

90-442181

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FIRST AMERICAN TITLE INS. CO.

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OF ORANGE COUNTY, CALIFORNIA

MESERVE, MUMPER & HUGHES  
18500 Von Karman Avenue, Suite 600  
Irvine, California 92714  
Attn: Timothy L. Randall, Esq.

-205 PM AUG 20 '90

\$34.00  
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*Lee A. Branch* RECORDER

(SUPPLEMENTAL CC&R'S)  
NOTICE OF ANNEXATION  
OF  
SINGLE FAMILY ATTACHED PROJECT  
INTO  
MARINA HILLS PLANNED COMMUNITY  
AND INTO  
DELEGATE DISTRICT NO. 9

Monaco II  
Phase 3  
Tract 13912  
Lots 35-44, 73-93 and Lot A

THIS INSTRUMENT FILED FOR RECORD BY  
FIRST AMERICAN TITLE INSURANCE COMPANY AS AN  
ACCOMMODATION ONLY. IT HAS NOT BEEN EXAMINED AS TO  
ITS EXECUTION OR AS TO ITS EFFECT UPON THE TITLE.

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(SUPPLEMENTAL CC&R'S)  
NOTICE OF ANNEXATION  
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AND INTO  
DELEGATE DISTRICT NO. 9

THIS NOTICE OF ANNEXATION ("Declaration") is made this 7th day of August, 1990, by TAYLOR WOODROW HOMES CALIFORNIA LIMITED, a California corporation (the "Declarant"), with reference to the following facts and circumstances:

P R E A M B L E

A. Declarant executed that certain Supplemental Declaration of Covenants, Conditions and Restrictions and Notice of Annexation of Single Family Attached Project into Marina Hills Planned Community and Establishment of Delegate District No. 9, which was recorded on May 30, 1990, as Instrument No. 90-287517, of the Official Records of Orange County, California, and that certain First Amendment to Supplemental Declaration of Covenants, Conditions and Restrictions and Notice of Annexation of Single Family Attached Project into Marina Hills Planned Community and Establishment of Delegate District No. 9, which was recorded on June 1, 1990, as Instrument No. 90-294086, of the Official Records of Orange County, California (collectively, the "Supplemental Declaration"), covering the real property in the unincorporated territory of the County of Orange, State of California, described as follows ("Annexed Land"):

Lots 1 through 34, inclusive, of Tract No. 13912, as per Map recorded in Book 654, Pages 13 through 17, of Miscellaneous Maps in the Office of the County Recorder of Orange County.

B. The Supplemental Declaration caused the Annexed Land to become part of the Marina Hills Planned Community and subject to that certain Master Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for Marina Hills Planned Community recorded September 3, 1987, as Instrument No. 87-502874 of the Official Records of Orange County, California, as amended from time to time (the "Master Declaration");

C. The Supplemental Declaration and the Master Declaration provide that Declarant may annex additional real property to the Properties as described in the Supplemental

Declaration and thereby make such additional real property subject to the Supplemental Declaration and the Master Declaration and subject to the jurisdiction of the Master Association as defined in the Master Declaration;

D. Declarant is the owner of the real property in the unincorporated territory of the County of Orange, State of California, described as follows (the "Annexable Area"):

Lots 35 through 44, inclusive, 73 through 93, inclusive, and Lot A of Tract No. 13912 as shown on Map recorded in Book 654, Pages 13 through 17, of Miscellaneous Maps in the Office of the Recorder of Orange County, California.

E. Declarant desires to cause the Annexable Area to be annexed and become a part of the Annexed Land.

NOW THEREFORE, Declarant hereby declares as follows:

#### ARTICLE I ANNEXATION

Section 1.1. Annexation: Pursuant to the terms of the Supplemental Declaration and the Master Declaration, Declarant, as the owner of the Annexable Area, declares that all of the Annexable Area shall be annexed into and made a part of the Annexed Land and the Marina Hills Planned Community; provided, however, such annexation shall only be effective on the close of the first escrow within the Annexable Area. Upon the effective date of the annexation, all the Annexable Area shall be held, sold and conveyed subject to the easements, restrictions, covenants and conditions of this Declaration, the Supplemental Declaration and the Master Declaration.

Section 1.2. Deannexation: Any deletion of all or a portion of the Annexable Area for which a Supplemental Declaration has been recorded from coverage of this Declaration, the Supplemental Declaration and the Master Declaration and the jurisdiction of the Master Association shall be effected in accordance with the provisions of California Business and Professions Code Section 11018.7.

#### ARTICLE II ELECTION OF DELEGATE

Upon the recordation of this Declaration, the Annexable Area shall be added to and shall thus comprise a part of Delegate District No. 9, as defined in the Supplemental Declaration. Therefore, the Owners of Lots in the Annexable Area shall participate in the election of a Delegate in

accordance with the provisions set forth in the Supplemental Declaration.

ARTICLE III  
MASTER ASSOCIATION MAINTENANCE AREAS

Section 3.1. Classification of Master Association Maintenance Areas: Those portions of the Lots as shown on Exhibit "A" attached hereto are hereby classified as Master Association Maintenance Areas, as that term is defined in the Master Declaration. Such Master Association Maintenance Areas shall be subject to those provisions of the Master Declaration which govern the Master Association's rights and responsibilities concerning their care and maintenance of such Master Association Maintenance Areas.

Section 3.2. Conveyance to Master Association: Declarant hereby covenants for itself, its successors and assigns that fee simple title to Lots 93 and A of Tract 13912 shall be conveyed to the Master Association prior to the close of escrow for the sale of the first Lot of any subdivision in the Annexed Land to an Owner. In the event that fee simple title to such property is conveyed to the Master Association, such title shall be conveyed free and clear of all encumbrances and liens, except current real property taxes, which taxes shall be prorated to the date of transfer, and except dedications, easements, conditions and reservations then of record, including those set forth in this Master Declaration.

ARTICLE IV  
EASEMENT FOR MASTER ASSOCIATION

There is hereby reserved to the Master Association, Declarant and Owners those easements more particularly described in the Master Declaration and the Supplemental Declaration. Such easements shall include, but not be limited to, easements reserved for the Master Association over the Lots for purposes of performing the duties of the Master Association to maintain and repair the Master Association Maintenance Areas.

ARTICLE V  
DRIVEWAY EASEMENTS

There is hereby granted to the Owners of certain Lots ("Dominant Tenements") nonexclusive easements for ingress and egress and driveway purposes as shown in cross-hatching on Exhibit "B" ("Driveway Easement Area"), which easements shall be appurtenant to the Dominant Tenements shown on said exhibit, and which easements shall burden the adjacent Lots

shown on said exhibit ("Servient Tenements"). Such easements shall be subject to the following provisions:

a. Except as provided below, the cost of reasonable repair and maintenance of the Driveway Easement Area shall be shared equally by the Owners who make use of the Driveway Easement Area.

b. If any Driveway Easement Area, or portion thereof, is damaged or destroyed through the act of any Owner or by their family, guests or agents, so as to deprive any other Owner of the full use and enjoyment of the Driveway Easement Area, or any portion thereof, then the first above-mentioned Owners shall forthwith proceed to rebuild and repair the same to as good condition as formerly existed, without cost to the other Owners. Failure of such Owner to so repair the Driveway Easement Area shall give the other Dominant or Servient Tenement Owners the right to make such repairs and to seek reimbursement for the cost thereof from the Owner causing the damage.

c. The right of any Owner to contribution from any other Owner under this section shall be appurtenant to the land and shall pass to such Owner's successors in title.

d. No Owner shall park or place any vehicle or anything else on any portion of the Driveway Easement Area, or do any act, carry on any activity, or permit any situation to exist which will impede or which is inconsistent with the use of the Driveway Easement Area for driveway purposes, or which will impair the right of any Owner of ingress and egress to their Lot.

e. In the event any dispute arises concerning a Driveway Easement Area, or under the provisions of this section, the parties shall submit such dispute to a binding arbitration in accordance with the rules and regulations of the American Arbitration Association.

#### ARTICLE VI PARTY WALLS AND FENCES

Each wall or fence which is built as a part of the original construction of the Dwelling Units upon the Annexable Area and placed between the Lots shall constitute a party wall, and shall therefore be governed by the terms set forth under Article VI of the Supplemental Declaration.

ARTICLE VII  
INCORPORATION OF DECLARATION

All the terms, covenants, conditions, restrictions, easements and other provisions of the Master Declaration and the Supplemental Declaration are hereby incorporated by reference and shall be as enforceable and effective against the Annexable Area as though the Master Declaration and the Supplemental Declaration had been recorded directly against the Annexable Area.

ARTICLE VIII  
GENERAL PROVISIONS

Section 8.1. Term: The covenants and restrictions of this Declaration shall run with and bind the Annexable Area and any Owner, their legal representatives, heirs, successors and assigns, and shall run concurrently with the Supplemental Declaration.

Section 8.2. Enforcement: The Master Association or any Owner, or the successor in interest of an Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration or any amendment thereto, including the right to prevent the violation of any such restrictions, conditions, covenants or reservations and the right to recover damages or other dues for such violation; provided, however, that with respect to assessment liens, the Master Association shall have the exclusive right to the enforcement thereof. Failure by the Master 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 8.3. Severability: Invalidation of any one of these covenants, conditions or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

Section 8.4. Construction: The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development of a residential community or tract and for the maintenance of any common recreational facilities. Section headings are inserted for convenience only and are not intended to be a part of this document or in any way to define, limit or describe the scope or intent of the particular section to which they refer.

Section 8.5. Singular Includes Plural: Whenever the context of this Declaration requires it, the singular shall

include the plural and the masculine shall include the feminine.

Section 8.6. Attorneys' Fees: In the event action is instituted against an Owner to enforce any of the provisions contained in this Declaration, the party prevailing in such action shall be entitled to recover from the other party thereto as part of the judgment reasonable attorneys' fees and costs of such action, which attorneys' fees and costs shall also be added to such Owner's assessments.

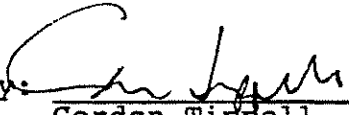
Section 8.7. Nuisance: The result of every act or omission whereby any of the covenants contained in this Declaration or if the Bylaws are violated in whole or in part is hereby declared to be and constitutes both a public and private nuisance, and every remedy allowed by law or equity against every such result and may be exercised by any Owner, by the Master Association, or its successors in interest, or by the County or other affected governmental entity. Such remedy shall be deemed cumulative and not exclusive.

Section 8.8. Amendments: This Declaration may be amended only in accordance with the terms set forth in the Supplemental Declaration.

Section 8.9. County Approval: Notwithstanding anything contained herein to the contrary, so long as any property subject to this Declaration lies outside the boundaries of an incorporated city, the County of Orange shall have the power to veto any purported amendment or termination of this Declaration, based upon whether the Annexable Area, after such termination or amendment, will continue to enjoy adequate provisions for preservation and maintenance of any Common Area and Master Association Maintenance Areas. No amendment or written agreement purporting to terminate or modify the maintenance provisions of this Declaration shall be effective without the mailing of written notice thereof, return receipt requested, to the Assistant Director, Environmental Management Agency-Regulations and the County Counsel of Orange County. If no veto has been exercised by the Assistant Director or the County Counsel within fifteen (15) days of the receipt of such notice, such amendment or termination shall thereafter become effective.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunder set its hand as of the day and year first above written.

TAYLOR WOODROW HOMES CALIFORNIA  
LIMITED, a California corporation

By:   
\_\_\_\_\_  
Gordon Tippell, President

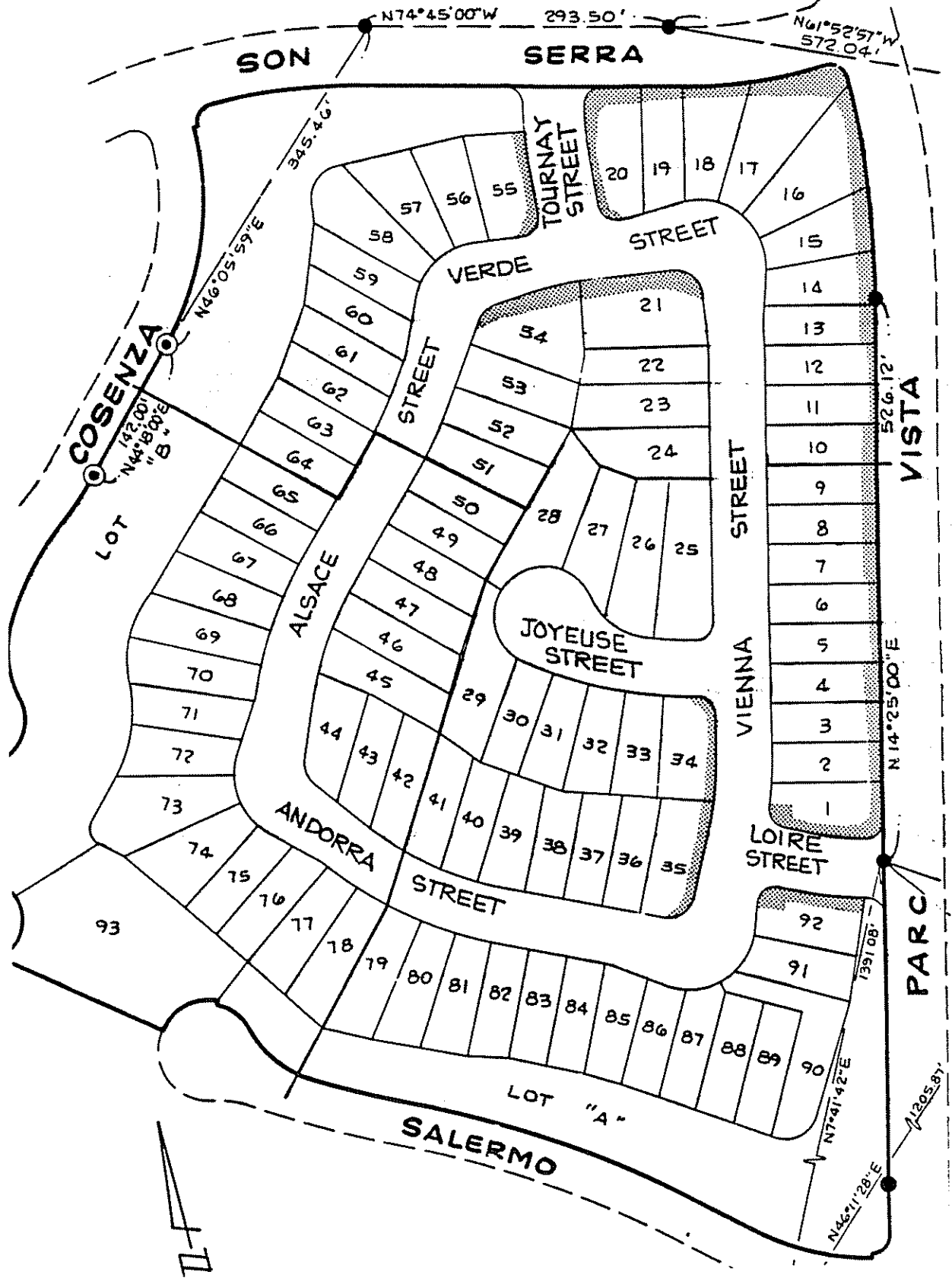
By:   
\_\_\_\_\_  
Carsten Schnepel, Secretary



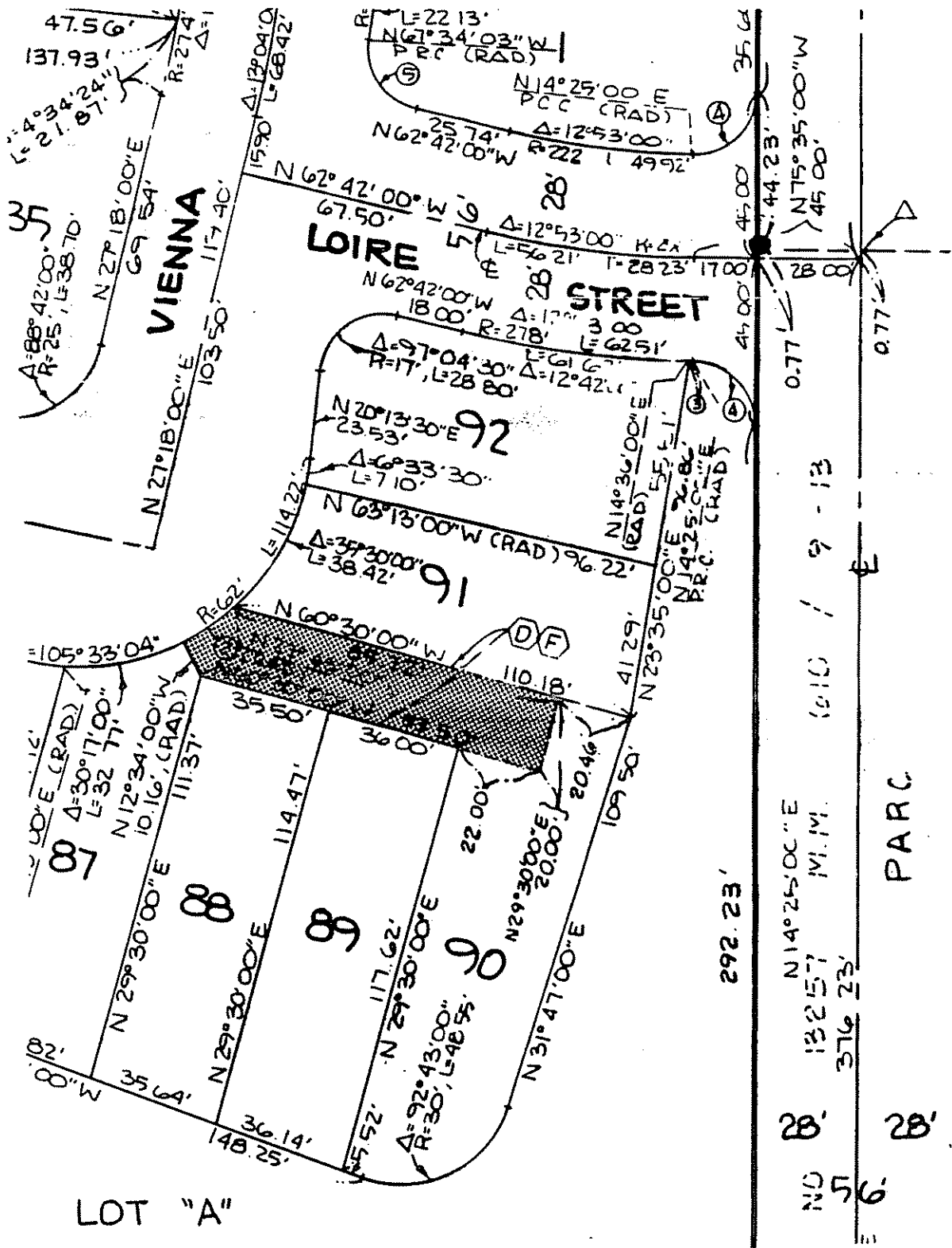
EXHIBIT "A"

Master Association Maintenance Areas

HOME OWNER ASSOC. MAINTAINED SLOPES



# EXHIBIT "B"



LOT "A"

# DRIVEWAY EXHIBIT



