carolina law, pursuant to the Articles of Incorporation attached hereto as Exhibit A, and incorporated herein by reference, WATERGLYN PROPERTY OWNERS ASSOCIATION, INC., as a nonprofit corporation for the purpose of exercising and performing the aforesaid functions, said corporation to be governed by the Bylaws attached hereto as Exhibit B, and incorporated herein by reference.

NOW, THEREFORE, Declarant, by this Declaration, does declare that all of the Lots and Common Areas are and shall be held, transferred, sold, conveyed and occupied subject to the covenants, conditions, restrictions, easements, charges and liens set forth in this Declaration, which shall run with the Lots and Common Areas and be binding on all parties owning any right, title or interest in the Lots and Common Areas or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

Section 1.1. "Additional Property" shall mean and refer to additional property which may be made subject to the terms of this Declaration in accordance with the provisions of Section 2.2 of this Declaration.

Section 1.2. "Approved Builder" shall mean and refer to one or more persons or companies, in the business of building and selling homes to individuals, selected by Declarant to construct some or all of the Piers or Boatlips, and to buy Lots and construct homes for sale in the Subdivision.

Section 1.3. "Articles of Incorporation" shall mean and refer to the Articles of Incorporation for the Association attached as Exhibit A hereto, and incorporated herein by reference.

Section 1.4. "Association" shall mean and refer to WATERGLYN PROPERTY OWNERS ASSOCIATION, INC., a North Carolina non-profit corporation, and its successors and assigns.

Section 1.5. "Board of Directors" shall mean and refer to the Board of Directors of the Association, which shall be elected and shall serve pursuant to the Bylaws.

Section 1.6. "Boatslip Lots" shall mean and refer to Lots 1, 20, 23 - 26 and 59 - 61 of the Subdivision which have or shall have, as an appurtenance to each of such Boatslip Lots, the right to use a Boatslip, whether acquired by deed from Declarant or other conveyance. Provided, however, that the right to use a particular Boatslip may be conveyed by a recorded instrument to the Owner of any other Lot in accordance with Article IV, Section 4.8 of this Declaration.

Section 1.7. "Boatslips" shall mean and refer to the Boatslips over the waters of Lake James, which Boatslips are designated as Boatslips 1 through 9 on Exhibit C attached hereto and incorporated herein by reference, in the approximate locations shown on Exhibit C.

Section 1.8. "Bylaws" shall mean and refer to the Bylaws for the Association attached as Exhibit B hereto, and incorporated herein by reference.

Section 1.9. "Common Area" or "Common Areas" shall mean and refer to the Lake Access Lot, Piers and Boatslips collectively. The Common Areas shall be owned by the Association (except as otherwise provided herein) for the common use, benefit and enjoyment only of the Owners of Boatslip Lots (and not for the use and enjoyment of any other Owners), subject to individual Boatslip Lot Owners' exclusive rights applicable to the use, benefit and enjoyment of specified Boatslips and Piers as designated in this Declaration or any one or more Supplemental Declarations. The Declarant reserves the right, but not the obligation, to provide additional Common Areas within the Subdivision.

Section 1.10. "Declarant" shall mean and refer to Crescent Resources, Inc., and such of its successors and assigns to whom rights of Declarant hereunder are transferred by written instrument recorded in the Office of the Register of Deeds for McDowell County.

Section 1.11. "Lake Access Lot" shall mean and refer to the land designated on the Map as "Lake Access Lot".

Section 1.12. "Lot" or "Lots" shall mean and refer to the separately numbered single family lots which, collectively, comprise the Subdivision.

Section 1.13. "Map" shall mean and refer to (i) the map of the Common Area attached as Exhibit C hereto; (ii) the recorded plat of the Subdivision, recorded in Map Book 5 at page 14-18 of the Office of the Register of Deeds for McDowell County; and (iii) any revisions of such map or maps recorded in the Office of the Register of Deeds for McDowell County, North Carolina.

Section 1.14. "Member" shall mean and refer to every person or entity who holds membership in the Association.

Section 1.15. "Mortgage" shall mean any mortgage or deed of trust constituting a first lien on a Lot.

Section 1.16. "Mortgagee" shall mean the Owner and holder of a Mortgage at the time such term is being applied.

Section 1.17. "Owner" shall mean and refer to the record Owner, whether one or more persons or entities, of a fee simple title to any Lot, including the Declarant if it owns any Lot in the Subdivision, but excluding those having such interest merely as security for the performance of an obligation.

Section 1.18. "Pier" shall mean and refer to that certain Pier or Piers, containing the Boatslips, which may be constructed over the waters of Lake James, which Pier is shown on Exhibit C, attached hereto and incorporated herein by reference, together with any additional Piers which Declarant may cause to be constructed in accordance with terms of Section 2.2 of this Declaration, and which Piers are more particularly addressed in Section 4.6 and Section 4.8 of this Declaration.

Section 1.19. "Pier Zone" shall mean and refer to that area shown on Exhibit E, attached hereto and incorporated by reference, where Owners of Lots adjoining the waters of Lake James may construct a dock or pier in accordance with Section 8.26 of this Declaration.

Section 1.20. "Property" shall mean and refer to the Lots and the Common Areas shown on the Map.

Section 1.21. "Septic Field Lot" shall mean and refer to the Septic Field Lots designated on the Map, which shall be conveyed with a corresponding "Septic Lot" (as hereinafter defined) for the purpose of draining the "Septic System" (as hereinafter defined) serving the "Septic Lot". The Owner of a Septic Field Lot shall be hereinafter referred to as a "Septic Field Lot Owner."

Section 1.22. "Septic Lot" shall mean and refer to those Lots utilizing the Septic Field Lots to drain the Septic System serving the Septic Lot. The Owner of a Septic Lot shall be hereinafter referred to as a "Septic Lot Owner."

Section 1.23. "Septic System" shall mean and refer to all pipes, equipment, and other apparatus related to sewage disposal.

Section 1.24. "Subdivision" shall mean and refer to WATERGLYN, a single-family residential subdivision developed adjacent to the Property by Declarant, as the same is shown on the Map.

ARTICLE II

PROPERTY SUBJECT TO THIS DECLARATION
AND WITHIN THE JURISDICTION OF
THE ASSOCIATION

Section 2.1. Property. The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration, and which is and shall be within the jurisdiction of the Association, is the Lots, the Common Area, and all other property shown on the Map.

Section 2.2. Additions to the Property.

(a) Declarant may cause real property contiguous to the Subdivision (the "Additional Property") to be made subject to the terms and scheme of this Declaration by filing a Supplemental Declaration in the Office of the Register of Deeds of McDowell County, containing a description of the Additional Property and a statement by the Declarant of its intent to extend the operation and effect of this Declaration to the Additional Property. Declarant may also cause additional Boatslips adjacent to the Property or any Additional Property to be constructed and made subject to the terms and scheme of this Declaration by the filing of a Supplemental Declaration describing the number of Boatslips to be added and a statement by Declarant of its intent to extend the operation and effect of this Declaration to the additional Boatslips. Notwithstanding the foregoing, the covenants and restrictions established herein as applied to or imposed upon the Additional Property may be altered or modified by the Supplemental Declaration as provided in Subparagraph (b) below.

(b) Any Supplemental Declaration may contain complementary additions to the covenants and restrictions contained herein as may be necessary in the judgment of the Declarant to reflect the different character of the Additional Property. In no event, however, shall any Supplemental Declaration revoke, modify or add to the covenants and restrictions contained herein with respect to the Property, nor revoke, modify, change or add to the covenants and restrictions established by previously filed Supplemental Declarations, without meeting the requirements for Amendment set forth in Section 12.3 of this Declaration.

ARTICLE III

PROPERTY RIGHTS

Section 3.1. Ownership of Common Areas. Declarant shall convey to the Association the Common Areas to be owned by the Association. Notwithstanding the recordation of any Map or any other action by Declarant or the Association, all Common Areas shall remain private property dedicated for the use and enjoyment of the Boatslip Lot Owners and shall not be considered as dedicated to the use and enjoyment of any other Owners or of the public.

Section 3.2. Boatslip Lot Owners' Rights to Use and Enjoy Common Areas. Each Owner of a Boatslip Lot shall have the non-exclusive easement and right to use and enjoy the Common Areas which shall be appurtenant to and shall pass with the title to his Boatslip Lot, subject to the following:

(a) the right of the Association to promulgate and enforce reasonable regulations governing the use of the Common Areas to insure the availability of the right to use the Common Areas to the Boatslip Lot Owners and the safety of all Boatslip Lot Owners on the Common Areas;

(b) the right of the Association to suspend the voting rights of any Owner in the Association and the right of the Association to suspend the right to use the Common Areas by an Owner for any period during which any assessment against his Boatslip Lot remains unpaid, and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;

(c) the right of the Declarant or the Association to grant utility, drainage and other easements across the Common Areas; and

(d) the Common Area may be used only by those Owners specifically entitled thereto under this Declaration; and

(e) the provisions of Section 4.8 below.

Section 3.3. Delegation of Use. The Common Area may only be used by Owners of Boatslip Lots, their families, guests and invitees. Each Boatslip may only be used by the Owner(s) of the Boatslip Lot to which such Boatslip is designated an appurtenance, and by their families, guests and invitees.

ARTICLE IV

THE ASSOCIATION

Section 4.1. Membership. Every Owner of a Lot shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot in the Subdivision.

Section 4.2. Classes of Lots and Voting Rights. The voting rights of the Membership shall be appurtenant to the ownership of Lots. There shall be two classes of Lots with respect to voting rights:

(a) **Class A Lots.** Class A Lots shall be all Lots except Class B Lots as defined below. Each Class A Lot shall entitle the Owner(s) of said Lot to one (1) vote. When more than one person owns an interest (other than a leasehold or security interest) in any Lot, all such persons shall be Members and the voting rights appurtenant to said Lot shall be exercised as they, among themselves, determine, but in no event shall more than one (1) vote be cast with respect to any Class A Lot.

(b) **Class B Lots.** Class B Lots shall be all Lots owned by Declarant which have not been conveyed to purchasers who are not affiliated with the Declarant. The Declarant shall be entitled to three (3) votes for each Class B Lot owned.

Section 4.3. Relinquishment of Control. 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 number of votes in the Class A membership held by Owners occupying full-time homes in the Subdivision equals the total number of votes outstanding in the Class B membership; or

(b) upon the expiration of five (5) full years after the registration of this Declaration, unless Declarant, in its sole discretion, elects to convert all the Class B Lots to Class A Lots at an earlier time.

Section 4.4. Availability of Documents. The Association shall maintain current copies of the Declaration, the Bylaws and other rules concerning the Common Areas as well as its own books, records and financial statements available for inspection by all Owners, Mortgagees and insurers and guarantors of Mortgages that are secured by available upon reasonable notice and during normal business hours. In addition, any Mortgagee may, at its own expense, have an audited statement prepared with respect to the finances of the Association.

Section 4.5. Management Contracts. The Association is authorized and empowered to engage the services of any person, firm or corporation to act as managing agent of the Association at a compensation to be established by the Board of Directors and to perform all of the powers and duties of the Association. Provided, however, that the term of any such agreement with a managing agent shall not exceed one (1) year and shall only be renewed by agreement of the parties for successive one (1) year terms. Any such contract shall be terminable by the Association with or without cause upon ninety (90) days' prior written notice to the manager without payment of a termination fee.

Section 4.6. Maintenance. The Common Area shall be maintained exclusively by the Association. Maintenance for the Lake Access Lot shall include repair and maintenance of the landscaping located thereon. Maintenance for the Pier and Boatslips shall include the maintenance, repair and reconstruction, where necessary, of the Pier and Boatslips, including all lighting, water lines and other fixtures, wires, railings and other facilities located thereon and providing and paying for utility charges thereof.

The Association shall maintain all utilities and all storm and drainage easements located within the Common Areas, together with common amenities located within the Common Areas not maintained by public entities or utilities. The Association shall also administer and enforce the maintenance of the Septic System through Special Assessments of Septic Lot Owners as set out in Article VI of this Declaration.

Section 4.7. Reserve Fund. The Association shall establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of improvements located on all Common Areas which the Association is obligated to maintain and in order to fund unanticipated expenses of the Association or to acquire equipment or services deemed necessary or desirable by the Board of Directors. Such reserve fund shall be collected and maintained out of the Boatslip Assessment, as hereinafter defined, as set forth in Section 5.2(i).

Section 4.8. Pier and Boatslips. The Association shall own, maintain, repair and, if destroyed, replace, as a common expense of the Association, payable, however, only by the Owners of the Boatslip Lots through the Boatslip and Special Boatslip Assessments, the Pier and Boatslips.

Declarant shall have the exclusive right to construct some or all of the Piers and Boatslips in approximately the locations shown on the Map and to transfer this right to construct to Approved Builders.

In the initial deeds of the Boatslip Lots, or by other conveyance instruments, such as supplemental Declarations, Declarant shall designate by number designation one Boatslip as an appurtenance to each Boatslip Lot conveyed. Such deed(s) or other conveyance instrument(s), shall provide that a particular Boatslip Lot Owner is granted the exclusive right to use a particular Boatslip. Except as provided in the following sentence, once

designated in such initial deed(s), the exclusive right to use a particular Boatslip shall not be separated from ownership of the Boatslip Lot described in such initial deed of conveyance, but rather shall run with the title to the Boatslip Lot to which the Boatslip is designated as an appurtenance; any deed, deed of trust, mortgage, transfer or other conveyance of such Boatslip Lot shall also transfer or convey the right to use the Boatslip appurtenant thereto, even if not expressly included therein. Provided, the right to use a particular Boatslip may be conveyed by recorded instrument to the Owner of, and may be made an appurtenance to, any other Lot, in which case the right to use that Boatslip shall then run with the title to such other Lot; such other Lot shall thereafter be a Boatslip Lot; and the Original Boatslip Lot shall no longer be a Boatslip Lot. A Boatslip may not be conveyed or leased other than to an Owner of a Lot. Declarant shall have the right to use and shall have the obligation to pay Boatslip and Special Boatslip Assessments on any Boatslips constructed by them and not conveyed to an Owner, subject to the provisions of Section 5.6 of this Declaration.

In the event that the Pier contains more Boatslips than there are Boatslip Lots in the Subdivision, then any Boatslip which is not designated as an appurtenance to a Boatslip Lot shall remain the property of Declarant unless specifically conveyed to the Association by deed or Supplemental Declaration. An undesignated Boatslip owned by the Association shall be held for the common use and enjoyment only of the Owners of Boatslip Lots, their families, guests and invitees, for the purpose of temporarily docking boats, and may not be leased by the Association to, or used by, any other party or the public. No boat or other recreational vehicle shall be permitted to remain overnight in any undesignated Boatslip.

The placement, construction, or use of the Pier and Boatslips, or the conducting of any activity altering the topography of, the hydroelectric project surrounding and encompassing the waters of Lake James, is and shall be subject to each of the following:

- (a) Easements, restrictions, rules and regulations for construction and use affecting the Subdivision and as promulgated by the Association;
- (b) All laws, statutes, ordinances and regulations of all Federal, State and local governmental bodies having jurisdiction thereon, including without limitation the Federal Energy Regulatory Commission;
- (c) Rules and regulations, privileges and easements affecting the property and the waters and submerged land of Lake James established by Duke Power Company, its successors and assigns. (Duke Power Company controls access to, and the use and level of, the waters of Lake James); and
- (d) The Association's lease with Duke Power Company as to the lakebed over which the Pier and Boatslips are located.

The Board of Directors, pursuant to the Bylaws, attached hereto as Exhibit B, shall adopt rules and regulations governing the use of the Common Areas and the personal conduct thereon of the Boatslip Lot Owners, and their families, guests and invitees. Should Members owning Boatslip Lots desire to amend such rules and regulations, then a meeting of the Members owning Boatslip Lots may be called and held, in accordance with Article III of the Bylaws, for the purpose of voting to amend such rules and regulations. If such a meeting is duly called and held, the Boatslip Lot Owners may direct the Board of Directors to make such amendments to the rules and regulations governing the use of the Piers and Boatslips, including additions to and deletions of portions of such rules and regulations, as are approved by a vote of the Members owning Boatslip Lots, in accordance with Article III of the Bylaws, and as are permitted under the Association's lease with Duke Power Company as to the lake bed over which the Piers and Boatslips are located.

Section 4.9 Septic Lots, Septic Field Lots, and Septic System. The Association has the authority to and shall supervise and enforce maintenance of the Septic System by Owners of the Septic Lots and Septic Field Lots as set forth in Article VI of this Declaration. The Board of Directors, pursuant to the Bylaws, attached hereto as Exhibit B, shall adopt, if necessary, rules and regulations governing the use of the Septic System by the Owners of Septic Lots and Septic Field Lots. Should Members owning Septic or Septic Field Lots desire to amend such rules and regulations, then a meeting of the Members owning Septic Lots and Septic Field Lots may be called and held, in accordance with Article III of the Bylaws, for the purpose of voting to amend such rules and regulations. If such a meeting is duly called and held, the Septic Lot and Septic Field Lot Owners may direct the Board of Directors to make such amendments to the rules and regulations governing the use of the Septic System, including additions to and deletions of portions of such rules and regulations, as are approved by a vote of the Members owning Septic Lots and Septic Field Lots, in accordance with Article III of the Bylaws.

ARTICLE V

COVENANT FOR BOATSLIP AND SPECIAL BOATSLIP ASSESSMENTS

Section 5.1. Creation of the Lien and Personal Obligation for Boatslip and Special Boatslip Assessments. Declarant, for each Boatslip Lot owned within the Property, hereby covenants, and each Owner of any Boatslip 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, Boatslip Assessments and Special Boatslip Assessments, as hereinafter defined, for maintenance and repair costs of the Pier and Boatslips, established and collected as hereinafter provided. Any such assessment or charge, together with interest, costs, and reasonable attorneys' fees, shall be a charge and a continuing lien upon the Boatslip Lot against which each such assessment or charge is made and upon the right to use the Pier and the Boatslip appurtenant to such Boatslip Lot. Each such assessment or charge, together with interest, costs and reasonable attorneys' fees, shall also be the personal

obligation of the Owner of such Boatslip Lot effective at the time when the assessment fell due. The personal obligation for delinquent assessments or charges shall not pass to an Owner's successors in title unless expressly assumed by them.

Section 5.2. Purpose of Boatslip Assessments. The assessments to be levied annually by the Association against each Boatslip Lot ("Boatslip Assessments") shall be used as follows:

- (a) to maintain, repair and reconstruct, when necessary, the Pier and Boatslips, including all lighting and other fixtures, wires, railings and other facilities located thereon;
- (b) to provide and pay for lighting of the Pier and Boatslips, if these services exist, and to the extent necessary for the safety and enjoyment of the users thereof;
- (c) to keep the Common Areas clean and free from debris, to maintain same in a clean and orderly condition and to maintain the landscaping thereon in accordance with the highest standards for private parks, including any necessary removal and replacement of landscaping;
- (d) to pay all ad valorem taxes levied against the Common Areas and any other property owned by the Association in connection therewith;
- (e) to pay all lease payments, if applicable, to Duke Power Company for the lease of the land on which the Pier and Boatslips are located;
- (f) to pay the premiums on all insurance carried by the Association in connection with the Common Area pursuant hereto or pursuant to the Bylaws;
- (g) to pay all legal, accounting and other professional fees incurred by the Association in carrying out its duties as set forth herein or in the Bylaws in connection with the Common Area; and
- (h) to maintain contingency reserves as to the amounts described in subsections (a) through (c) above for the purposes set forth in Section 4.7 hereof in amounts as determined by the Board of Directors.

Section 5.3. Payment of Boatslip Assessments: Due Dates. The Boatslip Assessments provided for herein shall commence and be due and payable annually in advance as to each Boatslip Lot on July 1, 1996. The annual Boatslip Assessments for the fiscal year beginning July 1, 1996 shall be Two Hundred Seventy-Five and no/100 Dollars (\$275.00) per Boatslip Lot, which amount shall be due and payable in advance no later than July 1, 1996. The Boatslip Assessments for each and every year thereafter shall be in an amount as set by the Board of Directors, in accordance with Section 6.4, and shall be due and payable no later than July 1 of each such fiscal year. The Board of Directors shall fix the amount of the Boatslip Assessment as to each Boatslip Lot for any fiscal year at least thirty (30) days prior to July 1 of such fiscal year, and the Association shall send written notice of the amount of the Boatslip Assessment, as well as the amount of the first installment due, to each Boatslip Lot Owner on or before July 1 of such fiscal year. Failure of the Association to send the notice described in this Section 5.3 shall not relieve the Owners of their liability for Boatslip Assessments.

Section 5.4. Maximum Boatslip Assessment.

(a) For fiscal years beginning July 1, 1997 and thereafter, the Board of Directors, by a vote in accordance with the Bylaws, without a vote of the Members, may increase the Boatslip Assessments each year by a maximum amount equal to the previous year's Boatslip Assessments times the greater of (1) ten percent (10%), or (2) the annual percentage increase in the Consumer Price Index, All Urban Consumers, United States, All Items (1982-84 = 100) (hereinafter "CPI") issued by the U.S. Bureau of Labor Statistics for the most recent 12-month period for which the CPI is available. If the CPI is discontinued, then there shall be used the index most similar to the CPI which is published by the United States Government indicating changes in the cost of living. If the Boatslip Assessments are not increased by the maximum amount permitted under the terms of this provision, the difference between any actual increase which is made and the maximum increase permitted for that year shall be computed and the Boatslip Assessments may be increased by that amount in a future year, in addition to the maximum increase permitted under the terms of the preceding sentence for such future year, by a vote of the Board of Directors, without a vote of the Members.

(b) From and after the first year of Boatslip Assessments, the Boatslip Assessments may be increased without limitation if such increase is approved by a vote of no less than two-thirds (2/3) of each class of Members, at a meeting duly called for this purpose.

(c) The Board of Directors may fix the Boatslip Assessments at an amount not in excess of the maximum set forth in subparagraph (a) above (the "Maximum Boatslip Assessment"). If the Board of Directors shall levy less than the Maximum Boatslip Assessment for any calendar year and thereafter, during such year, determine that the important and essential functions of the Association as to the Common Area cannot be

funded by such lesser assessment, the Board may, by a vote in accordance with the Bylaws, levy a supplemental Boatslip Assessment ("Supplemental Boatslip Assessment"). In no event shall the sum of the Boatslip and Supplemental Boatslip Assessment's for any year exceed the applicable Maximum Boatslip Assessment for such year.

Section 5.5. Special Assessments for Boatslip Improvements. In addition to the Boatslip Assessments authorized above, the Association may levy, in any assessment year, a special Boatslip Assessment ("Special Boatslip Assessment") applicable to that year only for the purpose of defraying, in whole or in part, the cost of any reconstruction, repair or replacement of the Common Area, and any capital improvement located thereon, including lighting, water lines and other fixtures, poles, wires, railings and other facilities located thereon and personal property related thereto. Provided that any such assessment must be approved by a vote of no less than two-thirds (2/3) of each of class of Members, taken at a duly held meeting of such Members in accordance with the Bylaws.

Section 5.6. Assessment Rate.

(a) With the exception set forth in subsection (b) below, both Boatslip and Special Boatslip Assessments must be fixed at a uniform rate for all Boatslip Lots;

(b) Boatslip and Special Boatslip Assessments for each Boatslip Lot owned by Declarant and unoccupied as a residence shall be one-third (1/3) of the Boatslip and Special Boatslip Assessments for each other Boatslip Lot in the Subdivision not owned by Declarant.

ARTICLE VI

COVENANT FOR SPECIAL SEPTIC SYSTEM ASSESSMENTS

Section 6.1. Special Septic System Assessments. Each Owner of a Septic Lot shall have the obligation to maintain in operating condition and in a good state of repair all portions of the Septic System serving such Septic Lot, as more particularly provided in Article VIII, Section 8.29 below. If the Septic System is not maintained by the individual Septic Lot and Septic Field Lot Owners as set forth in Article VIII, Section 8.29 of this Declaration, the Association, upon the demand of any Owner, shall perform such maintenance, and shall levy a special Septic System assessment ("Special Septic System Assessment") upon the Septic Lots or Septic Field Lot Owner(s) for the purpose of maintaining, repairing or replacing the Septic System serving the Septic Lot(s). To the extent it is feasible or practical, the Association will make reasonable efforts to levy such special assessments only upon the responsible or benefitted Septic Lots and Septic Field Lots and Owners thereof. However, where such allocation is not feasible or practical, in the sole discretion of the Association, Special Septic System Assessments may be levied against all Septic Lots and Septic Field Lots and Owners thereof in equal shares.

Section 6.2. Creation of the Lien and Personal Obligation for Special Septic System Assessment. Declarant, for each Septic Lot and Septic Field Lot owned within the Property, hereby covenants, and each Owner of any Septic Lot and Septic Field 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 Special Septic System Assessments for maintenance and repair costs of the Septic System serving the Septic Lot. Any such assessment or charge, together with interest, costs, and reasonable attorneys' fees, shall be a charge and a continuing lien upon the Septic Lot and Septic Field Lot against which each such assessment or charge is made. Each such assessment or charge, together with interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the Owner of such Septic Lot or Septic Field Lot effective at the time when the assessment fell due. The personal obligation for delinquent assessments or charges shall not pass to an Owner's successors in title unless expressly assumed by them.

ARTICLE VII

GENERAL ASSESSMENT PROVISIONS

Section 7.1. Certificate Regarding Assessments. 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 Boatslip Lot, Septic Lot, or Septic Field Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Boatslip Lot, Septic Lot, or Septic Field Lot, is binding upon the Association as of the date of its issuance.

Section 7.2. Special Assessments Regarding Damage to Common Areas. In addition to the powers for assessments set forth herein, the Board of Directors shall have the power to levy a special assessment applicable to any particular Boatslip Lot Owner responsible for damage to Common Area(s) through intentional conduct or any act or omission of himself, members of his family, his agents, guests, employees or invitees.

Section 7.3. Effect of Nonpayment of Assessments: Remedies of the Association. Any Boatslip Assessment installment or Special Septic System Assessment not paid by its due date as set forth in Section 5.3 hereof, or any other assessment not paid by its due date, shall bear interest from such due date at the rate of eighteen percent (18%) per annum or the highest rate then permitted by law, whichever is less. In addition to such interest charge, the delinquent Owner shall also pay such late charge as may have been theretofore established by the Board of Directors due to the costs arising because of late payment. The Association may bring an action at law against the delinquent Owner or foreclose the lien against the Boatslip Lot, Septic Lot, or Septic Field Lot and the right to use the respective Boatslip or Septic System, where applicable, and interest, late payment charges, costs and reasonable attorney's fees related to such action or foreclosure shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments

provided for herein by not using the Common Areas and/or his Boatslip or Septic System, if applicable, or by abandoning his Boatslip Lot, Septic Lot, or Septic Field Lot.

Section 7.4. Subordination of the Lien to Mortgages. The lien of the assessments provided for in **Article V** and **Article VI** of this Declaration shall be subordinate to the lien of any first Mortgage on a Boatslip Lot, Septic Lot, or Septic Field Lot or any mortgage or deed of trust to the Declarant. Sale or transfer of any such Lot shall not affect the assessment lien. The sale or transfer of any such Lot pursuant to mortgage foreclosure, or any proceeding in lieu thereof, however, shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer; provided, however, that the Board of Directors may in its sole discretion determine such unpaid assessments to be a Boatslip Assessment, Special Boatslip Assessment, or Special Septic System Assessment, as applicable, collectable pro rata from all Boatslip, Septic, or Septic Field Lot Owners, including the foreclosure sale purchaser. Such pro rata portions of Boatslip Assessments are payable by all Boatslip Lot Owners notwithstanding the fact that such pro rata portions may cause the Boatslip Assessment to be in excess of the Maximum Boatslip Assessment permitted hereunder. No sale or transfer shall relieve the purchaser of such Boatslip, Septic or Septic Field Lot from liability for any assessments thereafter becoming due or from the lien thereof, but the lien provided for herein shall continue to be subordinate to the lien of any mortgage or deed of trust as above provided.

ARTICLE VIII

RESTRICTIONS

Section 8.1. Nuisances. No noxious or offensive trade or activity shall be carried on upon the Common Area, nor shall anything be done thereon which may be or become an annoyance or nuisance to the Subdivision. No substance, thing or material shall be kept upon the Common Area that will emit foul or obnoxious odors, or that will cause any noise that will or might disturb the peace and quiet of the occupants of surrounding property.

Section 8.2. Land Use and Building Type. All Lots in the Subdivision shall be known and described as residential lots and shall be used only for private residential and recreational purposes. No structure shall be erected, altered, placed or permitted to remain on any Lot other than for use as a single family residential dwelling, unless otherwise provided herein, and only one single-family residential dwelling not exceeding 2½ stories in height above ground shall be erected or permitted to remain upon any Lot. No mobile home, modular home or shell home may be erected or permitted to remain on any Lot. A private garage (not exceeding three (3) car capacity), outbuildings and fixed piers and floating boat dock facilities incidental to the residential use of the Lot are expressly permitted upon the condition that they are not rented, leased nor otherwise used for remuneration, subject to the other covenants and restrictions contained herein. No garage or outbuildings shall at any time be used as a residence. No boathouses are permitted,

unless otherwise permitted herein. Piers and docks shall be subject to approval by Duke Power Company and/or any governmental entity having jurisdiction at the time such piers and docks are constructed. Furthermore, no boat (including a houseboat) whether existing on a Lot or docked at a fixed pier or floating boat dock which is appurtenant to any property in the Subdivision, may at any time be used as a residence.

Section 8.3. Dwelling Size. The square footage requirements hereinafter set forth are enclosed heated floor area and are exclusive of the area in unfinished basements, unheated porches of any type, attached or detached garages, carports and unheated storage areas, decks or patios. Any dwelling erected upon the Lot shall contain not less than 1200 square feet except for Walkout Dwellings (hereinafter defined). Walkout Dwellings shall contain not less than 1400 square feet, and the main level shall not contain less than 850 square feet. Exposed foundation walls of Walkout Dwellings shall be finished as specified in **Section 8.4** below. "Walkout Dwellings" are defined as any dwellings with finished lower floors or basements which have entrances at ground level to the finished lower floor or basement.

Section 8.4. Building Construction and Quality. All buildings and outbuildings erected upon any Lot shall be constructed of new material of good grade, quality and appearance and shall be constructed in a proper, workmanlike manner. No building shall be erected unless it is completely underpinned with a solid brick or a brick, stone or stucco-covered block foundation. The exterior surface of any building shall not be of asbestos shingle siding, imitation brick or stoneroll siding, or exposed concrete or cement blocks. The exterior surface of any garage, outbuilding or appurtenant structure or building erected on or located on any Lot shall be aesthetically compatible with, and of material and construction comparable in cost and design to, the exterior surface of the dwelling located on the Lot. All buildings shall have roofs (except for dormers) of not less than 6 in 12 pitch and not less than 12 inch overhang, covered with slate, cedar shakes, tile or fiberglass shingles. Tin or rolled roofing material is not permitted. The exterior of all houses and other structures must be completed within one (1) year after the commencement of construction, except where such completion is impossible due to strikes, fires, national emergency or natural calamities.

Section 8.5. Temporary Structures, Structural Materials. No residence or building of a temporary nature shall be erected or allowed to remain on any Lot, and no metal, fiberglass, plastic, vinyl or canvas tent, barn, carport, garage, utility building, storage building or other metal, fiberglass, plastic, vinyl or canvas structure shall be erected on any Lot or attached to any residence. Provided, however, that nothing herein shall prevent Declarant or an Approved Builder from erecting or moving temporarily buildings or trailers onto the Lots owned by them, to be used for storage and for construction or sales offices.

Section 8.6. Building Setback Lines. No building on any Lot (including any stoops, porches or decks, whether attached or unattached) shall be erected or permitted to remain within twenty-five (25) feet of the dedicated public right-of-way, which affects Lots 1-4, 18-

20, 23-51 and 59-61; within twenty (20) feet of the "Road Easement" (as hereinafter defined), affecting Lots 5-13; within fifteen (15) feet of the Road Easement for Lots 14-18 and 51-58; within a twenty-five (25) foot rear set-back for Lots 23, 24 and 59-61; within fifty (50) feet of the waterside lot line; or within ten (10) feet of either side lot line. Boathouses, piers and dock facilities are exempt from the waterside (rear) setback restrictions provided they comply with the provisions otherwise set forth herein. In the event any zoning or subdivision ordinance, floodway regulations or other ordinance, law or regulation applicable to any Lot shall prescribe greater setbacks, then all buildings erected during the pendency of that zoning or subdivision ordinance, floodway regulations or other ordinance, law or regulation shall conform to said requirements. No masonry mailbox or other structures or improvements may be constructed or placed within the right-of-way of any public road so as to prevent such public road from being accepted for maintenance by the North Carolina Department of Transportation.

Section 8.7. Minor Setback Violations. In the event of the unintentional violation of any of the building setback covenants set forth above, in the amount of ten percent (10%) or less of the setback covenant in question, Declarant reserves the right, but is not obligated, to waive in writing such violation of the setback covenants upon agreement of the Owner of the Lot closest to the point of the setback encroachment, provided that such change is not in violation of any zoning or subdivision ordinance or other applicable law or regulation. Notwithstanding the foregoing, so long as Declarant owns a Lot in the Subdivision, all such waivers must be consented to in writing by Declarant.

Section 8.8. Combination or Subdivision of Lots. Except as otherwise set forth herein, no Lot shall be subdivided by sale or otherwise so as to reduce the Lot area shown on the Map. However, an Owner may combine his Lot with a portion of or all of another contiguous Lot so long as the parcel or parcels which result from such combination do not violate any applicable zoning ordinance or other applicable law or regulation. In the event that two or more Lots are completely combined so as to create one parcel, the resulting parcel shall be considered as one Lot for the purposes of each of the restrictions contained in these Restrictions, except that such lots shall continue to be considered as two Lots for the purpose of computing voting and assessments pursuant to Sections 4.2, 5.1, 6.2, and 8.11. Furthermore, the Owner of any Lot which combines with all or a portion of a contiguous Lot shall be solely responsible for any costs which may result from such combination, including the costs of relocating any existing easements. Notwithstanding the foregoing, Declarant reserves the right to change the boundaries or dimensions of any Lots still owned by Declarant as may be needed to meet septic sewer system requirements or for any other reason and any Lot or Lots which result from such change shall not be subject to any additional assessment.

Section 8.9. Utility Easements. Easements for the installation and maintenance of utilities (electricity, septic, sewer, water, gas, telephone, cable t.v., etc.) and drainage facilities are reserved over: (a) the area five (5) feet in width along each side line of each Lot and Septic Field Lot in the Subdivision; (b) the area ten (10) feet in width along the

Road Easements and the rights-of-way of dedicated public roads; (c) the area ten (10) feet in width along the rear lot line of lots not fronting on Lake James; (d) utility and drainage easements as depicted on the Map; (e) the Road Easements; (f) any septic access easements or access easements depicted on the Map; and (g) any other utility easements depicted on the Map. Within such easements, no structure, planting or other materials shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities or which may interfere with drainage and the flow of water within the easement areas. Each Owner shall maintain that portion of his or her Lot lying within the utility easement areas as set forth herein, together with any improvements located thereon (except for the Private Road [hereinafter defined] within the Road Easement, and further excluding those improvements installed and maintained by a public authority or utility company.) The Private Road shall be maintained as set forth in Section 8.11 below.

Section 8.10. Road Easement. Declarant specifically grants to the Owners of Lots 5 through 17 and 52 through 58 (the "Private Road Lots") of the Subdivision (the "Private Road Lot Owners"), their heirs, successors and assigns and reserves unto the Declarant, its successors and assigns non-exclusive, perpetual easements in the widths and in the locations more specifically identified on the Map as "35' Ingress, Egress, Utility & Drainage Easement"; "15' Ingress, Egress, Utility & Drainage Easement"; and "Private Road" for access, ingress and egress to the Lots and the Septic Field Lots and for the installation and maintenance of the Private Roads and utilities and drainage facilities (collectively, the "Road Easements"). Within the Road Easements, no structure, planting or other materials shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of the Private Road or the other utilities or drainage facilities installed therein.

Section 8.11. Private Road Maintenance. The private roads located within the Road Easements which service each of Lots 5 through 17 and 52 through 58 (collectively, the "Private Road") shall be maintained and repaired by the Private Road Lot Owners. The Private Road Lot Owners shall meet from time to time to agree upon service work to be performed on such Private Road. Any Private Road Lot Owner may call a meeting by mailing written notice to each Private Road Lot Owner's residence at least thirty (30) days prior to the meeting which notice specifies that a vote may be taken regarding maintenance and repair of the Private Road. Failure to notify every Private Road Lot Owner of the meeting in the manner prescribed above shall invalidate any vote taken at such meeting unless all Private Road Lot Owners attended the meeting in person or by proxy. A validly called meeting may be conducted by telephone or other convenient method. There shall be one vote appurtenant to each Private Road Lot and any repair or maintenance of the Private Road which is approved by a majority of the votes cast, in person or by proxy, at a validly called meeting shall be considered "Approved Maintenance." The cost of all Approved Maintenance shall be divided equally among the Private Road Lot Owners in proportion to the number of Private Road Lots which each Private Road Lot Owner owns.

Each Private Road Lot Owner shall be obligated for its share of the cost of all Approved Maintenance the payment of which is enforceable by any Private Road Lot

Owner. A lien is hereby established on Lots 5 through 17 and 52 through 58 for the purpose of enforcing the obligations of any Private Road Lot Owner who fails to pay that Private Road Lot Owner's share of the cost of the Approved Maintenance of the Private Road. If a Private Road Lot Owner fails to pay his or her share of the costs of the Approved Maintenance of the Private Road within thirty (30) days of receipt of a statement outlining the total costs of the Approved Maintenance, the defaulting Private Road Lot Owner shall pay interest accruing thereon at the lower of (i) eighteen percent (18%) per annum; or (ii) the maximum rate allowed by law. Additionally, if any Private Road Lot Owner is required to employ an attorney to collect the obligations hereunder from a defaulting Private Road Lot Owner or enforce the lien hereunder against a defaulting Private Road Lot Owner, such Private Road Lot Owner shall be reimbursed by the defaulting Private Road Lot Owner for all reasonable attorney's fees and court costs incurred with respect thereto.

Section 8.12. Fences and Walls. Fences and walls may only be constructed of wood, brick or stone. Chain link or other metal fencing is not permitted, except that 2" x 4" metal mesh may be used with split rail fencing to contain animals or children within rear or side yards. Perimeter fencing shall not have more than seventy percent (70%) of any of its surface closed as viewed from a point on a line of sight perpendicular to the line of the fence. A wall constructed of brick or stone and used in lieu of a fence is exempt from the openness test. No fences or walls greater than six (6) feet in height are permitted.

No fence or wall facing the street shall be erected on a Lot nearer the Road Easements or dedicated public rights-of-way than the front face of the dwelling located on such Lot, except for split-rail fencing or fencing not higher than thirty (30") inches in height. In the case of a corner Lot, no side-yard fence or wall shall be erected nearer the Road Easements or dedicated public rights-of-way than the side of the dwelling located on such Lot, except for split-rail fencing or fencing not higher than thirty (30") inches in height.

Section 8.13. Signs. No signs of any kind shall be displayed to the public view on any Lot with the following exceptions which may not exceed five (5) square feet in size: (a) one sign located on the Lot advertising the Lot for sale; (b) one sign located on the Lot used by a builder to advertise the property during the construction and sales period; and (c) temporary political signs located on the Lot. These restrictions shall not apply to permanent or temporary entry signs or advertising or "for sale" signs installed by Declarant or its agents prior the sale of all Lots in the Subdivision.

Section 8.14. Antennas: Satellite Dishes or Discs. No freestanding radio or television transmission or reception towers, antennas, discs or satellite dishes may be erected or maintained on any Lot. Provided, however, that (a) customary roof-mounted antennas may extend not more than ten (10) feet above the highest roof line ridge of the house; and (b) satellite discs or dishes which do not exceed eighteen (18) inches in diameter are permitted provided they are not visible from the public roads and Road Easements or waterside lot lines of any Lot adjoining the waters of Lake James.

Section 8.15. Lot Maintenance: Trash Disposal. Each Owner shall keep his or her Lot in a clean and orderly condition and shall keep the improvements thereon in a suitable state of painting and repair. Each Owner shall promptly repair any damage thereto by fire or other casualty. No clothesline may be erected or maintained on any Lot, other than a clothesline located directly behind, and within, thirty (30) feet of the residence and not within the fifty (50) foot waterfront setback. No Lot may be used in whole or in part for storage of trash of any character whatsoever and no trash, rubbish, stored materials or similar unsightly items shall be allowed to remain on any Lot outside of an enclosed structure, except when temporarily placed in closed, sanitary containers pending collection by trash collection authorities or companies.

Section 8.16. Off Street Parking. Each Owner shall provide a gravel or paved driveway which provides space for parking two automobiles off the street prior to the occupancy of any dwelling constructed on any Lot. No truck or commercial vehicle in excess of one-ton load capacity, or any vehicle under repair, or any trailer or wrecked or junked motor vehicle shall be parked upon or permitted to remain on any Lot or the Lake Access Lot. No boat or boat trailer may be parked, left or stored on the Lake Access Lot, except when using the Boatslip and connecting Pier. No trailer, motor home, recreational vehicle, camper or boat shall be used as a residence either permanently or temporarily, or be parked upon or be permitted to remain on any Lot for a period exceeding 24 hours unless it is parked off the street, on a paved or gravel driveway. All trucks, trailers, campers, boats, motor homes, recreational vehicles and all other automobiles must have a current license plate affixed and must be parked on a gravel or paved driveway.

Section 8.17. Sewage Disposal. Any dwelling unit erected on a Lot shall be served by an approved septic sewer system for the disposal of sewage, or connected to a private or public sewage disposal system. Any septic sewer system or other private sewage disposal system shall be approved by, and constructed and maintained in accordance with all the regulations and requirements of all governmental authorities and regulatory agencies having jurisdiction.

Section 8.18. Community Water System: No Private Individual Wells. Declarant shall cause to be constructed a water system in order to provide water supplies necessary to serve the Subdivision (the "Water System"). All water mains, pipes and other equipment necessary for the operation and maintenance of the Water System shall be located within the Utility Easements described in **Section 8.9**, or within the Road Easements and public road rights-of-way. Upon its completion, the Water System and all mains, pipes and equipment and other personal property which is part thereof, shall become the property of Carolina Water Service, Inc. of North Carolina (the "Utility Company"). The Utility Company shall be the sole provider of water supplies to the Subdivision, and no wells may be dug or constructed on any Lot for the purpose of providing a domestic water supply. Wells constructed for other purposes shall not be located closer than forty (40) feet from any side lot line unless an exception (in writing) is granted by the affected neighboring Owner.

Section 8.19. Nuisances. No noxious or offensive trade or activity shall be carried on upon any Lot or in any residential dwelling or outbuilding, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood. No substance, thing or material shall be kept upon any Lot that will emit foul or obnoxious odors, or that will cause any noise that will or might disturb the peace and quiet of the occupants of surrounding property. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Lot or in any residential dwelling or outbuilding except that dogs, cats or other household pets may be kept or maintained provided they are not kept, bred or maintained for commercial purposes. The number of household pets kept or maintained shall not exceed three (3) in number except for newborn offspring of such household pets which are under nine (9) months in age.

Section 8.20. Diligent Construction. All construction, landscaping or other work which has been commenced on any Lot must be continued with reasonable diligence to completion and no partially completed houses or other improvements shall be permitted to exist on any Lot, except during such reasonable time period as is necessary for completion. The exterior of any building must be completed within one (1) year from the date of commencement of construction. No construction materials of any kind may be stored within the front setback as shown on the Map of the Subdivision. Any damage to the Private Road or any street or any utility system caused by the Owner or the Owner's builder shall be repaired by such responsible Owner. Each Owner shall at all times keep contiguous public and private areas free from any dirt, mud, garbage, trash or other debris which is occasioned by construction of improvements on such Owner's Lot. Declarant or the Association may provide for the cleaning of public and private areas due to the activities of the Owner or Owner's builder and may assess the Owner a reasonable charge not to exceed the actual cost for such cleaning. Each Owner's builder shall, consistent with standard construction practices, keep all portions of the Lot free of unsightly construction debris and shall, at all times during construction, either provide dumpsters for the containment of garbage, trash or other debris, which is occasioned by the construction of improvements on the Lot or take

other measures consistent with standard construction practices necessary to keep the Lot free of such garbage, trash or other debris.

Section 8.21. Removal of Trees and Other Vegetation: Erosion Control Practices. All trees, shrubs and ground cover within the fifty (50) foot waterfront setback are considered to be "protected" vegetation in that cutting and clearing generally is not permitted therein without the prior written consent of Declarant or the Board of Directors. The practical exceptions to this rule are that dead or diseased trees or poisonous plants may be removed; underbrush may be selectively cleared; under-story may be thinned to provide better views; individual trees may be limbed up; and grass or ground covers may be planted.

"Mature trees" inside the 50 foot waterfront setback may not be cut down or otherwise removed without the specific written approval of the Declarant or the Association. "Mature trees" for purposes hereof shall mean all evergreen or deciduous trees with a caliper of six (6) inches or greater.

Furthermore, in the event that trees, shrubs or ground cover are removed in connection with the improvement of any Lot, at least fifty percent (50%) of the area cleared of such vegetation (excluding built upon area) shall be replaced with grass (which grass shall be maintained upon such area) unless Declarant or the Association approves an alternative landscaping plan in writing.

Prior to the start of any earth-disturbing operations on any Lot, a diversion ditch and rock check dam and a gravel driveway shall be constructed and maintained on the building site (collectively "Silt Control Devices"). The Silt Control Devices shall be located at the boundary of the estimated disturbed area as set forth more particularly on page 1 of Exhibit D attached hereto and shall be constructed, preserved and replaced, if necessary, in accordance with the standards set forth on pages 2, 3 and 4 of Exhibit D.

Declarant hereby reserves the right and easement, benefitting Declarant and the Association and burdening all of the Lots, to go upon any Lot in order to replant any trees, shrubs or other vegetation removed in contravention of the terms of this Section 8.21. Should Declarant exercise its easement rights pursuant to the terms of this Section 8.21, the Owner of the nonconforming Lot shall reimburse Declarant or the Association within five (5) business days following the submission of an invoice for any costs or expenses incurred by Declarant or the Association. The exercise or non-exercise of the easement rights contained in this Section 8.21 shall be subject to the discretion of the Declarant and the Association and neither Declarant nor the Association shall have the obligation to exercise such rights.

The Declarant and the Association shall have the authority but not the obligation, in their sole discretion, to assess penalties against an Owner who cuts, damages, or removes any trees, shrubs or other vegetation from any Lot, contrary to the above provisions.

The penalties authorized by this Section 8.21, as well as the expenses to be reimbursed, shall be considered the personal obligation of the Owner and a lien against the respective Owner's Lot, entitling the Declarant and the Association to seek all collection remedies available at law or in equity for the collection thereof, including foreclosing the lien hereby established. The penalties authorized in this Section 8.21, and the expenses to be reimbursed, shall (i) bear interest from the date which is five (5) business days after they are invoiced until paid at the rate of eighteen percent (18%) per annum; or (ii) the highest rate then permitted by law, whichever is less, and the Declarant and the Association shall be entitled to receive a reasonable attorney's fee if Declarant or the Association is forced to employ an attorney to collect any such amount.

Section 8.22. Non-waiver. No delay or failure on the part of an aggrieved party to invoke an available remedy in respect to a violation of any provision contained herein or referred to herein shall be held to be a waiver by that party of any right available to that party upon the recurrence or continuance of said violation or the occurrence of a different violation.

Section 8.23. Severability. Every restriction, easement, condition and reservation set out herein or referred to herein is hereby declared to be independent of and severable from each other, and if any of same shall be held by a court of competent jurisdiction to be invalid or unenforceable, all the remainder of said easements, conditions, reservations and restrictions shall continue unimpaired and in full force and effect.

Section 8.24. Rights of Duke Power Company. Duke Power Company has certain privileges and easements affecting the Subdivision which include the right, privilege and easement of backing, ponding, raising, flooding or diverting the waters of Lake James and its tributaries upon and over the Subdivision, as more specifically described in the deed from Duke Power Company to the Declarant recorded in the office of the Register of Deeds in the aforesaid County.

Section 8.25. Hydroelectric Projects. Duke Power Company controls access to, use of, and water levels in Lake James. Any Owner must receive a permit from Duke Power Company (or a successor manager of Lake James under authority from the Federal Energy Regulatory Commission) prior to placing or constructing any pier, structure or other improvement within or upon, or conducting any activity altering the topography of, the hydroelectric project surrounding and encompassing the waters of Lake James. Declarant makes no oral, express or implied representation or commitment as to the likelihood of Declarant obtaining such a permit, nor as to the continued existence, purity, depth or levels of water in Lake James, and Declarant shall have no liability with respect to these matters. Construction of any such improvements is also subject to the recorded restrictions and easements affecting the Lot.

Section 8.26. Docks, Piers and Boat Houses. The Owner of any Lot adjoining the waters of Lake James may construct one (1) dock or pier, provided that such Lot is not located in an area where the narrowness of a cove precludes construction of a dock or pier as determined by Duke Power Company and/or any governmental entity having jurisdiction at the time such improvements are to be constructed. Any waterfront improvement shall have a low profile and open design to minimize obstruction of neighbors' views. Single-level or multi-level docks or boat houses will be allowed on the water. Roof-covered docks are allowed provided that such docks are one level and are not enclosed.

The placement, construction, or use of the any pier, dock, boatslip structures or other improvements within or upon, or the conducting of any activity altering the topography of, the hydroelectric project surrounding and encompassing the waters of Lake James, is and shall be subject to each of the following:

- (i) easements, restrictions, rules and regulations for construction and use affecting the Subdivision;
- (ii) all laws, statutes, ordinances and regulations of all Federal, State and local governmental bodies having jurisdiction thereon, including without limitation the Federal Energy Regulatory Commission; and
- (iii) rules and regulations, privileges and easements affecting the property and the waters and submerged land of Lake James established by Duke Power Company, its successors and assigns. (Duke Power Company controls access to, and the use and level of, the waters of Lake James. An Owner must receive a permit from Duke Power [or a successor manager of Lake James, under authority from the Federal Energy Regulatory Commission] prior to any alterations therein.)

No pier of any kind shall be constructed by the Owners of Lots adjoining the waters of Lake James outside the area designated as Pier Zone on Exhibit "E".

Section 8.27. Boat Ramps. No boat ramps of any kind shall be permitted on any Lot, and no boat shall be placed in (or removed from) the waters of Lake James from any Lot, provided however, small watercraft such as canoes, dinghies, and jet skis may be launched from any Lot if launched without a ramp. All other watercraft shall be launched at a public boat ramp outside the Subdivision.

Section 8.28. Marine Toilets. No water craft equipped with a marine toilet having a fixed or portable holding tank, or a through hull or overboard discharge toilet, shall be permitted on the Common Areas.

Section 8.29. Septic Field Lots. Each Septic Field Lot shall be used and maintained by the Owner thereof solely for the purpose of installing, maintaining or repairing the septic sewer drainage field serving such Owner's corresponding Septic Lot until such time (if ever) as such Septic Field Lot is repurchased by Declarant pursuant to the Option to Purchase described below. Each Septic Lot Owner shall have the right to construct, install, excavate, dig, build, maintain, operate, remove and reinstall a septic sewer system and related equipment on the Septic Field Lot owned by such Owner at such Owner's sole expense. Following any earth-disturbing operation on the Septic Field Lot, the Owner thereof shall promptly and reasonably restore any portion of the surface of the Septic Field Lot (but not trees, brush or other plants, except grass) disturbed by such earth-disturbing operation and shall stabilize the disturbed area by the planting and maintenance of appropriate ground cover.

In addition to the above described rights, the Owners of other Septic Field Lots in the Subdivision, their agents, independent contractors, successors and assigns, shall have the right to ingress, egress and regress, over and across each Septic Field Lot in order to construct, install and maintain septic systems on their respective Septic Field Lots.

Each Septic Lot Owner shall be solely responsible for obtaining necessary environmental permits and other permits for the use of said septic system and shall hold Declarant, its successors and assigns, harmless from any loss, cost, damage or liability relating thereto. Prior to the installation of a septic system within a Septic Field Lot, the Owner of such Septic Field Lot shall have the proposed location of such septic system staked and approved by the appropriate governmental authorities and such septic system shall be approved by, and constructed and maintained in accordance with all regulations and requirements of, all governmental authorities and regulatory agencies having jurisdiction thereover.

The Septic Lot Owner shall maintain the Septic Field Lot in a clean and safe condition and shall be responsible for mowing the grass or other ground cover located on the Septic Field Lot. The Septic Lot Owner shall refrain from building, placing, or otherwise maintaining any structure or improvement on the Septic Field Lot other than the septic system as set forth herein.

Title to the Septic Field Lots will be conveyed to the Septic Lot Owners subject to certain Options to Purchase the Septic Field Lots from the Septic Lot Owners to the Declarant as recorded in the Office of the Register of Deeds of McDowell County. From and after the purchase of a Septic Field Lot by Declarant pursuant to such an Option to Purchase, the Septic Field Lot shall no longer be deemed a "Septic Field Lot" hereunder and the Septic Lot benefitted thereby shall no longer be deemed a "Septic Lot" hereunder, such lots to be thereafter treated as "Lots" hereunder.

Declarant hereby reserves and grants unto itself, its successors in interest, and assigns, a non-exclusive easement benefitting Declarant, and burdening the Lots which are benefitted

by a Septic Field Lot, for the purpose of connecting any residence upon any such Lot to any public or private sewer line providing service to the Lot, including access across the Lot and the right to install any pipes and apparatus as may be necessary to connect any such residence to such sewer line. (the "Sewer Connection Easement"). By reserving the Sewer Connection Easement, Declarant has not obligated itself to connect any public or private sewer line to any Lot or to make any sewer service available to any such Lot and the exercise of the Sewer Connection Easement shall be at the sole discretion of Declarant, its successors in interest and assigns.

The Declarant hereby reserves and grants unto the Association, its successors in interest, and assigns, a non-exclusive easement benefitting the Association, and burdening Lots and Septic Field Lots, for the purpose of maintaining and repairing the Septic System if the Septic Lot Owners fail to do so, including access across the Septic Lots and corresponding Septic Field Lots as may be necessary to maintain or repair the Septic System.

ARTICLE IX

INSURANCE

Section 9.1. Board of Directors. The Board of Directors shall obtain and maintain at all times insurance of the type and kind and in no less than the amounts set forth below:

(a) **Fire.** All improvements and all fixtures included in the Common Area, including the Pier and Boatlips, and all personal property and supplies belonging to the Association shall be insured in an amount equal to 100% of the current replacement cost up to the amount specified in the insurance policy (exclusive of land, foundation, excavation and other normally excluded items) as determined annually by the Board of Directors with the assistance of the insurance company providing coverage. The Board of Directors shall, at least annually, review the insurance coverage required herein and determine 100% of the current replacement cost of such improvements and fixtures and personal property and supplies. Such coverage shall provide protection against loss or damage by fire, windstorm, vandalism and malicious damage and all perils covered by a standard "all risk" insurance policy. All such policies shall provide that adjustment of loss shall be approved by the Board of Directors and the insurance company. In addition to the provisions and endorsements set forth in Section 9.4, the fire and casualty insurance described herein shall contain the following provisions:

(i) a waiver of subrogation by the insurer as to any claims against the Association, any officer, director, agent or employee of the Association, the Owners and their employees, agents, tenants and invitees; and

(ii) a provision that the coverage will not be prejudiced by act or neglect of, one or more Owners when said act or neglect is not within the control of the Association or by any failure of the Association to comply with any warranty or condition regarding any portion of the Property over which the Association has no control.

The property and public liability insurance policy shall not contain (and the insurance shall not be placed with companies whose charters or bylaws contain) provisions whereby: (1) contributions or assessments may be made against the Association or the Owners or the Mortgagees; (2) loss payments are contingent upon action by the carriers, directors, policy holders or members; and (3) there are limiting clauses (other than insurance conditions) which could prevent Owners or Mortgagees from collecting the proceeds.

(b) Public Liability. The Board of Directors shall also be required to obtain and maintain to the extent obtainable, public liability insurance in such limits as the Board of Directors may, from time to time, determine to be customary for projects similar in construction, location and use to the Common Areas, covering each member of the Board of Directors, the managing agent, if any, and each Owner with respect to his liability arising out of the ownership, maintenance, or repair of the Common Areas; provided, however, that in no event shall the amounts of such public liability insurance ever be less than \$1,000,000 per occurrence against liability for bodily injury, including death resulting therefrom, and damage to property, including loss of use thereof, occurring upon, in or about, or arising from or relating to, the property or any portion thereof. Such insurance shall include endorsements covering cross liability claims of one insured against another, including the liability of the Owners as a group to a single Owner. The Board of Directors shall review such limits annually. Until the first meeting of the Board of Directors following the initial meeting of the Owners, such public liability insurance shall be in amounts of not less than \$1,000,000 per occurrence for claims for bodily injury and property damage.

(c) Fidelity Coverage. The Board of Directors shall also be required to obtain fidelity coverage against dishonest acts on the part of all persons, whether officers, directors, trustees, employees, agents or independent contractors, responsible for handling funds belonging to or administered by the Association, in an amount determined by the Board of Directors in its discretion. An appropriate endorsement to the policy to cover any persons who serve without compensation shall be added if the policy would not otherwise cover volunteers.

(d) Other. Such other insurance coverages, including flood insurance and worker's compensation, as the Board of Directors shall determine from time to time desirable.

Section 9.2. Premium Expense. Premiums upon insurance policies purchased by the Board of Directors shall be paid by the Board of Directors and charged as a common expense to be collected from the Owners pursuant to Article V hereof.

Section 9.3. Special Endorsements. The Board of Directors shall make diligent effort to secure insurance policies that will provide for the following:

- (a) recognition of any insurance trust agreement entered into by the Association;
- (b) coverage that may not be cancelled or substantially modified (including cancellation for nonpayment of premium) without at least forty-five (45) days, prior written notice to the named insured, any insurance trustee and all Mortgagees; and
- (c) coverage that cannot be cancelled, invalidated or suspended on account of the conduct of any officer or employee of the Board of Directors without prior demand in writing that the Board of Directors cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by the Association, any Owner or any Mortgagee.

Section 9.4. General Guidelines. All insurance policies purchased by the Board of Directors shall be with a company or companies licensed to do business in the State of North Carolina and holding a rating of "A-10" or better by the current issue of Best's Insurance Reports. All insurance policies shall be written for the benefit of the Association and shall be issued in the name of and provide that all proceeds thereof shall be payable to the Association. Notwithstanding any of the foregoing provisions and requirements relating to insurance, there may be named as an insured, on behalf of the Association, the Association's authorized representative, who shall have exclusive authority to negotiate losses under any policy providing such insurance.

Section 9.5. Owner's Personal Property. The Association or the Declarant shall not be liable in any manner for the safekeeping or conditions of any boat or other personal property belonging to or used by any Owner or his family, guests or invitees, located on or used at the Pier, Boatslips, Lake Access Lot or other Common Areas. Further, neither the Association nor the Declarant shall be responsible or liable for any damage or loss to or of any boat, its tackle, gear, equipment or other property located thereon, or any other personal property of any Owner, his family, guests or invitees located on or used at the Pier, Boatslips or other Common Areas. Each Boatslip Lot Owner shall be solely responsible for all such boats and other personal property and for any damage thereto or loss thereof, and shall be responsible for, the purchase of, at such Owner's sole cost and expense, any liability or other insurance for damage to or loss of such property. Every Boatslip Owner is required to submit to the Association a Certificate of Insurance showing proof of boat liability insurance coverage at the time of initiating the use of the Piers and Boatslips.

ARTICLE X

RIGHTS OF MORTGAGEES

Section 10.1. Approval of Mortgagees. Unless at least seventy-five percent (75%) of the Mortgagees holding Mortgages on Lots located within the Subdivision then subject to the full application of this Declaration have given their prior written approval, the Association shall not:

(a) by act or omission seek to abandon, partition, subdivide, encumber, sell or transfer any real estate or improvements thereon which are owned, directly or indirectly, by the Association (the granting of easements for utilities or other purposes shall not be deemed a transfer within the meaning of this clause);

(b) change the method of determining the obligations, assessments, dues or other charges which may be levied against a Owner;

(c) fail to maintain fire and extended coverage insurance on insurable improvements in the Common Area on a current replacement cost basis in an amount not less than 100% of the insurable value as set forth in Article IX; or

(d) use the proceeds of any hazard insurance policy covering losses to any part of the Common Area for other than the repair, replacement or reconstruction of the damaged Common Area.

Section 10.2. Additional Rights. Any Mortgagee shall have the following rights, to wit:

(a) to be furnished at least one copy of the annual financial statement and report of the Association, such annual statement and report to be furnished within ninety (90) days following the end of each fiscal year;

(b) to be given notice by the Association of the call of any meeting of the Association's membership, and to designate a representative to attend all such meetings;

(c) to be given prompt written notice of default under the Declaration, the Bylaws or any rules and regulations promulgated by the Association by any Owner encumbered by a Mortgage held by the Mortgagee, such notice to be sent to the principal office of such Mortgagee or the place which it may designate in writing;

(d) to be given prompt written notice of any casualty loss to the Common Areas, or loss by eminent domain or other taking of the Common Areas;

(e) to be given prompt written notice of any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association;

(f) to be given prompt written notice of any eminent domain or condemnation proceeding affecting the Property; and

(g) to be given prompt written notice of any action which requires the consent of all or any portion of the Mortgagees as specified herein.

Whenever any Mortgagee desires the provisions of this Section to be applicable to it, it shall serve or cause to be served written notice of such fact upon the Association by Certified Mail, return receipt requested, addressed to the Association and sent to its address stated herein, identifying the Lot or Lots upon which any such Mortgagee holds any Mortgage or identifying any Lot owned by it, together with sufficient pertinent facts to identify any Mortgage which may be held by it and which notice shall designate the place to which notices are to be given by the Association to such Mortgagee.

Section 10.3. Books and Records. Any Mortgagee will have the right to examine the books and records of the Association during any reasonable business hours.

Section 10.4. Payment of Taxes and Insurance Premiums. The Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge or lien against the Common Areas and may pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage upon the lapse of a policy for property owned by the Association and the persons, firms or corporations making such payments shall be owed immediate reimbursement therefor from the Association.

ARTICLE XI

CONDEMNATION

If part of the Common Area shall be taken or condemned by any authority having the power of eminent domain, all compensation and damages for and on account of the taking of the Common Area, exclusive of compensation for consequential damages to certain affected Lots, shall be paid to the Board of Directors in trust for all Owners and their Mortgagees according to the loss or damages to their respective interests in such Common Area. The Association, acting through the Board of Directors, shall have the right to act on behalf of the Owners with respect to the negotiation and litigation of the issues with respect to the taking and compensation affecting the Common Area, without limitation on the right of the Owners to represent their own interests. Each Owner, by his acceptance of a deed to a Boatlip Lot or of use to a Boatlip by deed transferring the right to use a Boatlip, hereby appoints the Association as his attorney-in-fact to negotiate, litigate or settle on his behalf all claims arising from the condemnation of the Common Area. Such

proceeds shall be used to restore the Common Area with the excess, if any, to be retained by the Association and applied to future operating expenses by the Board of Directors, in its sole discretion.

ARTICLE XII

GENERAL PROVISIONS

Section 12.1. Enforcement. Declarant, being the developer of other subdivisions in the area of the Subdivision, wishes to maintain a high standard in the appearance and quality of the Common Area. Though damages would be difficult to measure, the failure of the Owners and the Association to abide by the terms, covenants and restrictions contained in this Declaration would result in irreparable damage to Declarant and its reputation. Accordingly, Declarant, during the term of this Declaration as set forth in Section 12.4, as well as the Association or any Owners, shall have the right to enforce all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration by proceeding at law or in equity against any person or persons violating or attempting to violate any such restriction, covenant, reservation, lien or charge, either to restrain violation thereof or to recover damages therefor. Each Owner and the Declarant shall have all appropriate remedies at law or in equity to enforce the provisions of this Declaration and the Bylaws and any duly authorized rules and regulations governing the Common Areas against the Association.

In addition, the Association hereby covenants and agrees that it shall exercise its power of enforcement hereunder in order to maintain a first class marina facility in appearance and quality, and that it shall, upon the request of Declarant, enforce any restriction, condition, covenant or reservation contained in this Declaration deemed by Declarant, in its sole discretion, to have been violated, using all remedies available to the Association at law or in equity. The Declarant hereby reserves the right and easement to go upon any portion of the Common Area at any time in order to repair and maintain such Common Area where needed, in Declarant's sole discretion, to bring such Common Area within the standards required by Declarant. Should Declarant so go upon the Common Area to perform maintenance and repairs for such purpose, the Association hereby agrees to reimburse Declarant in full for the cost of such maintenance and repairs, upon receipt of a statement for such cost from Declarant. Failure by Declarant, 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.

Section 12.2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 12.3. Amendment. The covenants and restrictions of this Declaration may be amended at any time and from time to time by an agreement signed by no less than two-thirds (2/3) of each class of Members owning Lots; provided, however, that such amendment must be consented to by Declarant so long as Declarant is the Owner of any Lot or any Boat slip. Any such amendment shall not become effective until the instrument evidencing such change has been filed of record.

An addition or amendment to the Declaration shall not be considered material if it is for the purpose of correcting technical errors or for clarification only. A Mortgagee who receives a request to approve non-material additions or amendments who does not deliver or post to the requesting party a negative response within thirty (30) days shall be deemed to have approved such request.

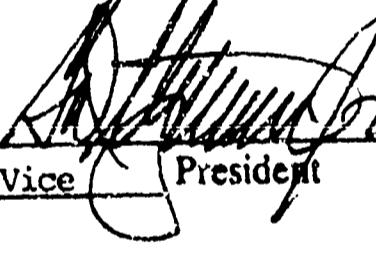
Notwithstanding anything in this Section 12.3 to the contrary, Declarant may, at Declarant's option, amend this Declaration without obtaining the consent or approval of any other person or entity if such amendment is necessary to cause this Declaration to comply with the requirements of FHA, VA, the Federal National Mortgage Association or other similar agency.

Section 12.4. Term. The covenants and restrictions of this Declaration are to run with the land and shall be binding upon all parties and all persons claiming under them for a period of 25 years from the date this Declaration is recorded; after which time said covenants and restrictions shall be automatically extended for successive periods of ten (10) years unless an instrument signed by two-thirds (2/3) of the then Owners of the Lots, plus Declarant, has been recorded, agreeing to terminate said covenants and restrictions in whole or in part.

IN WITNESS WHEREOF, the Declarant has caused this instrument to be executed by its officers thereunto duly authorized and its corporate seal to be hereunto affixed, all the day and year first above written.

CRESCENT RESOURCES, INC.,
a South Carolina Corporation

ATTEST
Doris M. ...
Assistant Secretary
[CORPORATE SEAL]

By: 
Vice President

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

I, Coleen D. Girdwood, a Notary Public of the County and State aforesaid, do hereby certify that Ethelene G. Williams personally came before me this day and acknowledged that s he is Asst. Secretary of CRESCENT RESOURCES, INC., a South Carolina corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its Vice President, sealed with its corporate seal and attested by herself as its Asst Secretary.

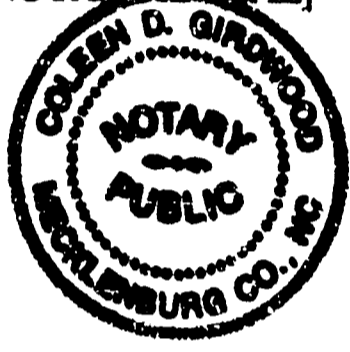
Witness my hand and official seal this 28th day of November, 1995.

Coleen D. Girdwood
Notary Public

My Commission Expires:

6-19-1999

[NOTARIAL SEAL]



NORTH CAROLINA
McDOWELL COUNTY

The foregoing certificate of Coleen D. Girdwood, Notary Public is certified to be correct.

Filed for registration at 12:39 PM this 29th day of November 1995 in Book 500; Page 607.

MARJORIE C. McENTIRE
Register of Deeds

BY: Patricia A. Beal
Asst.