

PLAT. NO. S/D 80-53 MAP NO. 6049

NAME FOLIAGE

LOCATION: Northwest corner of 13th St. North and  
Webb Road

ENGINEER Bill G. Yung Design

OWNER P.M.A., Inc.

APPLICATION FILED 7-11-80

SKETCH PLAT FILED \_\_\_\_\_

PRELIMINARY FILED 7-11-80

S/D ACTION 7-24-80 *Refer 2 weeks; 8-7-80 Approve*

FINAL FILED 10-17-80

S/D ACTION 10-30-80 *Refer subs; 11-13-80 Approve*

MAPC ACTION 11-20-80 *Approve*

BCC ACTION 1-13-81 *Approved*

RECORDED 2/25/81

REMARKS SCT-0463 & CV-240 *not filed 10/10/80*

B.C.C./B. CO. C. Approved 1-13-81  
S/D (Pulkin) approve 8-7-80  
S/D (Jinac) approve 10-30-80  
S/D (Jinac) approve 11-15-80

S/D 80-53 - FOLIAGE - Northwest  
corner of 13th St. North & Webb Rd  
By: Bill G. Yung Design.



# PRELIMINARY

July 10, 1980

## FOLIAGE GENERAL PROVISIONS

1. This project is proposed to contain 75.1 gross acres. The area is to be used as follows:
  - Building area - 54.3 (net area)
  - Streets - 7.6
  - Open space - 13.2
  - Total area 75.1
2. The proposed development as illustrated, is to contain the following types of housing. The illustrated housing type for each parcel is enclosed in a box. (example Zero-lot line enclosed in the parcel description.)
  - 51 Single family units
  - 19 Zero-lot line units
  - 60 Townhouse units
  - 130 Total Dwelling Units

NOTE: Optional building types as described under parcel descriptions below will increase this count but will not exceed the maximum overall net density requested under paragraph 3 below. The maximum number of dwelling units permitted is 144.
3. If the parcels are developed with the number and type of units illustrated, the overall density of the site, including the open space, would be 1.73 du/gross acre; if the site was developed with the maximum number of dwelling units permitted, the overall density would be 1.92 du/gross acre.

The overall density of the site, excluding the open space and street right of way, using the number and type of dwelling units illustrated would be 2.39 du/net acre, if the site was developed with the maximum number of dwelling units permitted, the density would be 2.65 du/net acre.

Net densities for the various types of dwelling units are shown in the parcel descriptions.
4. Setbacks are as indicated in parcel descriptions below or as follows:
  - 64' - ROW streets - front yard setback 25' with corner lot having a 15' side yard adjacent to the side street.
  - 58' ROW streets - front yard setback 20' with setbacks on the cul-de-sac end being extended to 25'. All corner lots shall have a side yard setback of 15' adjacent to side street.
5. All utilities shall be installed underground.

6. Signs designating the name of the development shall be permitted at the entrances to the proposed parcels if they follow in accordance with the provisions of Section 28.04.139 of the code of the City of Wichita.
7. A homeowners association shall be filed with the plat of each parcel to provide for the maintenance of non-public open space, parking areas, private streets or drives, signs, logos, buffer areas, drainage channels, swales, etc. Two or more of the homeowners association may join together to form a master homeowners association.

Failure of the homeowners association(s) to properly maintain the non-public open space, parking areas, private streets or drives, signs, logos, buffer areas, drainage channels, swales, etc., and after a joint determination of the Director of Planning and the Superintendent of Central Inspection, shall constitute a violation of the building permit authorizing construction of the proposed development; and shall give the City the right to properly maintain the areas previously listed and to assess the cost of maintenance to the property owners.
8. Parcel 4 represents the proposed location for the clubhouse and related recreation facilities; however, it is also being reserved for a potential single family residence. If developed and operated as a club and recreation facility it shall be maintained by the homeowners association. If developed as a single family residence, the land area shall be deleted from the open space calculation and the maintenance thereof from the homeowners association.
9. Streets, drive and turnarounds in the project elements being developed as zero-lot line, duplex, 4-plex or townhouses shall be privately owned. All 58' ROW street and motor court areas shall also be privately owned. All 64' ROW streets shall be dedicated.
10. Minimum lot sizes for single family detached units shall be 20,000 sq. ft. except for zero lot line detached which shall be 5,000 sq. ft. Minimum lot sizes for duplex (single family attached) shall be 10,000 sq. ft.
11. The proposed drainage facilities, lakes, detentation facilities, drainage ways, swales, etc. shall be owned and maintained by the homeowners association and shall be designed in conformance with a hydrology study as prepared independently from this document. Results of this study and proposed drainage facilities shall be submitted for approval at the time of platting.
12. Final determination of street right-of-way and pavement width will be resolved at the time of platting.

13. Should an alternate land use, permitted under parcel descriptions below, be developed instead of the parcel plan as illustrated, a layout plan shall be submitted for approval by Director of Planning at the time of platting indicating configuration and setbacks.
14. Building setback lines from the existing pipeline easement shall be established at the time of platting and all paving over the easement shall be with the approval of the affected pipeline company; any change in elevation or relocation of the pipeline shall be without costs to the City of Wichita.
15. Fire hydrant installation and paved access to all building sites shall be provided for each phase of construction prior to the issuance of building permits. Turn arounds shall be provided on all dead end fire lanes which are longer than 100 feet.
16. The existing shelter belt on the west side of Webb Road shall be expanded north to the half section line and shall be maintained in good condition as per sight distance requirements.
17. Parking Ratio: In accordance with Zoning Ordinance Section 28.04.140, the offstreet parking ratios shall be as follows:
 

Duplexes, 4 plexes, Townhouses, garden apartments	2.0/du
Zero lot line (includes 2 spaces inside garage)	4.0/du
Single Family detached 58' Street R-O-W	4.0/du
All other Street R-O-W	2.0/du
18. Parcel Descriptions: Proposed use illustrated on plan view is enclosed in box 4-Plex on use description below.

Parcel #1

Proposed Uses - Single family detached  
 Dwelling Units - 51  
 Gross Parcel Area - 46.8 acres  
 Net Building Area - 39.2+ acres  
 Density (net bldg. area)  
   Single Family 1.30 DU/acre  
 Maximum Bldg. Coverage - 30%  
 Maximum Bldg. Height - 35 ft.  
 Setbacks - Minimum front yard (see note #4 above)  
           Minimum rear yard - 20 ft.  
           Minimum side yard - 6 ft.  
 Parking Ratio - See note #17

13. Should an alternate land use, permitted under parcel descriptions below, be developed instead of the parcel plan as illustrated, a layout plan shall be submitted for approval by Director of Planning at the time of platting indicating configuration and setbacks.
14. Building setback lines from the existing pipeline easement shall be established at the time of platting and all paving over the easement shall be with the approval of the affected pipeline company; any change in elevation or relocation of the pipeline shall be without costs to the City of Wichita.
15. Fire hydrant installation and paved access to all building sites shall be provided for each phase of construction prior to the issuance of building permits. Turn arounds shall be provided on all dead end fire lanes which are longer than 100 feet.
16. The existing shelter belt on the west side of Webb Road shall be expanded north to the half section line and shall be maintained in good condition as per sight distance requirements.
17. Parking Ratio: In accordance with Zoning Ordinance Section 28.04.140, the offstreet parking ratios shall be as follows:
 

Duplexes, 4 plexes, Townhouses, garden apartments	2.0/du
Zero lot line (includes 2 spaces inside garage)	4.0/du
Single Family detached 58' Street R-0-W	4.0/du
All other Street R-0-W	2.0/du
18. Parcel Descriptions: Proposed use illustrated on plan view is enclosed in box 4-Plex on use description below.

Parcel #1

Proposed Uses - Single family detached  
 Dwelling Units - 51  
 Gross Parcel Area - 46.8 acres  
 Net Building Area - 39.2+ acres  
 Density (net bldg. area)  
   Single Family 1.30 DU/acre  
 Maximum Bldg. Coverage - 30%  
 Maximum Bldg. Height - 35 ft.  
 Setbacks - Minimum front yard (see note #4 above)  
           Minimum rear yard - 20 ft.  
           Minimum side yard - 6 ft.  
 Parking Ratio - See note #17

Parcel #2

Proposed Uses - Zero lot line, Duplex, Four-plex, Townhouse

Dwelling Units - Zero lot line - 35

Duplex - 46

Four-plex - 60

Townhouse - 60

Gross Parcel Area - 7.8+ acres

Net Building Area - 7.8+ acres

Density -

Zero lot line 4.49 DU/acre

Duplex 5.90 DU/acre

Four-plex - 7.69 DU/acre

Townhouse - 7.69 DU/acre

Maximum Bldg. Coverage - 30%

Maximum Bldg. Height - 35 ft.

Setbacks - To be determined at time of platting dependent upon land use. Overall parcel setbacks illustrated on plan view.

Parking Ratio - See note #17 above

Parcel #3

Proposed Uses - Zero lot line Duplex, Four-plex, Townhouses

Dwelling Units - Zero lot line - 19

Duplex - 24

Four-plex - 32

Townhouse - 32

Gross Parcel Area - 4.1+ acres

Net Building Area - 4.1+ acres

Density -

Zero lot line - 4.63 DU/acre

Duplex - 5.85 DU/acre

Four-plex - 7.80 DU/acre

Townhouse - 7.80 DU/acre

Maximum Bldg. Coverage - 30%

Maximum Bldg. Height - 35 ft.

Setbacks - To be determined at time of platting dependent upon land use. Overall parcel setbacks illustrated on plan view.

Parking ratio - See note #17 above

Parcel #4

Proposed Uses - One Single Family Residence or Clubhouse Structures ,  
Related drainage, Maintenance facilities, Swimming  
pools, Tennis courts, Parking, Open space and other  
similar recreation facilities.

Dwelling Units - (single family alternate) - 1

Gross Parcel Area - 3.8+ acres

Net Building Area - 3.8+ acres

Density - (single family alternate) - 0.26 DU/acre

Maximum Bldg. Height - 35 ft.

Setbacks - 25' from all property lines.

Parking Ratio - As per city code for structural uses constructed.

Parcel #5

Proposed Uses - Recreation facilities, Picnic shelters, Open Space ,  
Hike/Bike paths, Drainage facilities, Guard house,  
Entrance monuments, and other misc. service facilities.

Gross Parcel area - 9.4+ acres

Maximum Bldg. Height - 35 ft.

Setback - 50' from all arterial streets

Parking ratio - As per city code for structural uses constructed.

March 15, 1984

Donald C. Gisick, City Clerk  
Forrest L. Nagley, Junior Planner

Release of performance bond associated with Foliage  
Addition (S/D 80-53).

City Engineering has agreed to accept a restrictive covenant  
which nullifies our need to retain the above-referenced bond.  
The original bond should be returned to Manning Insurance  
with their copy of this memorandum.

Forrest L. Nagley  
Junior Planner

FLN:hh

cc: Mike Lindebak, City Engineer  
Mannings Insurance, Attention: Betty Chittester,  
P.O. Box 11103, 67211  
The Foliage, Attention: Alan Burke, 1415 E.  
Waterman, 67211

March 15, 1984

Mike Lindebak, City Engineer

Forrest L. Nagley, Junior Planner

Forwarding of a copy of a restrictive covenant for removal of an accessory structure from the platted utility easement adjacent to the south line of Lot 2, Block 1, Foliage Addition.

Attached please find for your plat files the above-referenced instrument which you authorized as a replacement to an existing performance bond which guaranteed the removal of the encroachment from the easement.

The performance bond has been released.

Forrest L. Nagley  
Junior Planner

FLN:bh

Attachment

STATE OF KANSAS  
SEDGWICK COUNTY  
FILED FOR RECORD AT  
9-008 M  
NOV 30 1983  
NO. 6 64307  
BETTE F. MCCART  
REGISTER OF DEEDS  
1983.

FILM 624 PAGE 1542

MICROFILMED  
OF RECORD  
RESTRICTIVE COVENANT

This covenant, executed this 18 day of NOVEMBER,

W I T N E S S E T H: That,

WHEREAS, P. M. A., Inc. has platted certain real property known as Foliage, an Addition to Wichita, Sedgwick County, Kansas; and

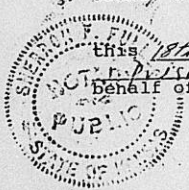
WHEREAS, as a part of the platting process certain requirements have been made by the City of Wichita regarding the removal of an existing horse shed from the 10-foot platted utility easement adjacent to the south line of Lot 2, Block 1, of said Addition.

NOW, THEREFORE, the undersigned does hereby subject the owners of Lot 2, Block 1, Foliage, an Addition to Wichita, Sedgwick County, Kansas, to the following covenant and restriction:

At such time as the City of Wichita or any public utility company needs to use the platted utility easement adjacent to the south line of Lot 2, Block 1, of said Addition, the structure is to be moved from the easement by the lot owner(s) in an expeditious manner and at their expense. If said structure is not removed within 10 days after written notice is given to remove the encroachment, the City of Wichita or any public utility company may clear the utility easement of the structure and bill the removal costs to the owner(s) of the subject lot.

This covenant shall run with the land and shall be binding upon all future owners of Lot 2, Block 1, Foliage, an Addition to Wichita, Sedgwick County, Kansas. This covenant shall terminate upon removal of the horse shed from the platted utility easement.

STATE OF KANSAS )  
                          ) ss  
COUNTY OF SEDGWICK)



The foregoing instrument was acknowledged before me this 18th day of November, 1983, by Paul J. Foley, President of P.M.A., Inc., a Kansas Corporation on behalf of the corporation.

Sherman Fulmer  
Notary Public

500 My Appointment Expires: 3/7/87  
Foliage Association 1415 E. Waterman 67211

**IMPORTANT MESSAGE**

FOR Forest

DATE 1941 TIME 1:50 <sup>A.M.</sup> ~~P.M.~~

WHILE YOU WERE AWAY

OF Betty Chittester

PHONE No. 265-5774

OF Mornings Insurance

TELEPHONED	PLEASE CALL	<input checked="" type="checkbox"/>
CALLED TO SEE YOU	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	RETURNED YOUR CALL	<input type="checkbox"/>

MESSAGE \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

SIGNED Jane

November 9, 1983

The Foliage  
Attention: Alan Burke  
1415 E. Waterman  
Wichita, Kansas 67211

Re: Restrictive covenant required in conjunction with the  
release of the performance bond required with the  
platting of the Foliage.

Dear Mr. Burke:

We have completed our review of the draft covenant attached  
with your letter dated November 8, 1983. We have made several  
changes which are indicated on the enclosed instrument. Please  
review the document and if satisfactory, have the president of  
P.M.A., Inc., execute it. Once the instrument has been signed,  
record it with the Register of Deeds and provide this office  
with two recorded copies.

Should you have any questions or wish to discuss our changes  
in your draft, please advise.

Sincerely,

Forrest L. Nagley  
Junior Planner

FLN:bh

cc: Mike Lindebak, City Engineer

RESTRICTIVE COVENANT

This covenant, executed this \_\_\_\_ day of \_\_\_\_\_,  
1983.

W I T N E S S E T H: That,

WHEREAS, P. M. A., Inc. has platted certain real property known as Foliage, an Addition to Wichita, Sedgwick County, Kansas; and

WHEREAS, as a part of the platting process certain requirements have been made by the City of Wichita regarding the removal of an existing horse shed from the 10-foot platted utility easement adjacent to the south line of Lot 2, Block 1, of said Addition.

NOW, THEREFORE, the undersigned does hereby subject the owners of Lot 2, Block 1, Foliage, an Addition to Wichita, Sedgwick County, Kansas, to the following covenant and restriction:

At such time as the City of Wichita or any public utility company needs to use the platted utility easement adjacent to the south line of Lot 2, Block 1, of said Addition, the structure is to be moved from the easement by the lot owner(s) in an expeditious manner and at their expense. If said structure is not removed within 10 days after written notice is given to remove the encroachment, the City of Wichita or any public utility company may clear the utility easement of the structure and bill the removal costs to the owner(s) of the subject lot.

This covenant shall run with the land and shall be binding upon all future owners of Lot 2, Block 1, Foliage, an Addition to Wichita, Sedgwick County, Kansas. This covenant shall terminate upon removal of the horse shed from the platted utility easement.

STATE OF KANSAS        )  
                          ) ss  
COUNTY OF SEDGWICK)

The foregoing instrument was acknowledged before me  
this \_\_\_\_ day of \_\_\_\_\_, 1983, by \_\_\_\_\_  
of P.M.A., Inc., a Kansas Corporation on  
behalf of the corporation.

\_\_\_\_\_  
Notary Public

My Appointment Expires: \_\_\_\_\_



November 8, 1983

Dear Forest:

Please find enclosed a copy of the restrictive covenant concerning the structure on lots 1 and 2, block 1 of the Foliage. I hope this meets with your approval so as to put this matter to rest. If I can be of assistance, please call.

Thank you.

Sincerely,

Alan Burke

Please direct any correspondence to The Foliage,  
1415 E. Waterman, Wichita, Ks 67211.

RECEIVED

NOV 8 1983

METROPOLITAN PLANNING

ROUTE

Post Office Box 1307    Wichita, Kansas 67201    316-265-3633

RESTRICTIVE COVENANT

This covenant, executed this \_\_\_\_\_ day of \_\_\_\_\_,  
1983.

WITNESSETH: That,

WHEREAS, the undersigned has platted certain real property known as Foliage, an Addition to Wichita, Sedgwick County, Kansas; and

WHEREAS, as a part of the platting process certain requirements have been made by the City of Wichita regarding an existing horse shed; and

NOW, THEREFORE, the undersigned does hereby subject the owners of Lots 1 and 2, Block 1, Foliage, an Addition to Wichita, Sedgwick County, Kansas, to the following covenant and restriction:

At such time as the City of Wichita or any public utility needs to use the platted utility easement along the south 10 feet of Lots 1 and 2, Block 1, said structure is to be moved at the owner's expense in an expidious manner.

**IMPORTANT MESSAGE**

FOR Forest  
DATE 11-7 TIME 3 P.M.

**WHILE YOU WERE AWAY**

Allen Burke  
OF Foliage

PHONE No. 265-3633

TELEPHONED	PLEASE CALL	<input checked="" type="checkbox"/>
CALLED TO SEE YOU	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	RETURNED YOUR CALL	<input type="checkbox"/>

MESSAGE  
second request

SIGNED E

To file: (foliage S/O 80-53)

Alan Burke & Mike Lindbak agreed on Wednesday, June 29, 1983, to discontinue the bond guaranteeing the barn removal on lot 2, Bk. 1, in favor of Burke obtaining a covenant acknowledging the lot owner's responsibility to remove the structures from the easement of the City or any utility company needs to see the easement.

FWL  
6/30/83

February 14, 1983

Donald C. Gisick, City Clerk

Forrest L. Nagley, Junior Planner

Forwarding of endorsement and performance  
bond associated with Foliage Addition  
(S/D 80-53)

Attached please find the above-referenced document  
for attaching to the original bond in your files.  
The original is for the account of PMA, Inc., from  
Employers Mutual Casualty Company in the amount of  
\$1,000.00.

Should you have any questions, please call me.

Forrest L. Nagley  
Junior Planner

FLN:bh

# Manning's Insurance

RECEIVED

R. W. MANNING



E. C. MANNING

150 Ida  
P. O. Box 11103

PATRICK J. MANNING

265-5777

WICHITA, KANSAS 67202

FEB 10 1983

METROPOLITAN PLANNING

ROUTE

Nagley

February 9, 1983

Mr. Forrest L. Nagley  
Wichita-Sedgwick County Metropolitan Area Planning Dept.  
City Hall - 10th Floor  
455 N. Main  
Wichita, KS 67202

Re: PMA, Inc. Performance Bond #S063572

Dear Mr. Nagley,

In accordance with your letter of January 27, 1983, authorizing a 6 month extension of time to complete the removal of an outbuilding from the utility easement on Lot 2, Block 1 Foliage Addition, we enclose the rider which becomes a part of the original bond filed with your office in January, 1981, and extends the period of the bond to June 30, 1983.

Since the rider was executed based on your authorization, the carrier has requested you indicate your acceptance of the change of terms by signing the carbon copy enclosed and returning to us for forwarding in the self-addressed envelope we attach.

If you have any question in this matter, please let me know.

Thank you.

Sincerely,  
Manning's Insurance

Betty Chittester

BC;cs  
enclosure

INSURANCE FOR BUSINESS-HOME-AUTOMOBILE  
SERVING WICHITA 50 YEARS

### ENDORSEMENT OR RIDER

The following spaces preceded by an asterisk (\*) need not be completed if this endorsement or rider and the bond or policy have the same inception date.

ATTACHED TO AND FORMING PART OF BOND OR POLICY NO.	DATE ENDORSEMENT OR RIDER EXECUTED	* EFFECTIVE TIME OF ENDORSEMENT OR RIDER	* EFFECTIVE DATE OF ENDORSEMENT OR RIDER
S06 35 72	February 1, 1983	12:01 P. M.	February 1, 1983

\* ISSUED TO

P.M.A., Inc.

It is hereby agreed that the words;

performed on or before December 31, 1982

are hereby deleted,

And the words;

performed on or before June 30, 1983

are hereby substituted therefor;

Provided that, no amount carried under the Bond during any period shall be cumulative with the amount or amounts carried under the Bond during any other period or periods.

**EMPLOYERS MUTUAL CASUALTY COMPANY**

ACCEPTED:

By: \_\_\_\_\_

BY: \_\_\_\_\_  
Attorney-in-Fact

C. L. Rood

January 27, 1983

P.M.A., Inc.  
Attention: Paul Foley, Jr.  
9200 E. 13th  
Wichita, Kansas 67206

Re: Performance bond guaranteeing the removal of an outbuilding  
from the utility easement on Lot 2, Block 1, Foliage Addition

Dear Mr. Foley:

The various utility companies and City Engineering have agreed to authorizing a 6-month extension of time to complete the above-referenced work. An amendment to your bond needs to be submitted which references a completion date of June 31, 1983. The outbuilding needs to be removed by this date or the City will collect on the bond and complete the work for you.

Should you have any questions, please call me at 268-4421.

Sincerely,

Forrest L. Nagley  
Junior Planner

cc: Mike Lindebak, Project Development Engineer, City Engineering  
Patrick J. Manning, Attorney-in-Fact, Employers Mutual  
Casualty Company, 150 Ida, 67211  
Mannings Insurance, Attention: Betty Chittester, P.O. Box  
11103, 67202

**IMPORTANT MESSAGE**

FOR Louise  
DATE 1-24 TIME 11 ~~P.M.~~ <sup>A.M.</sup>

**WHILE YOU WERE AWAY**

Betty  
OF Manning's Dns.  
PHONE No. 265-5777

TELEPHONED	PLEASE CALL	<input checked="" type="checkbox"/>
CALLED TO SEE YOU	WILL CALL AGAIN	
WANTS TO SEE YOU	RETURNED YOUR CALL	

MESSAGE \_\_\_\_\_  
Book - P.H.A. Inc.

SIGNED [Signature]

Manning's Ins

P.O. 11103

67202

attn Betty  
Chittester

All utility companies  
& City Eng. agreed  
to a 6-month  
extension.

Allan Burke was  
informed of this  
1-5-83. He said  
he would tell his  
bonding company and  
we would be  
receiving an extension  
of the bond soon.

December 2, 1982

F.M.A., Inc.  
Attention: Paul Foley, Jr.  
9200 E. 13th  
Wichita, Kansas 67206

Re: Performance bond guaranteeing the removal of an  
outbuilding from the utility easement on Lot 2,  
Block 1, Foliage Addition

Dear Mr. Foley:

The above-referenced performance bond is nearing maturity. The bond references a completion date of December 31, 1982, for the removal of the building from the easement. A recent field check of the site indicates that, as of this date, the building has not been removed.

This letter acts to remind you of your agreement to remove the building by the bond's maturity date. As this plat is currently under development and at least one utility in is the subject easement, it is important that this work be completed. Please notify me when the work has been completed so I may proceed to release the bond. Action on your part is imperative if you wish to avoid default on the guarantee.

Should you have any questions, please call me at 268-4421.

Sincerely,

Forrest L. Nagley  
Junior Planner

FLN:bh

cc: Mike Lindebak, Project Development Engineer, City  
Engineering

Patrick J. Manning, Attorney-In-Fact, Employers Mutual  
Casualty Company, 150 Ida, 67211

CITY OF WICHITA  
Route Slip  
(PLEASE CIRCLE DESTINATION)

*Forest*

Administration  
Budget & Mgmt.  
Contracts Admin.  
Controller  
Data Processing  
Purchasing  
Microfilm  
Print Shop  
Stores/Maintenance  
Ret. & Insurance  
Treasurer  
Airport Authority  
Art Museum  
City Commission  
City Manager  
City Clerk  
Personnel  
Public Affairs  
Civil Rights & E.E.O.  
Community Facilities  
Building Services  
Century II  
Community Arts  
Omnisphere

Credit Union  
Emergency Com.  
Engineering  
Admin./Planning  
Construction/Survey  
Revenue Office  
Health Department  
Housing/Econ. Dev.  
Crim. Justice  
Central Inspection  
Energy Resources  
Industrial Development  
Local Housing Authority  
Local Resources  
Human Services  
Admin. Services  
C.P.O.  
Neighborhood Services  
Planning/Evaluation

Library  
M.T.A.  
Municipal Court  
Operations/Maint. Dept.  
Admin. Research  
Fleet Maintenance  
Flood Control  
Streets  
Traffic Oper./Maint.  
Park Department  
Planning Department  
Graphics  
Police Department  
Water Department  
Accounting  
Engineering  
Filter Plant  
Mains & Services  
Sewer Maintenance  
Water Pol. Control

**RECEIVED**  
**DESIGN**

**PLANNING**

**ROUTE**  
**COURT HOUSE**  
**or Pay Accounts**

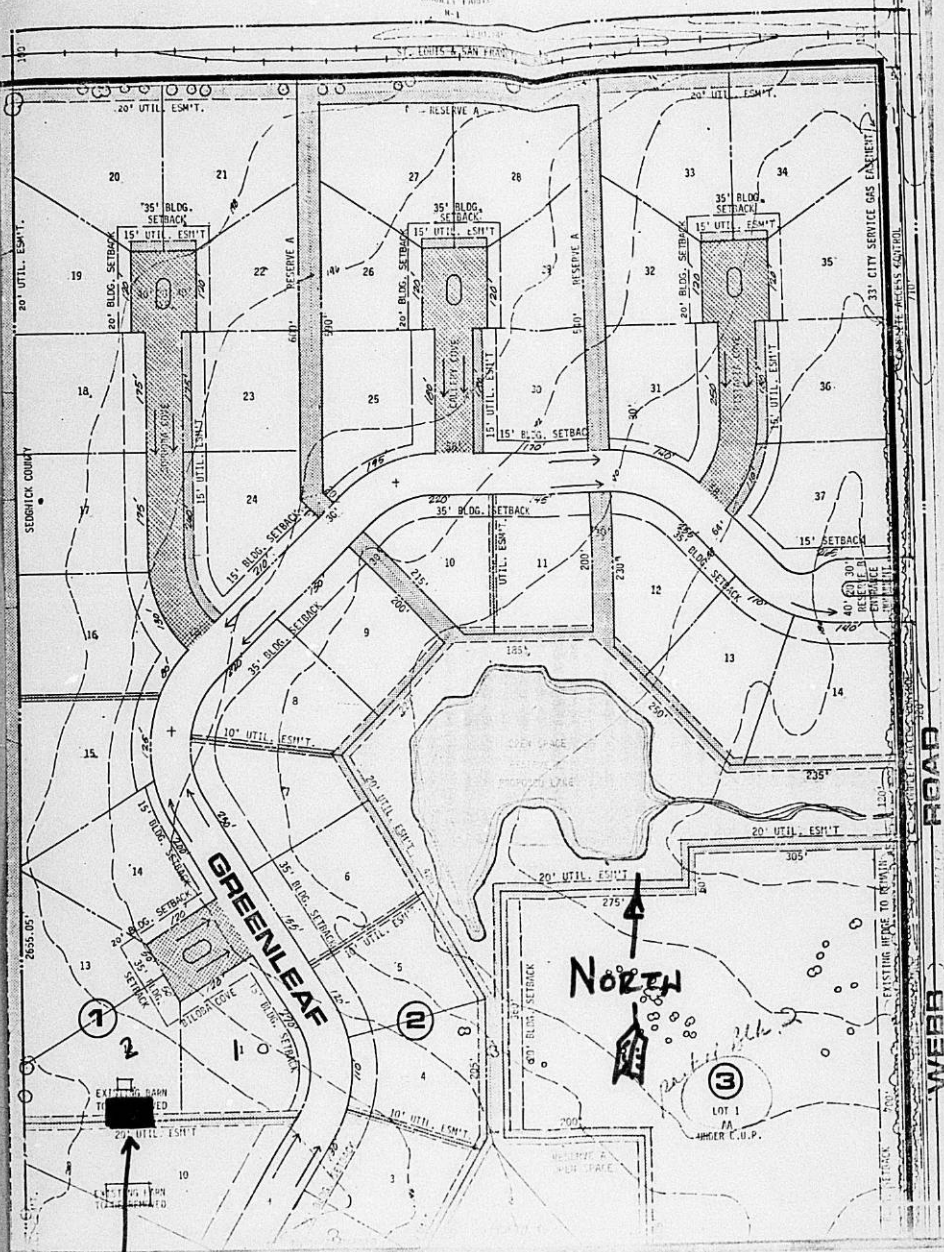
For Eldon Vaughn For your information  
MESSAGE:

For your comments

M.A.P.D.  
Signs #000-013 OCT 81

Date 11/30/82

WILLIAM L. LITTLE & CO. INC.  
SURVEYORS & ENGINEERS  
ST. LOUIS 8, MISSOURI



HAS THIS STRUCTURE BEEN REMOVED FROM THE UTILITY EASEMENT? #142  
Found



**SEDGWICK COUNTY, KANSAS**  
DEPARTMENT OF PUBLIC WORKS

1250 S. SENECA  
WICHITA, KANSAS 67213-4498  
(316) 268-7901

**Claud S. Shelor, P.E.**  
Director of Public Works/County Engineer

*Forrest*

TO: Forrest Nagely, M.A.P.D.  
FROM: Phil Dietrich *PD*  
DATE: November 24, 1982  
SUBJ: Status of Guarantees; Leewood Heights 4th Addition  
and Foliage Addition

As per your request of your memo dated November 20, 1982, please be advised that Letters of Credit for Leewood Heights 4th Addition in the amounts of \$35,000.00 and \$70,000.00 have been released. However, we had requested a new Letter of Credit guaranteeing seeding of the street ditches which still is in effect. I have enclosed copies of correspondence concerning these items for your files.

Insofar as the performance bond for the Foliage, I contacted Ken Bengtson by telephone and he stated the streets have been completed. At such time he advises us in writing of the completion we will release the bond.

Please call if you need any additional information concerning these items.

PD/yls

enclosures

cc: M.A.P.D. File

**RECEIVED**

NOV 29 1982

METROPOLITAN PLANNING  
ROUTE  \_\_\_\_\_  
 \_\_\_\_\_

November 10, 1982

Phil Dietrich, Senior Civil Engineer, Sedgwick County  
Department of Public Works

Forrest L. Nagley, Junior Planner

Status of guarantees for Leewood Heights 4th Addition  
and Foliage Addition.

The following letters of credit of performance bonds are nearing maturity:

1. Leewood Heights 4th Addition:
  - a. Colwich State Bank - credit number 105 in the amount of \$35,000 guaranteeing street construction;
  - b. Colwich State Bank - credit number 104 in the amount of \$70,000 guaranteeing storm water sewers.
2. Foliage Addition:
  - a. Seaboard Surety Company performance bond in the amount of \$263,326.45 guaranteeing street improvements.

Please advise me of the status of these bonds and the improvements they guarantee.

Forrest L. Nagley  
Junior Planner

FLN:bh

cc: Leewood Heights 4th Addition File  
Foliage Addition file



**COUNTY OF SEDGWICK**  
DEPARTMENT OF PUBLIC WORKS

1250 S. SENECA  
WICHITA, KANSAS 67213

PHONE 268-7901

SEDGWICK COUNTY COURTHOUSE

Joe D. Freeman, P.E.  
Acting County Engineer

TO: Dorothy K. White, County Clerk  
ATT: Judy Smith

FROM: Joe D. Freeman, *JDF*

DATE: January 29, 1981

SUBJ: Performance Bond - The Foliage Addition

Enclosed please find a Performance Bond in the amount of Two Hundred Sixty-Three Thousand Three Hundred Twenty-Six and 45/100 Dollars (\$263,326.45) guaranteeing the construction of Street Improvements, Foliage Addition.

Please retain this Performance Bond until you receive written notification from this office that the work has been satisfactorily completed.

Enclosures -

✓ cc: Louise Olivarez, MAPD  
Plat File

**RECEIVED**

JAN 30 1981

METROPOLITAN PLANNING  
ROUTE  *Louise*

# SEABOARD SURETY COMPANY

HOME OFFICE: NEW YORK, N. Y.

## PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS, That we Ritchie Paving, A Division  
of Ritchie Corporation, P. O. Box 4048, Wichita, KS 67204

as Principal, and the SEABOARD SURETY COMPANY, a New York corporation, having its  
principal office and place of business at City of New York, New York, as Surety, are held and  
firmly bound unto Board of County Commissioners of Sedgwick County, Kansas

, as Obligee,  
in the sum of Two Hundred Sixty-three Thousand Three Hundred Twenty-six and

45/100 ----- Dollars,  
for which payment, well and truly to be made, we bind ourselves, our heirs, executors, adminis-  
trators, successors and assigns, jointly and severally, firmly by these presents.

Sealed with our seals and dated this 24th day of December, 1980

WHEREAS, the above bounden Ritchie Paving

has entered into a contract with Obligee for Street improvements, Foliage Addition,  
An Addition to Sedgwick County, Kansas

as is fully and at large set forth and described in the said contract aforesaid.

NOW, THEREFORE, the condition of the above obligation is such, that if the above bounden  
Principal shall well and truly and in good, sufficient and workmanlike manner, perform or cause  
to be performed the said contract, and each and every of the covenants, promises, agreements  
and provisions therein stipulated, and in each and every respect comply with the conditions there-  
in contained, then this obligation to be void; otherwise to remain in full force and virtue.

No claim, suit or action by reason of any default shall be brought against the Principal or  
Surety after two years from date hereof. If this limitation is made void by any law controlling  
the construction hereof, such limitation shall be deemed to be amended to equal the minimum period  
of limitation permitted by such law. The Principal shall be made a party to any suit or ac-  
tion, and be served with process commencing the same if the Principal can with reasonable dili-  
gence be found. No judgment shall be rendered against the Surety in excess of the penalty of this  
instrument.

RITCHIE PAVING, A DIVISION OF RITCHIE CORPORATION

*M. J. Feaster*

SEABOARD SURETY COMPANY

By: *W. Johnson*  
Ken W. Johnson, Attorney-in-fact

**SEABOARD SURETY COMPANY**  
NEW YORK, NEW YORK  
**POWER OF ATTORNEY**

**KNOW ALL MEN BY THESE PRESENTS:** That SEABOARD SURETY COMPANY, a corporation of the State of New York, has made, constituted and appointed and by these presents does make, constitute and appoint John B. Burns or Ken W. Johnson or Richard Amend or J. Stephen Spines

of Wichita, Kansas its true and lawful Attorney-in-Fact, to make, execute and deliver on its behalf insurance policies, surety bonds, undertakings and other instruments of similar nature as follows: **Without Limitations**

Such insurance policies, surety bonds, undertakings and instruments for said purposes, when duly executed by the aforesaid Attorney-in-Fact, shall be binding upon the said Company as fully and to the same extent as if signed by the duly authorized officers of the Company and sealed with its corporate seal; and all the acts of said Attorney-in-Fact, pursuant to the authority hereby given, are hereby ratified and confirmed.

This appointment is made pursuant to the following By-Laws which were duly adopted by the Board of Directors of the said Company on December 8th, 1927, with Amendments to and including April 6, 1978 and are still in full force and effect:

**ARTICLE VII, SECTION 1:**  
"Policies, bonds, recognizances, stipulations, consents of surety, underwriting undertakings and instruments relating thereto. Insurance policies, bonds, recognizances, stipulations, consents of surety and underwriting undertakings of the Company, and releases, agreements and other writings relating in any way thereto or to any claim or loss thereunder, shall be signed in the name and on behalf of the Company (a) by the Chairman of the Board, the President, a Vice President or a Resident Vice President and by the Secretary, an Assistant Secretary, a Resident Secretary or a Resident Assistant Secretary; or (b) by an Attorney-in-Fact for the Company appointed and authorized by the Chairman of the Board, the President or a Vice President to make such signature; or (c) by such other officers or representatives as the Board may from time to time determine.  
The seal of the Company shall if appropriate be affixed thereto by any such officer, Attorney-in-Fact or representative."

IN WITNESS WHEREOF, SEABOARD SURETY COMPANY has caused these presents to be signed by one of its Vice-Presidents, and its corporate seal to be hereunto affixed and duly attested by one of its Assistant Secretaries, this 14th day of October, 1976.

Attest:  
(Seal) Karen Hayes  
Assistant Secretary

SEABOARD SURETY COMPANY,  
By R. T. Gundersen  
Vice-President

STATE OF NEW YORK }  
COUNTY OF NEW YORK } ss.:  
On this 14th day of October, 1976, before me personally appeared R. T. Gundersen, a Vice-President of SEABOARD SURETY COMPANY, with whom I am personally acquainted, who, being by me duly sworn, said that he resides in the State of New York; that he is a Vice-President of SEABOARD SURETY COMPANY, the corporation described in and which executed the foregoing instrument; that he knows the corporate seal of the said Company; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said Company; and that he signed his name thereto as Vice-President of said Company by like authority.

State of New York  
No. 41-7493475 Qualified in Queens County  
Cert. filed in New York County  
(Seal) Commission Expires March 30, 1980

Anita J. Leonard  
Notary Public

**C E R T I F I C A T E**

I, the undersigned Assistant Secretary of SEABOARD SURETY COMPANY do hereby certify that the original Power of Attorney of which the foregoing is a full, true and correct copy, is in full force and effect on the date of this Certificate and I do further certify that the Vice President who executed the said Power of Attorney was one of the Officers authorized by the Board of Directors to appoint an attorney-in-fact as provided in Article VII, Section 1, of the By-Laws of SEABOARD SURETY COMPANY.

This Certificate may be signed and sealed by facsimile under and by authority of the following resolution of the Board of Directors of SEABOARD SURETY COMPANY at a meeting duly called and held on the 28th day of June 1978.

"RESOLVED: (2) That the use of a printed facsimile of the corporate seal of the company and of the signature of an Assistant Secretary on any certification of the correctness of a copy of an instrument executed by the President or a Vice-President pursuant to Article VII, Section 1, of the By-Laws appointing and authorizing an attorney-in-fact to sign in the name and on behalf of the company surety bonds, underwriting undertakings or other instruments described in said Article VII, Section 1, with like effect as if such seal and such signature had been manually affixed and made, hereby is authorized and approved."

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the Company to these presents this 24th day of December, 1980.

Marian Mentzel  
Assistant Secretary





Cont'd

Page . . . 2

Special Provisions:

Excavation	2,842 CY @ 3.00	8,526.00
Lime Subgrade	12,614 SY @ 2.50	31,535.00
3" Bit. Base	4,990 SY @ 4.80	23,952.00
8" Asphalt Pavement	7,430 SY @ 13.50	100,305.00
Standard C & G 30"	3,502 LF @ 6.20	21,712.40
Roll C & G 21"	3,144 LF @ 5.20	16,348.80
6" Concrete Pavement	2,644 SY @ 21.50	56,846.00
12" Concrete Header	170 LF @ 8.00	1,360.00
5" Asphalt Hookup	215 SY @ 12.75	2,741.25

\$263,326.45

NOTE: To be constructed per City, County specifications.

IN WITNESS WHEREOF, the FIRST PARTY and the SECOND PARTY, respectively, have caused this agreement to be duly executed the day and year first herein written, all copies of which to all intents and purposes shall be considered as the original.

FIRST PARTY

ATTEST:

By \_\_\_\_\_

Title \_\_\_\_\_

By Paul J. Foley Jr

Title President

SECOND PARTY

ATTEST:

By \_\_\_\_\_

Title \_\_\_\_\_

By M E Feaster

Title General Manager

RECOMMENDATION FROM METROPOLITAN AREA PLANNING COMMISSION TO  
BOARD OF CITY COMMISSIONERS

SUBDIVISION APPROVAL

S/D Number 80-53                      Name Foliage  
Application & Sketch Filed: 7-11-80  
Preliminary Plat Filed: 7-11-80                      Approved by S/D: 8-7-80  
Final Plat Filed: 10-17-80                      Approved by S/D: 11-13-80  
Approved by Metropolitan Area Planning Commission: 11-20-80

DESCRIPTION

General Location: west side of Webb Road in an area north of 13th

Surveyor or Engineer: Van Doren-Hazard-Stallings

Owner: P.M.A., Inc., Paul J. Foley, President

Address: 1550 S. West Street

- |                                      |                       |                         |
|--------------------------------------|-----------------------|-------------------------|
| 1. Gross Acreage of Plat <u>32</u>   | 6. Access Control     |                         |
| 2. Number of Lots                    | St. <u>Webb Road</u>  | No. Openings <u>No.</u> |
| Residential <u>37</u>                | St. _____             | No. Openings _____      |
| Commercial _____                     | St. _____             | No. Openings _____      |
| Industrial _____                     | 7. Req'd Improvements |                         |
| Other _____                          | St. Paving <u>X</u>   | Water <u>X</u>          |
| Total Number of Lots: <u>37</u>      | Sidewalk _____        | Drainage <u>X</u>       |
| 3. Minimum Lot Area: <u>1/2 acre</u> | Sewer <u>X</u>        | Other _____             |
| 4. Existing Zoning: <u>R-1</u>       |                       |                         |
| 5. Special Problems Discussed: _____ |                       |                         |

Associated county zone case SCZ-0463 R-1 to AA has been approved subject to platting. Petitions have been submitted to the City for storm water sewers, sanitary sewers, a temporary sanitary sewer lift station, and water. Applications for outside-the-City sewer and water service have also been submitted. The applicant has made satisfactory guarantees to the County for paving the interior private streets to public street standards. Covenants have been submitted which require four off-street parking spaces per dwelling unit located on the cul-de-sac streets and which provide for the signing of the private streets. The covenants also specify that a homeowners' association will be formed to own and maintain the reserve areas. An avigational easement covering the entire subdivision and a restrictive covenant regarding noise pollution have been submitted for recording. A certificate confirming the petitions has been submitted as well as a performance bond in the amount of \$1,000.00 guaranteeing the removal of a structure from one of the utility easements. An easement for a temporary turnaround at the south end of Greenleaf has been submitted.

Planning Commission Recommendation: That this plat be approved subject to recording within 30 days after approval by the Board of City Commissioners.

Bayouth moved, GARDNER seconded, and it carried unanimously. Hennessy, Jones Lofton and Shook were absent.

ACTION: Approve the applications for water and sewer service outside the City and authorize the Mayor to sign; receive and file the water engineering feasibility report, adopt the resolution of finding and the resolution ordering and directing the water system improvement; approve the petitions and instruct the Director of Law to prepare the necessary resolutions; accept the avigational easement and the temporary turnaround easement; receive and file the performance bond; instruct the City Clerk to file the applications for water and sewer service, the avigational easement and restrictive noise covenant, the temporary turnaround easement, the certificate of petitions, and the declaration of covenants, conditions, and restrictions with the Register of Deeds, the recording costs of which shall be billed to the applicant; approve the plat as approved by the Metropolitan Area Planning Commission and authorize the Mayor to sign.

CITY OF WICHITA, KANSAS

APPLICATION AND PERMIT

FOR OUT-OF-CITY SERVICE BY  
CITY OF WICHITA

AND RELATED PETITION AND CONSENT TO ANNEXATION, AGREEMENTS AND COVENANTS

Application is hereby made to the City of Wichita for sewerage service to serve the following described property:

East ½ of the S.E. ¼ of Section 8, Township 27S Range 2 East, of the 6th  
PM., Sedgwick County, Kansas

Owner: \_\_\_\_\_

The primary use of the above described property is of the type or types indicated below:

- Residential property (buildings used as dwellings only)  
Number of families living in above residential property ( )
- ( ) Commercial property (non-residential buildings used for other than the manufacturing of salable products)
- ( ) Industrial property (buildings used for the manufacture and processing of salable products)
- ( ) Other property (explain): \_\_\_\_\_

The undersigned covenants and agrees as follows:

1. To connect to the sewer system of the City at a point or points designated by the City in accordance with plans and specifications approved by the Director of Engineering and the current sewer ordinances of the City, and subject to inspection by the Superintendent of Central Inspection.
2. To discharge into the City sanitary sewer system only ordinary sanitary wastes and to discharge no toxic or hazardous pollutants, radioactive materials, corrosive, or abrasive matter, air conditioning water, surface or building drainage, any sewage prohibited by current sewer ordinances, or any sewage other than that being discharged at the time of this application, without the written consent of the City.
3. It is further stipulated and agreed that all sewer lines on said land and all connections to the sanitary sewer system of the City shall be maintained in good repair during the time this agreement and permit is in force and effect and that, if the City does not have ownership of these sewer facilities, the City will not be responsible for maintaining

said sewer facilities serving the above described property. However, should the services of the City be desired and the City consents to perform such services, it is agreed that the applicant will pay all actual costs incurred by the City in performing such services.

4. The undersigned hereby releases, indemnifies, and agrees to hold harmless the said City and all its agents and employees from any claim for damages to persons or property of every kind of character arising or claimed to arise by reason of this application and permit.
5. The undersigned agrees not to transfer title to the above premises or any portion thereof without notifying the purchaser of the existence of this application and permit, but failures of purchasers of above-described property or any portion thereof to have actual notice of this application and permit shall in no way diminish or enlarge the rights or obligations imposed hereunder.
6. The undersigned agrees that upon failure to comply with the terms of this agreement and permit, the covered service may be denied to the property above described and said service may be terminated without notice, all in accordance with the ordinance and regulations of the City. This remedy is in addition to all other legal remedies available to the City to assure full compliance with this agreement and permit.
7. The owners of land covered hereunder do hereby petition and consent to the annexation of such lands by the City at such time as it determines appropriate (as contemplated in K.S.A. 12-519 et. seq.). Until such time as the annexation occurs, the owners covenant and agree they will not seek incorporation as a separate city nor annexation to any other city of the land, or any part thereof.
8. The foregoing petition and consent to annexation and covenants are hereby made binding on all heirs, successors and assigns and constitute covenants to run with the land and shall not be withdrawn without the consent of the City of Wichita; and in the event such consent is given, said services above may be terminated at the option of the City of Wichita.

Executed at Wichita, Kansas, this 31st day of DECEMBER, 1980.

THE UNDERSIGNED: (Fill in lines applicable)

\_\_\_\_\_  
(Name-Typed)

\_\_\_\_\_  
(Name-Typed)

(If an individual, application must be signed by husband and wife, if there be such) (See acknowledgment attached)

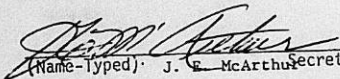
A PARTNERSHIP

By \_\_\_\_\_  
(Name-Typed)

(If a partnership, all partners must sign or if only one partner signs, proof of partnership authority by other partners must be attached) (See form of acknowledgment on attached sheet)

A CORPORATION

ATTEST:

  
(Name-Typed): J. E. McArthur Secretary

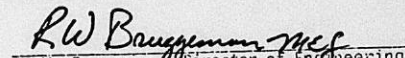
By Paul J. Foley Jr.  
(Name-Typed) \_\_\_\_\_, President  
Paul J. Foley Jr.

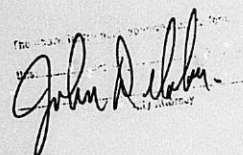
(If a corporation it must be signed by the President and attested by the Secretary) (See form of acknowledgment on attached sheet)

APPROVED BY:

  
John D. Wynkoop, Director of Water and Water Pollution Control

  
Robert A. Lakin, Director of Planning

  
R. W. Bruggeman, Director of Engineering



In consideration of the above and foregoing application, and pursuant to the terms of such application and by virtue of the authority granted by ordinances of the City of Wichita, Kansas, the applicant is hereby granted a revocable permit to discharge sewage into the sanitary sewer system of the City of Wichita, and the fee shall be as provided in Section 16.04.040 of the Code of the City of Wichita, Kansas.

EXECUTED AT WICHITA, KANSAS, this \_\_\_\_\_ day of \_\_\_\_\_, 1980, by authority of the Board of Commissioners of the City of Wichita.

CITY OF WICHITA, KANSAS

\_\_\_\_\_  
Mayor

STATE OF KANSAS, SEDGWICK COUNTY, SS:

BE IT REMEMBERED, that on this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, personally appeared before me, a Notary Public in and for the County and State aforesaid, \_\_\_\_\_, husband and wife, to me personally known to be the same person(s) who executed the foregoing instrument of writing and duly acknowledged the execution thereof.

\_\_\_\_\_  
Notary Public

My Appointment Expires: \_\_\_\_\_

STATE OF KANSAS, SEDGWICK COUNTY, SS:

BE IT REMEMBERED, that on this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, personally appeared before me, a Notary Public in and for the County and State aforesaid, \_\_\_\_\_, being all of the partners of \_\_\_\_\_, a Co-partnership, to be personally known to be the same person(s) who executed the foregoing instrument of writing and duly acknowledged the execution thereof.

\_\_\_\_\_  
Notary Public

My Appointment Expires: \_\_\_\_\_

STATE OF KANSAS, SEDGWICK COUNTY, SS:

BE IT REMEMBERED, that on this 31st day of December, 1980, personally appeared before me, a Notary Public in and for the County and State aforesaid, Paul J. Foley Jr., President of P. M. A. Inc., and J. E. McArthur, Secretary of P. M. A. Inc., to me personally known to be the same person(s) who executed the foregoing instrument of writing and duly acknowledged the execution of the same, for and on behalf and as the act and deed of said company.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal the day and year above written.

me 2000  
\_\_\_\_\_  
Notary Public

My Appointment Expires: 6-9-81

APPLICATION FOR WATER SERVICE  
OUTSIDE THE CORPORATE LIMITS OF  
THE CITY OF WICHITA  
AND RELATED PETITION AND CONSENT TO ANNEXATION,  
AGREEMENTS AND COVENANTS

The Governing Body of the City of Wichita, Kansas, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_, approves and files the application of \_\_\_\_\_

for water service to the following property:

In the S.E. 1/4 of Section 8, Twp. 27 S., Range 2 E. of the 6th P.M.; the Foliage Addition to Sedgwick County, Kansas, and in addition an unplatted tract of land in the east half of the southeast quarter of Section 8, Township 27 South, Range 2 East of the 6th P.M. described more particularly as follows: beginning at a point on the west line of said east half 630.26 feet north of the southwest corner of said east half; thence continuing along said west line bearing N. 0° 06' 10" E. 450.00 feet; thence along the south line of "Foliage", an addition to Sedgwick County, Kansas bearing N. 90° 00' 00" E. 404.89 feet to a point on a curve; thence along the curve to the left with a chord bearing N. 8° 02' 01" E. and 92.09 feet in length, a radius of 118.00 feet and a central angle of 45° 55' 58", a distance of 94.60 feet; thence N. 75° 04' 00" E. 269.96 feet; thence N. 90° 00' 00" E. 25.00 feet; thence S 0° 00' 00" E. 217.79 feet; thence N. 90° 00' 00" W. 25.00 feet; thence S. 31° 00' 00" W. 317.07 feet; thence S. 45° 11' 37" E. 54.35 feet; thence S. 31° 00' 00" W. 264.89 feet; thence N. 49° 30' 00" W. 159.09 feet to a point on a curve to the right with a chord bearing N. 38° 37' 51" W. and 72.21 feet in length, a radius of 191.47 feet and a central angle of 21° 44' 13", a distance of 72.64 feet; thence S. 89° 28' 24" W. 252.66 feet; containing 7.355 acres, more or less.

The applicant agrees to abide by the established rules and regulations of the Wichita Water Department now in force, or which may hereafter be enacted or adopted by said Department of the City of Wichita, Kansas, and to pay for service at the established rate, all in accordance with Section 17 of Code of the City of Wichita, or as amended. The applicant further agrees to acquire a plumbing permit from the City of Wichita; to have the service line installed by a plumber licensed by the City using City approved materials and installation methods.

The owners of land covered hereunder do hereby consent to, petition and request the annexation of such lands by the City of Wichita at such time as it determines appropriate (as contemplated in K.S.A. 12-519 et. seq.). Until such time as the annexation occurs, the owners covenant and agree they will not seek incorporation as a separate city nor annexation to any other city of the land, or any part thereof. The foregoing consent to annexation and covenants are hereby made binding on all heirs, successors and assigns and are made a covenant to run with the land and shall not be withdrawn without the consent of the City of Wichita; and in the event such consent is given, said services above may be terminated at the option of the City of Wichita.

The undersigned agrees not to transfer title to the above premises or any portion thereof without notifying the purchaser of the existence of this application, but

failures of purchasers of above property or any portion thereof to have actual notice of this application shall in no way diminish or enlarge the rights or obligations imposed hereunder.

The undersigned agrees that upon failure to comply with the terms of this agreement and permit, the covered service may be denied to the property above described and said service may be terminated without notice, all in accordance with the ordinance and regulations of the City. This remedy is in addition to all other legal remedies available to the City to assure full compliance with this agreement and permit.

APPLICANT

(fill in lines applicable)

\_\_\_\_\_  
(Name-Typed)

\_\_\_\_\_  
(Name-Typed)

If an individual, application must be signed by husband and wife, if there be such. See acknowledgment attached.

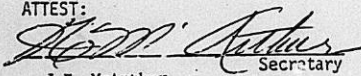
A PARTNERSHIP

By \_\_\_\_\_  
(Name-Typed)

\_\_\_\_\_  
(Name-Typed)

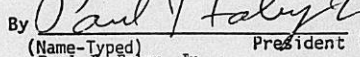
If a partnership, all partners must sign or if only one partner signs, proof of partnership authority by other partners must be attached. See form of acknowledgment attached.

ATTEST:

  
Secretary

J.E. McArthur

A CORPORATION

By   
(Name-Typed) President

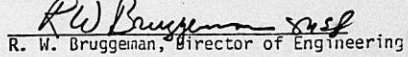
Paul J. Foley, Jr.

If a corporation, it must be signed by the President and attested by the Secretary. See acknowledgment attached.

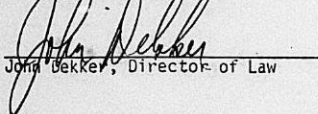
APPROVED BY:

  
John D. Wynkoop, Director of Water and Water Pollution Control

  
Robert A. Lakin, Director of Planning

  
R. W. Bruggeman, Director of Engineering

APPROVED AS TO FORM:

  
John Bekker, Director of Law

ATTEST:

\_\_\_\_\_  
Donald C. Gisick, City Clerk

AUTHORIZED BY:

\_\_\_\_\_  
Mayor

STATE OF KANSAS, SEDGWICK COUNTY, SS:

BE IT REMEMBERED, that on this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, personally appeared before me, a Notary Public in and for the County and State aforesaid, \_\_\_\_\_, husband and wife, to me personally known to be the same person(s) who executed the foregoing instrument of writing and duly acknowledged the execution thereof.

\_\_\_\_\_  
Notary Public

My Appointment Expires: \_\_\_\_\_

STATE OF KANSAS, SEDGWICK COUNTY, SS:

BE IT REMEMBERED, that on this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, personally appeared before me, a Notary Public in and for the County and State aforesaid, \_\_\_\_\_, being all of the partners of \_\_\_\_\_, a Co-partnership, to me personally known to be the same person(s) who executed the foregoing instrument of writing and duly acknowledged the execution thereof.

\_\_\_\_\_  
Notary Public

My Appointment Expires: \_\_\_\_\_

STATE OF KANSAS, SEDGWICK COUNTY, SS:

BE IT REMEMBERED, that on this 31st day of December, 1980, personally appeared before me, a Notary Public in and for the County and State aforesaid, Paul G. Talley, President of P.M.A., Inc., and Norm Archer, Secretary of P.M.A., Inc., to me personally known to be the same person(s) who executed the foregoing instrument of writing and duly acknowledged the execution of the same for and on behalf, and as the act and deed of said company.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal the day and year above written.

M. J. Zuster  
Notary Public

My Appointment Expires: 6-9-81

THIS DECLARATION made this 31st day of December 19 80, by P.M.A., Inc. hereinafter called the Grantor.

WITNESSETH

WHEREAS, Grantor is owner of:

In the S.E. 1/4 of Section 8, Twp. 27 S., Range 2 E. of the 6th P.M.; the Foliage Addition to Sedgwick County, Kansas, and in addition an unplatted tract of land in the east half of the southeast quarter of Section 8, Township 27 South, Range 2 East of the 6th P.M. described more particularly as follows: Beginning at a point on the west line of said east half 630.25 feet north of the southwest corner of said east half; thence continuing along said west line bearing N. 0° 05' 10" E. 450.00 feet; thence along the south line of "Foliage", an addition to Sedgwick County, Kansas bearing N. 90° 00' 00" E. 404.83 feet to a point on a curve; thence along the curve to the left with a chord bearing N. 8° 02' 01" E. and 92.09 feet in length, a radius of 118.60 feet and a central angle of 45° 55' 53", a distance of 95.60 feet; thence N. 75° 04' 02" E. 269.96 feet; thence N. 90° 00' 00" E. 25.00 feet; thence S. 0° 00' 00" E. 217.79 feet; thence N. 90° 00' 00" W. 25.00 feet; thence S. 31° 00' 00" W. 317.07 feet; thence S. 45° 11' 31" E. 54.35 feet; thence S. 31° 00' 00" W. 264.83 feet; thence N. 49° 30' 00" W. 139.09 feet to a point on a curve to the right with a chord bearing N. 33° 37' 51" W. and 78.21 feet in length, a radius of 191.47 feet and a central angle of 21° 44' 13", a distance of 72.64 feet; thence S. 89° 28' 24" W. 252.66 feet; containing 7.355 acres, more or less.

and

WHEREAS, the undersigned wishes to obtain water service from the City of Wichita, and whereas it is recognized that at some time in the future there will be a need to replace individual sewerage treatment systems with adequate public sewerage treatment facilities:

NOW, THEREFORE, Grantor hereby declares and covenants to provide sewer service to land described above when and in the manner required by the Wichita-Sedgwick County Department of Community Health (or their successor in interest), when it is determined feasible, necessary or desirable, and is in accord with an adopted sewer plan for the area in which the above land is located.

This covenant is binding on the owner, their heirs or successors or assigns, and is a covenant running with the land and is binding until fulfilled on all successors in title to the above described property when recorded with the Register of Deeds in the County in which the land is located.

EXECUTED the day and year first above written.

P.M.A., Inc  
Paul J. Foley, Jr  
PAUL J. FOLEY, JR

STATE OF KANSAS  
SEDGWICK COUNTY  
FILED FOR RECORD AT  
DEC 31 1980

NO. 5 21360  
BETTE F. McCART  
REGISTER OF DEEDS

*Pat Kettles*  
*Deputy*

State of Kansas)  
Sedgwick County) ss

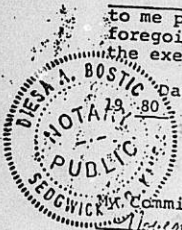
Personally appeared before me a Notary Public in and for the County and State aforesaid Paul J. Foley, Jr.

to me personally known to be the same person who executed the foregoing instrument of writing and said person duly acknowledged the execution thereof.

Dated at Wichita, Kansas, this 31st day of December 19 80

Diega A. Bostic  
Notary Public  
Diega A. Bostic

Commission expires: November 22, 1983



5.00

Group III  
P.O. Box 131  
67201

12-31-80



*Copy of final  
document*

DECLARATION OF COVENANTS, CONDITIONS AND  
RESTRICTIONS

---

THIS DECLARATION, made this 30th day of December, 1980,  
by P.M.A., Inc., a Kansas corporation, hereinafter referred to  
as "DECLARANT";

WITNESSETH, THAT:

WHEREAS, DECLARANT is the owner of and deems it desirable  
to impose a general plan for the improvement and development of  
the following-described real property, to-wit:

TRACT A. All of "FOLIAGE", an addition to Sedgwick  
County, Kansas, according to the plat  
recorded in the office of the  
Register of Deeds of Sedgwick County.

TRACT B. Beginning at a point on the west line of the east  
half of the southeast quarter of Section 8, Township  
27 South, Range 2 East of the 6th P.M., 50.00 feet  
north of the southwest corner thereof; thence  
northerly along the west line of said east half  
bearing N 0° 06' 10" E, 1030.26 feet to the southwest  
corner of "Foliage", an addition to Sedgwick County,  
Kansas; thence along the boundary of said addition  
bearing N 90° 0' 0" E, 404.89 feet; thence along a  
curve to the left having a central angle of 45° 55' 58",  
a radius of 118.00 feet, a length of 94.60 feet, and  
a chord 92.09 feet long bearing N 8° 02' 01" E;  
thence N 75° 04' 02" E, 269.96 feet to the southeast  
corner of Lot 1, Block 2 in said addition; thence  
S 0° 0' 0" E, 217.79 feet; thence S 31° 0' 0" W,  
317.07 feet; thence S 45° 11' 37" E, 54.35 feet;  
thence S 31° 0' 0" W, 200.00 feet; thence S 49° 30' 0" E,  
45.00 feet; thence along a curve to the right  
having a central angle of 49° 28' 50", a radius of  
162.21 feet, and a length of 140.08 feet; thence  
S 0° 1' 10" E, 194.00 feet; thence S 43° 33' 02" E,  
110.34 feet; thence S 0° 1' 10" E, 65.00 feet to a  
point 50.00 feet north of the south line of said  
east half; thence westerly parallel to and 50.00 feet  
north of said south line bearing S 89° 58' 50" W,  
620.00 feet to the point of beginning.

and the adoption and establishment of covenants, conditions and  
restrictions upon such real property and each and every Lot and  
portion thereof and upon the use, occupancy and enjoyment thereof,  
all for the purpose of enhancing and protecting the value,  
desirability and attractiveness of such property; and

WHEREAS, DECLARANT deems it desirable for the efficient preservation of the value, desirability and attractiveness of such property, pursuant to the provisions of this Declaration, to create a corporation to which may be delegated and assigned the powers of maintaining and administering the common area and administering and enforcing these covenants, conditions and restrictions and collecting and disbursing funds pursuant to the assessments and charges hereinafter referred to; and

WHEREAS, FOLIAGE ASSOCIATION, INC. a non-profit corporation, will be incorporated under the laws of the State of Kansas for the purpose of exercising the powers and functions aforesaid; and

WHEREAS, DECLARANT will convey title to all of the Lots in the addition above described subject to the covenants, conditions and restrictions hereinafter set forth;

NOW, THEREFORE, DECLARANT hereby covenants, agrees and declares that the property described above shall be held, sold and conveyed subject to the following covenants, conditions, restrictions and easements which are hereby declared to be for the benefit of all of the property described herein and the owners thereof, their successors and assigns.

#### ARTICLE I

##### DEFINITIONS

The following terms used in these covenants, conditions and restrictions shall be applicable to this Declaration and are defined as follows:

1.01 "Association" shall mean and refer to FOLIAGE ASSOCIATION, INC. a nonprofit corporation, to be incorporated under the laws of the State of Kansas, its successors and assigns.

1.02 "Property" shall mean and refer to all of the property described as:

TRACT A. All of "FOLIAGE", an addition to Sedgwick County, Kansas, according to the plat recorded in the office of the Register of Deeds of Sedgwick County.

TRACT B. Beginning at a point on the west line of the east half of the southeast quarter of Section 8, Township 27 South, Range 2 East of the 6th P.M., 50.00 feet north of the southwest corner thereof; thence northerly along the west line of said east half bearing N 0° 06' 10" E, 1030.26 feet to the southwest corner of "Foliage", an addition to Sedgwick County, Kansas; thence along the boundary of said addition bearing N 90° 0' 0" E, 404.89 feet; thence along a curve to the left having a central angle of 45° 55' 58", a radius of 118.00 feet, a length of 94.60 feet, and a chord 92.09 feet long bearing N 8° 02' 01" E; thence N 75° 04' 02" E, 269.96 feet to the southeast corner of Lot 1, Block 2 in said addition; thence S 0° 0' 0" E, 217.79 feet; thence S 31° 0' 0" W, 317.07 feet; thence S 45° 11' 37" E, 54.35 feet; thence S 31° 0' 0" W, 200.00 feet; thence S 49° 30' 0" E, 45.00 feet; thence along a curve to the right having a central angle of 49° 28' 50", a radius of

162.21 feet, and a length of 140.08 feet; thence S 0° 1' 10" E, 194.00 feet; thence S 43° 33' 02" E, 110.34 feet; thence S 0° 1' 10" E, 65.00 feet to a point 50.00 feet north of the south line of said east half; thence westerly parallel to and 50.00 feet north of said south line bearing S 89° 58' 50" W, 620.00 feet to the point of beginning.

DECLARANT plans to plat Tract B above and hereby imposes these conditions, covenants and restrictions upon said property. Some terms and restrictions herein, by their definition, apply to only platted property. (For example, but not limited to, "lot", "owner" and "member"). However, DECLARANT intends that such terms and conditions shall be equally binding upon the unplatted property, but will not become operative until the same is platted.

1.03 "Common Area" shall mean those portions of the Property to be owned by the Association for the common use and enjoyment of the members of the Association. The Common Area to be conveyed to and owned by the Association is described as follows:

Reserves A, B, C, and D, as shown on the plat of Foliage, and that property which may be platted as reserve property in Tract B above, and all improvements and vegetation situated and to be situated thereon subject to reversionary rights as set forth hereafter.

1.04 "Lot" shall mean and refer to each Lot as platted on the plat of FOLIAGE. It shall not mean or include any part of the Common Area.

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

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

1.07 "Declarant" shall mean and refer to P.M.A. Inc., its successors and assigns.

1.08 "Board" shall mean and refer to the Board of Directors of the Association.

1.09 "Structure" shall mean and refer to any thing or device (other than trees, shrubbery, hedges less than two (2) feet high, and landscaping) the placement of which upon any Lot may affect the appearance of such Lot, including by way of illustration and not limitation, any building, garage, porch, shed, greenhouse or bathhouse, covered or uncovered patio, swimming pool, tennis court, clothes line, radio or television antenna, fence, curbing, paving, wall or hedge more than two (2) feet in height, signboard or any temporary or permanent improvement to such Lot. "Structure" shall also mean (i) any excavation, fill, ditch, diversion dam or other thing or device which affects or alters the natural flow of surface water from, upon or across any Lot, or which affects or alters the flow of any waters in any natural or artificial stream, wash or drainage channel from, upon or across any Lot, and (ii) any change in the grade of any Lot of more than six (6) inches from that existing at the time of purchase by each Owner.

1.10 "Building Site" is all land on the property in which title is held by a common owner. An owner may own more than one Lot, however, all of said lots, if contiguous, shall be considered one building site.

ARTICLE II

MEMBERSHIP AND VOTING RIGHTS

2.01 Membership. The Association shall have as members only Owners. All Owners shall, upon becoming such, be deemed automatically to have become members and there shall be no other qualification for membership. Membership shall be appurtenant to, and shall not be separated from the ownership of any Lot.

2.02 Voting Rights. All Members, so long as they shall qualify under this Article II, shall be entitled to vote on each matter submitted to a vote at a meeting of members. Each Member of the Association shall have one (1) vote, subject to the following exceptions and conditions:

- (A) If any Member owns or holds more than one (1) Lot, such member, subject to the provisions of this Article II, shall be entitled to one (1) vote for each such Lot.
- (B) When any such Lot is owned or held by more than one (1) Member as tenants in common or joint tenancy or any other manner of joint or common ownership or interest, such Members shall collectively be entitled to only one (1) vote relative to such Lot and if such Members cannot jointly agree as to how that vote should be cast, no vote shall be allowed with respect to such Lot.
- (C) Any Member who is in violation of this Declaration, as determined by the Board, shall not be entitled to vote during any period in which such violation continues. Any Member who fails to pay any assessments established pursuant to the terms hereof shall not be entitled to vote during any period in which any such assessments are due and unpaid.
- (D) The Board may adopt by By-Laws, consistent with the terms hereof, the Articles of Incorporation of the Association, and the laws of the State of Kansas, as it deems advisable for any meeting of Members in regard to proof of membership in the Association, evidence of right to vote, the appointment and duties of inspectors of votes, registration of members for voting purposes, voting by proxy, and such other matters concerning the conduct of meetings and voting as it shall deem proper.

ARTICLE III

PROPERTY RIGHTS IN THE COMMON AREAS

3.01 Members' Easements of Enjoyment. Every Member shall have a right and easement of enjoyment in and to the Common Area, and such easement shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- (A) The right of the Association to limit the number of guests of Members.

- (B) The right of the Association to establish uniform rules and regulations pertaining to the use of the Common Area, including but not limited to the recreational facilities thereof.
- (C) The right of the Association, in accordance with its Articles and By-Laws, to borrow money for the purpose of improving the Common Area and facilities and to mortgage the Common Area, provided that the rights of such mortgagees shall be subordinate to the rights of the Members.
- (D) The right of the Association to suspend the use of the recreational facilities by a Member for any period during which any assessment against his Lot remains unpaid and delinquent, and for a period not exceeding thirty (30) days for any single infraction of the Rules and Regulations of the Association.
- (E) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be determined by the Association; provided that such dedication or transfer shall not be effective unless authorized by a majority of Members present at a specially convened meeting called for such purpose.

3.02 Delegation of Use. A Member's right of enjoyment in the Common Area shall automatically extend to all members of his immediate family residing on any part of the Property. No guests shall be entitled to exercise such right of enjoyment or to any use of the Common Area except as provided in, and subject to, such regulations as may be promulgated by the Board.

3.03 Waiver of Use. No Member may exempt himself from personal liability for assessments duly levied by the Association, nor release the Lot owned by him from the liens and charges hereof, by waiver of the use and enjoyment of the Common Area and the facilities thereon or by abandonment of his Lot.

3.04 Title to the Common Area. DECLARANT may retain the title to the Common Area until such time as it has completed improvements thereon and until such time as, in the opinion of the DECLARANT, the Association is able to maintain the same but in any event DECLARANT covenants for itself, its successors and assigns, that it shall convey the Common Area to the Association not later than March 1, 1990; provided, however, in the event Reserve B ceases to be used and maintained for the common use and enjoyment of the members of the Association, all right, title and interest to that portion of said Reserve B lying south of a line running 30 feet south of and parallel to the south line of Lots 6 and 7, Block 2, FOLIAGE, shall revert to DECLARANT; provided; that DECLARANT shall maintain said property in accordance with the provisions of the plat of said property, and if DECLARANT fails to do so, Sedgwick County or other proper authority shall have the right to maintain the same.

DECLARANT further covenants that it will, at its sole cost and without right of reimbursement, erect and install on Reserve A near Webb Road, a small security guard house to be opened and operated at such times as determined by the Association; and, it will cause to be planted and installed on the rest of Reserve A such vegetation and amenities as it deems appropriate.

ARTICLE IV

COVENANTS CONCERNING ASSESSMENTS AND LIENS

4.01 General Assessments. For the purpose of providing funds for the operation of the Association, and for the operation, maintenance, care and improvement of the Common Area, and to afford the Association the means and resources necessary to carry out its duties and functions, the Association shall, in each year, assess against each Lot in the Property a general assessment, which general assessment shall subject each Lot to a lien to secure payment thereof.

The first such assessment shall be for the fiscal year beginning March 1, 1982. It shall be fixed and levied prior to such date and thereafter it shall be due and payable on the 15th day of February, of each year. The Association will notify all Owners on or before that date, giving the amount of the assessment, when due, and the amount on each Lot owned by him. The failure of the Association to make the assessment prior to February 1 of each year shall not invalidate any such assessment made for that particular year; nor shall failure to levy an assessment for any one year affect the right of the Association to do so for any subsequent year. When the assessment is made subsequent to February 1 of any year, then it shall become due and payable not later than thirty (30) days from the date of levying the assessment.

4.02 Basis and Operating Fund. All general assessments shall be made against the Owners on an equal basis for each Lot or fraction thereof owned by the Owner or Owners, except that DECLARANT is exempted from imposition of an assessment, both general and special, for which exemption DECLARANT covenants to maintain all unsold Lots at its sole cost.

Each new Owner purchasing a Lot from DECLARANT shall deposit with the Association, at the closing of the purchase, such sum as may be required by DECLARANT as such OWNER'S initial contribution to the working capital of the Association. Such deposit shall be in the amount of \$1,000.00 or such amount as shall be specified in the contract covering the purchase of such Lot.

4.03 Limitations on General Assessments. The first general assessment shall be \$600.00 per Lot for fiscal year beginning March 1, 1982. Thereafter, the general assessment for each year shall be such amount as is necessary to raise the revenue required to finance the yearly budget as set by the Board of Directors of the Association. Such budget, and general assessment, may be amended by a 2/3 vote of the members present at a meeting of the association which is called for that purpose.

An Owner acquiring title from DECLARANT shall not be required to pay a general assessment for the remainder of the fiscal year in which the Owner acquires title.

4.04 Special Assessments. In addition to general assessments, the Association may, from time to time, at a regular meeting or a special meeting called upon notice for such purpose, establish a special assessment to be levied equally against each Lot for the purpose of providing additional funds (not available through general assessments) to carry out its duties and other functions and purposes contemplated hereunder. No such special assessment shall be valid unless two-thirds (2/3rds) of the Members present at the meeting vote for it. Any special assessments shall become a lien against each individual Lot in the same manner otherwise provided for in this Article.

Further, the Association shall have the authority to establish and fix a special assessment on any Lot to secure the liability of the Owner of such Lot to the Association for any breach by such Owner of any of the provisions of this Declaration, which breach shall require an expenditure by the Association for repair or remedy.

Any special assessments shall be payable in full on the first day of the second calendar month next following the date that the same shall be established and billed by the Association and shall thereafter bear interest until paid in full at the prevailing legal rate.

4.05 Collection and Expenditures. The Association shall have the sole authority to collect and enforce the collection of all general and special assessments provided for in this Declaration, and may in addition to such assessments charge and assess costs, including reasonable attorney fees, and penalties and interest for the late payment or nonpayment thereof. The Association shall have the authority to expend all moneys collected from such assessments, costs, penalties and interest for the payment of expenses and costs in carrying out the duties, rights and powers of the Association and provided for in this Declaration and the Articles of Incorporation and By-Laws of the Association. However, the Association shall not be obligated to spend in any year all the sums collected in such year by way of general assessments, or otherwise, and may carry forward, as surplus or in reserves, any balances remaining; nor shall the Association be obligated to apply any such surpluses or reserves to the reduction of the amount of the assessments in the succeeding year, but may carry forward from year to year such surplus as the Board in its absolute discretion may determine to be desirable for the greater financial security of the Association and the effectuation of its purposes.

4.06 Assessments and Liens; Delinquency. Thirty (30) days after any general or special assessment shall be due and payable, and unpaid or otherwise not satisfied, the same shall be and become delinquent and a lien on the Lot, and shall so continue until the amount of said charge and assessment together with all costs, penalties and interest as herein provided have been fully paid or otherwise satisfied.

4.07 Notice of Delinquency. At any time after any general or special assessment against any Lot has become a lien and delinquent, the Association may record in the office of the Register of Deeds, Sedgwick County, Kansas, a Notice of Delinquency as to such Lot, which Notice shall state therein the amount of such delinquency and that it is a lien, and the interest, costs (including attorneys' fees) and penalties which have accrued thereon, a description of the Lot against which the same has been assessed, and the name of the owner thereof and such Notice shall be signed by an officer of the Association.

Upon payment or other satisfaction of said assessment, interest, penalties and costs in connection of which notice has been recorded, the Association shall record a further notice stating the satisfaction and the release of the lien thereof.

4.08 Enforcement of Liens. Each lien established pursuant to the provisions of this Declaration and which is specified in a Notice of Delinquency as hereinabove provided, may be foreclosed in like manner as a mortgage on real property as provided by the laws of Kansas. In any action to foreclose any such lien, the Association shall be entitled to costs, including reasonable attorneys' fees, and such penalties for delinquent charges and assessments as shall have been established by the Association.

4.09 Imposition of Liens. DECLARANT, as to each Lot in the Property, except those owned by DECLARANT, has established and does hereby establish, reserve and impose a lien thereon securing each assessment provided by this Declaration, together with the costs, penalties and interest attributable thereto, and DECLARANT does hereby assign to the Association the right to collect and enforce the collection of the same in accordance with and subject to the limitations contained in each of the provisions of this Declaration.

4.10 Subordination to Mortgages. Each and every assessment and lien, together with any costs, penalties and interest reserved under this Declaration, shall be subordinate to the lien of any valid bona fide mortgage which has been or may hereafter be given in good faith and for value on any interest of any Owner covered by this Declaration. Any subsequent Owner of any Lot purchased at foreclosure shall be bound by the restrictions, assessments and liens set out in this Declaration, not including, however, any assessment or lien arising prior to the foreclosure sale.

#### ARTICLE V

#### USE, OCCUPANCY AND CONDUCT RESTRICTIONS

5.01 The Property is subject to the conditions, covenants, restrictions, reservations and easements hereby declared to insure the best use and the most appropriate development and improvement of each lot thereof; to protect the owners of lots against such improper use of surrounding lots as will depreciate the value of their property; to preserve, so far as practicable, the natural beauty of such property; to guard against the erection thereon of poorly designed or proportioned improvements and improvements built of improper or unsuitable materials; to insure the highest and best development of said property; to encourage and secure the erection of attractive homes thereon, with appropriate locations thereof on building sites; to secure and maintain proper setback from streets, and adequate free spaces between structures; and in general to provide adequately for a high type and quality of improvement to such property.

5.02 Each Owner shall not interfere with the rights of other Owners, the Association, or the DECLARANT, nor intentionally or unintentionally annoy any of such or any of the occupants of this development by unreasonable noises, offensive odors, improper neighborly conduct or otherwise.

5.03 Each Owner shall obey and comply with all applicable public laws, ordinances, rules and regulations and all rules and regulations now or hereafter promulgated as provided for in this Declaration.

5.04 No Owner shall do or allow to be done any act which causes or threatens to cause any damage, encroachment or disrepair to the Common Area or the residence or Lot of any other Owner.

5.05 No residence shall be erected, altered, placed or permitted to remain on any building sites other than one new single family residence, for private use, with a private garage and other structures incidental to residential use.

5.06 For the purposes of this Declaration, the following lots, or part or parts thereof, shall be deemed to front on the streets designated as follows:

<u>Street Name</u>	<u>Lots Fronting</u>
Greenleaf	- Lot 5 in Block 1 and - lots 1-10 in Block 2
Greenleaf Cove	- Lots 1-4 in Block 1
Barrier Cove	- Lots 7-14 in Block 1
Laurel Cove	- Lots 15-20 in Block 1
Duckcross Cove	- Lots 21-27 in Block 1

All residences on the above Lots shall front on the streets as designated above for said Lots.

For the purpose of this Declaration, the above-designated streets shall be considered as front streets and all other streets contiguous to any of such real property shall be considered as side streets.

The residence to be erected on Lot 6, Block 1 shall be situated on, or front on such street or streets contiguous to it as shall in the judgment of the Owner, with written approval of the Architectural Committee, best complement the Lot and the surrounding area.

DECLARANT shall, within 30 days after completion of construction of each street, install private street signs upon the property, and hereby reserves the right to install these signs upon such lots as it deems appropriate. The Association shall be responsible for the continued maintenance of such signs and replacement of any such signs which become damaged or destroyed.

5.07 Each Owner shall comply with the minimum front, back and side setback requirements as shown on the recorded plat of the land covered hereby, and as herein provided in Section 8.03 hereof.

5.08 No excavations, except such as are necessary for the construction of a residence or improvements, shall be permitted on any Lot without written permission of DECLARANT.

5.09 No trash, ashes, dirt, rock or other refuse may be thrown or dumped on any Lot or building site. No building materials of any kind or character shall be placed or stored upon any building site more than thirty (30) days before the commencement of construction of a residence or improvements and then such materials shall be placed within the property lines of the building site upon which they are to be erected and shall not be placed in the street or between the curb and property line. All construction activities, including but not limited to, vehicles, building materials, scraps and trash shall be confined to the Lot or Lots under construction.

5.10 No retail, wholesale, manufacturing or repair business of any kind nor so-called home occupations shall be permitted on any lot or in any residence or appurtenant structure erected thereon, even though this does not include the employment of any additional person or persons in the performance of such services. No activity which may be or become a nuisance to the neighborhood shall be carried on upon any lot or in any residence or appurtenant structures erected thereon.

5.11 No basement, tent, shack, garage, barn or outbuilding other than guest houses or servant's quarters erected on a lot covered by this Declaration shall at any time be used for human habitation temporarily or permanently, nor shall any structure of a temporary character be used for human habitation.

5.12 No used, secondhand or previously erected house or building of any kind can be moved or placed, either in sections or as a whole, upon said land, nor shall any trailer be moved, placed or permitted to remain upon a lot subject to this Declaration.

5.13 The Board may, from time to time, publish and impose reasonable regulations setting forth the number and types of pets that may be kept on any Lot. Under no circumstances shall any commercial or agricultural business enterprise, including breeding, involving the use of birds, animals, reptiles or insects be conducted on the property.

5.14 No signs, advertisements, billboards or advertising structures of any kind may be placed, erected, or maintained on any Lot or the common area without the consent in writing of the Board. Homes offered for sale shall be shown by appointment.

5.15 No hedge, shrub, mass planting or tree shall be allowed by the Owner to obstruct sight lines at any corner. Trees, shrubs and other plants which die shall be promptly removed from the property.

5.16 Oil drilling, oil development operations, refining, mining operations of any kind or quarrying shall not be permitted upon or in any of the lots subject to this Declaration, nor shall oil wells, tanks, tunnels, mining excavations or shafts be permitted upon or in any of the lots covered by this Declaration. Fuel oil storage tanks as a part of the heating equipment of a residence shall be permitted only if located underground. No water well or septic tank shall be permitted on or under any lot.

5.17 There shall not be erected any external television or radio antennas, including receiving discs, or permanent clothesline structures and no Owner shall erect any structures, either permanent or temporary, upon any of the Common Area. All utility and phone lines shall be underground.

5.18 No automobile, truck, motorcycle, motorbike, boat, house trailer, boat trailer or trailer or any other vehicle of any type or description may be stored upon any of the Common Area, nor may any boat, boat trailer, house trailer, camper, camper trailers, or similar items be stored in the open on any Lot.

5.19 Motor scooters, mini bikes or similar vehicles shall be operated for transportation only and no joy riding on the streets, Lots, or Common Areas, shall be allowed except on a designated bike or cycle trail, if any.

5.20 No garage door shall be allowed to open directly to a street or an existing adjacent living quarter without being visually screened.

5.21 Each Owner (other than DECLARANT (who shall have an obligation to maintain and keep mowed all unsold Lots owned by it)) shall keep all Lots owned by him, and all improvements therein or thereon, in good order and repair, including but not limited to, the seeding, watering and mowing of all lawns, the pruning and cutting of all trees and shrubbery, and the painting (or other appropriate external case) of all buildings and other improvements, all in a manner and with such frequency as is consistent with good property management in relation to a quality residential neighborhood such as will exist in the Property. If in the opinion of the Association, any Owner fails to perform the duties imposed by the preceding sentence, the Association, after approval by a two-thirds (2/3rds) decision of the Board, and after fifteen (15) days' written notice to Owner to remedy the condition in question, shall have the right, through its agents and employees, to enter upon the Lot in question and to repair, maintain, repaint and restore the Lot or such improvements and the cost thereof shall be a binding personal obligation of such Owner and the Association may establish a special assessment on such Lot for the cost thereof and enforce the same as provided in Article IV hereof.

5.22 No Lot shall be divided into more than one building site but more than one lot may be used as a building site for one dwelling.

5.23 No tree shall be removed from any Lot without the express written authorization of the Architectural Committee, who, at its option may relocate such tree. The Board in its discretion, may adopt and promulgate rules and regulations regarding the preservation of trees and other natural resources upon the Property.

5.24 As soon as practicable after purchase of a Lot, the Owner thereof shall plant a lawn and at least fifteen (15) trees on such Lot; and, after completion of a residence, the Owner shall plant at least fifteen (15) perennial shrubs, bushes, or trees on such lot.

5.25 Outdoor lighting shall not oversplash onto neighboring properties.

5.26 There shall be no chain link fences permitted as property line fencing.

5.27 Visually-restrictive solid fences shall not be permitted within 30 feet of the rear lot line on Lots 1-10, inclusive, in Block 2.

#### ARTICLE VI

#### THE ASSOCIATION

##### 6.01 Powers and Duties:

(a) The Association shall have the rights and powers as set forth in its Articles of Incorporation and By-Laws, together with its general powers as a nonprofit corporation and it shall perform each and every duty required of it by this Declaration.

(b) DECLARANT shall carry out all of the duties and powers herein delegated to the Association until thirty (30) lots have been sold and shall have residences constructed and occupied on the building sites of said 30 lots, at which time management shall be turned over to the Association, who shall then exercise the powers and duties herein set out; provided, however, that the DECLARANT may at its option at any earlier time turn the management over to the Association. The Association and the DECLARANT shall cooperate fully in the transition of management.

(c) The Association shall own, maintain, improve, landscape, mow and keep clean the Common Area.

(d) The Association shall maintain such insurance on the Common Area and facilities thereon as it deems necessary and advisable.

(e) The Association shall have the right to create and establish reserves for the repair, restoration, or replacement of any improvement it has the duty to repair, restore or replace hereunder.

(f) The Association, through its Board of Directors, shall have the right to adopt such Rules and Regulations as it may deem advisable for the maintenance, use, conservation, and beautification of the Property and for the health, comfort, safety and general welfare of the Owners and occupants of Lots in the Property.

(g) The Association shall determine whether and to what extent the security guardhouse, to be erected on Reserve A, shall be operated, and the manner and character of operations thereof.

6.02 Enforcement Rights in County. If the Association shall fail or refuse for any reason to maintain the Common Area, then Sedgwick County or other proper authority shall have the right to maintain such Common Area and assess the costs thereof equally to all the Lots in the Property and said costs may be established and treated as liens in the same manner as special assessments. This provision shall endure, even though the rest of the covenants herein may terminate, as long as such Common Area is used as such and until all of the Owners of property in the Property shall execute a written consent to the discontinuance of the use of any such Common Area as such. If the use of such Common Area shall be discontinued as a Common Area, as above set out, then the ownership of the same, except to the extent as otherwise provided herein, shall revert to the Owners of Lots in the Property. Notwithstanding any other provision of this Declaration, this section 6.02 shall not be amended without the consent of Sedgwick County or other proper authority.

6.03 Operations and Expenses. The Association shall establish such committees as may be provided for in its By-Laws, may engage a manager, secretaries, engineers, auditors, legal counsel, and other employees or consultants as may be reasonably necessary for the discharge of its duties hereunder. The expenses of committees, the salaries of a manager and other employees and the fees of consultants shall be established and paid for by the Association. The Association shall pay for all other expenses necessary or incidental to the conduct or carrying on of its business.

6.04 Enforcement. The Association may engage a management firm and turn over to such firm any duties required by its Articles of Incorporation and By-Laws and this Declaration. In addition to any and all other provisions concerning enforcement set forth herein, the Association shall have the duty to enforce each and every provision of this Declaration, including the duty to commence and maintain an action to enjoin any breach or threatened breach of any of the provisions hereof, and to pay all costs of any such action or other enforcement procedure.

6.05 Taxes and Assessments. Each Owner shall be obligated to pay the taxes or assessments assessed by the county Assessor against his own Lot and personal property.

6.06 Repair and Restoration of Improvements on Common Area. Should any improvements on the Common Area or any part or portion thereof be damaged or destroyed by fire or other casualty or by intentional mischief, the Association shall be responsible for the cost and expense of repair and restoration, and the same shall be done substantially in accordance with the original plans and specifications for the improvement of same.

The repair and restoration work referred to in this section shall be commenced promptly after the happening of the destruction or damage occasioning the same, and once commenced the same shall be pursued diligently to completion.

## ARTICLE VII

### EASEMENTS AND ACCESS CONTROL

7.01 Public Utility and Floodway Easements Dedicated. Easements for the installation and maintenance of all public utilities and for floodway on Lots subject to this Declaration are dedicated as shown on the recorded Plat of this property. There shall be no permanent improvements erected on any part of this property on which the floodway is shown in the recorded Plat hereof.

7.02 Easements in Favor of DECLARANT and of Association. DECLARANT specifically reserves unto itself, its successors and assigns, a perpetual, nonexclusive easement and right of way over the Common Area, for the purpose of constructing, maintaining, repairing, replacing and rebuilding underground pipelines, drains and/or mains for the purpose of conveying gas, water and sewerage over, across and through the lands hereinabove described, together with the right to excavate and level ditches and/or trenches for the location of said pipes, drains and/or mains.

The Association is hereby granted a perpetual, non-exclusive easement to enter upon any Lot on which is situated an entrance treatment, wall or berm installed or erected by DECLARANT, and maintain, improve, repair and/or replace the same.

7.03 Access Control. There shall be no vehicular access to 13th Street and Webb Road from Lots adjoining 13th Street and Webb Road.

#### ARTICLE VIII

##### ARCHITECTURAL COMMITTEE; ARCHITECTURAL CONTROL

8.01 The "Architectural Committee" shall be composed of those three (3) or more individuals so designated from time to time by the Board of Directors of the Association.

8.02 No Structure shall be commenced, erected, placed, moved on to or permitted to remain on any Lot, nor shall any existing Structure upon any Lot be altered in any manner which materially changes the exterior appearance thereof, nor shall any new use be commenced on any Lot, unless plans and specifications (including a description of any proposed new use) therefor shall have been submitted to and approved in writing by the Architectural Committee. Such plans and specifications shall be in such form and shall contain such information as may be required by the Architectural Committee, but in any event shall include (i) a site plan of the Lot or Lots showing the nature, exterior color scheme, kind, shape, height, materials and location with respect to the particular Lot or Lots (including proposed front, rear and side setbacks) of all Structures, the location thereof with reference to Structures on adjoining portions of the Property, and the number and location of all parking spaces and driveways on the Lot or Lots; and (ii) a finished landscape and grade plan for the particular Lot or Lots.

8.03 The Architectural Committee shall have the power to regulate the distance between improvements on adjoining Lots in order that no residence, including attached garages, breezeways, attached greenhouses, ells and porches, shall be closer than forty (40) feet to any other residence, including attached garages, etc. Further, and irrespective of any ordinance or set back line delineated on the Plat of Foliage, the following restrictions shall apply:

- (a) No residence, including attached garages, breezeways, etc., shall be placed closer than forty (40) feet to any front lot line (except that exceptions to such 40-foot limitation may be made in respect to residences to be erected on Lots 12, 16, 19, 22, and 25, Block 1; and
- (b) No residence, including attached garages, breezeways, etc., shall be placed closer than twenty (20) feet to any side lot line or twenty-five (25) feet to any rear lot line; and
- (c) No detached garage, bath house, greenhouse, other out-buildings or improvements or outdoor recreational courts (including but not limited to tennis courts, sport courts, and racquetball courts) shall be placed closer than ten (10) feet to any side lot line or ten (10) feet to any rear lot line.

8.04 The Architectural Committee shall have the right to disapprove any plans and specifications submitted hereunder because of any of the following:

- (a) the failure of such plans or specifications to comply with any of the terms of this Declaration.
- (b) failure to include information in such plans and specifications as may have been reasonably requested.
- (c) objection to the exterior design, appearance or materials of any proposed Structure;
- (d) incompatibility of any proposed Structure or use with existing Structure or uses upon other Lots in the vicinity;
- (e) objection to the location of any proposed Structure upon any Lot or with reference to other Lots in the vicinity;
- (f) objection to the finished landscape and grade plan for any Lot;
- (g) objection to the color scheme, finish, proportions, style of architecture, height, bulk or appropriateness of any proposed Structure;
- (h) objection to parking areas proposed for any Lot on the ground of (1) incompatibility to proposed uses and Structures on such Lot or (2) the insufficiency of the size of parking areas in relation to the proposed use of the Lot; or
- (i) any other matter which, in the judgment of the Architectural Committee, would render the proposed Structure, Structures or uses inharmonious with the general plan of improvement of the Property or with the Structures or uses located upon the Lots in the Vicinity.

In any case where the Architectural Committee shall disapprove any plans and specifications submitted hereunder, or shall approve the same only as modified or upon specified conditions, such disapproval or qualified approval shall be accompanied by a statement of the grounds upon which such action was based. In any such case the Architectural Committee shall, if requested, make reasonable efforts to assist and advise the applicant in order than an acceptable proposal can be prepared and submitted for approval.

Whatever shall be the decision of the Architectural Committee hereunder, its decision shall be final and conclusive and no member of the Committee shall be liable whatever for failure or neglect to approve any plans and specifications submitted.

8.05 Upon approval by the Architectural Committee of any plans and specifications submitted hereunder, a copy of such plans and specifications, as approved, shall at the Committee's request be deposited for permanent record with the Committee, and a copy of such plans and specifications bearing such approval, in writing, shall be returned to the applicant submitting the same.

8.06 The Architectural Committee may promulgate rules governing the form and content of plans to be submitted for approval or requiring specific improvements on Lots, including, without limitation, exterior lighting and planting, and may issue statements of policy with respect to approval or disapproval of the architectural styles or details, or other matters, which may be presented for approval. Such rules and such statements of policy may be amended or revoked by the Architectural Committee at any time, and no inclusion in, omission from, or amendment of any such rules or statement shall be deemed to bind the Architectural Committee to approve or disapprove any feature or matter subject to approval, or to waive the exercise of the Architectural Committee's discretion as to any such matter, but no change of policy shall affect the finality of any approval granted prior to such change. Approval for use on any Lot of any plans or specifications shall not be deemed a waiver of the Architectural Committee's right, in its discretion, to disapprove such plans or specifications or any of the features or elements included therein if such plans, specifications, features or elements are substantially submitted for use on any other Lot or Lots. Approval of any such plans and specifications relating to any Lot, however, shall be final as to that Lot and such approval may not be revoked or rescinded thereafter, provided, (i) that the Structure or uses shown or described on or in such plans and specifications do not violate any specific prohibition contained in this Declaration, and (ii) that the plans and specifications, as approved, and any condition attached to any such approval, have been adhered to and complied with in regard to all Structures on and uses of the Lot in question.

If the Architectural Committee fails to approve or disapprove any plans and specifications as herein provided within thirty (30) days after submission thereof, the same shall be deemed to have been approved, as submitted, and no further action shall be required.

8.07 If any Structure shall be altered, erected, placed or maintained upon any Lot, or any new use commenced on any lot, otherwise than in accordance with plans and specifications approved by the Architectural Committee pursuant to the provisions of this Article VIII, such alteration, erection, maintenance or use shall be deemed to have been undertaken in violation of this Article VIII and without the approval required herein, and upon written notice from the Architectural Committee, any such Structure so altered, erected, placed or maintained upon any Lot in violation hereof shall be removed or realtered, and any such use shall be terminated, so as to extinguish such violation.

If fifteen (15) days after the notice of such a violation the Owner of the Lot upon which such violation exists shall not have taken reasonable steps toward the removal or termination of the same, the Association shall have the right, through its agents and employees, to enter upon such Lot and to take such steps as may be necessary to extinguish such violation and the Association may establish a special assessment on such Lot for the cost thereof and enforce the same as provided in Article IV hereof.

8.08 Upon completion of the construction or alteration of any Structure in accordance with plans and specifications approved by the Architectural Committee, the Architectural Committee shall, upon written request of the Owner thereof, issue a Certificate of Compliance in form suitable for recordation, identifying such Structure and the Lot on which such Structure is placed, and stating that the plans and specifications, the location of such Structure and the use or uses to be conducted thereon have been approved and that such Structure complies therewith. Preparation and recording of such Certificate shall be at the expense of such Owner. Any Certificate of Compliance issued in accordance with the provisions of this Section 8.08 shall be prima facie evidence of the facts therein stated and as to any purchaser or encumbrancer in good faith and for value, or as to any title insurer or title examiner, such Certificate shall be conclusive evidence that all Structures on the Lot, and the use or use described therein comply with all the requirements of this Article VIII, and with all other requirements of this Declaration as to which the Architectural Committee exercises any discretionary or interpretive powers.

#### ARTICLE IX

##### PARKING

9.01 Off Street. Each residence site fronting on Duckcross Cove, Laurel Cove, Barrier Cove, and Greenleaf Cove shall contain a minimum of four (4) suitably surfaced off-street parking spaces, which parking spaces shall be situated so as to be in compliance with the laws of Sedgwick County or other proper authority. The parking space or spaces in the garage may be counted toward meeting this requirement. Each of such off-street parking spaces shall be of sufficient size to accommodate a passenger motor vehicle.

9.02 On Street. On street parking on the above-designated streets shall be restricted as follows:

Greenleaf - parking on Block 2 side only.

ARTICLE X

MISCELLANEOUS

10.01 Provisions Binding on Grantees. The Association and each grantee hereafter of any part or portion of the property covered by this Declaration and any purchaser under any grant, contract of sale or lease covering any part or portion of such property, accepts the same subject to all of the restrictions, liens and charges and the jurisdiction, rights and powers of the Association and DECLARANT provided for in this Declaration.

10.02 Interpretations of Restrictions. In interpreting and applying the provisions of this Declaration, they shall be held to be minimum requirements adopted for the promotion of the health, safety, comfort, convenience and general welfare of the Owners of this property. It is not the intent of this Declaration to interfere with any provisions of any law or ordinance or any rules, regulations or permits previously adopted or issued pursuant to law relating to the use of buildings or premises; nor is it the intention of this Declaration to interfere with or abrogate or annual easements, covenants, or other agreements between parties; provided, however, that where this Declaration imposes a greater restriction upon the use or occupancy of any residence site or upon the construction of buildings or structures, or in connection with any other matters that are imposed or required by such provisions of law or ordinances or by such rules, regulations or permits, or by such covenants, easements and agreements, then in that case the provisions of this Declaration shall control.

10.03 Construction and Validity of Restrictions. All of the restrictions, conditions, covenants, reservations, liens and charges contained in this Declaration shall be construed together, but if it shall at any time be held that any one or more of such restrictions, conditions, covenants, reservations, liens or charges, or any part thereof, is invalid or for any reason becomes unenforceable, no other restriction, condition, covenants, reservation, lien or charge, or any part thereof, shall be affected or impaired.

10.04 Assignment of Powers. Any and all rights and powers of the DECLARANT provided for in this Declaration and any modification or amendment hereof may be delegated, transferred, assigned, conveyed or released by DECLARANT to the Association, and the Association shall accept the same upon the recording of a notice thereof, and the same shall be effective for the period and to the extent stated therein. In a like manner and for a like term, such powers and duties may be assigned to any other responsible entity who assumes the obligations assigned to it. Upon the effective date of such assignment, the assigning party shall be released of any and all liabilities of whatever nature arising out of acts or omissions prior to the effective date of the assignment.

10.05 Waiver and Exceptions. The failure by the Association or of DECLARANT or of any owner of any residence site included in this development or any other person, to enforce any of the restrictions, conditions, covenants, reservations, liens or charges to which this property or any part thereof is subject, shall in no event be deemed a waiver of the right to do so thereafter or to enforce any other restriction, condition, covenant, reservation, lien or charge.

10.06 Titles. All titles used in this Declaration are intended solely for convenience of reference, and the same shall not affect that which is set forth in the terms and conditions of this Declaration nor the meaning thereof.

10.07 Singular and Plural, Masculine and Feminine. The singular shall include the plural and the plural the singular unless the context requires the contrary, and the masculine, feminine and neuter shall each include the masculine, feminine and neuter as the context requires.

10.08 Successors in Interest. Reference herein to either the Association or DECLARANT shall include its respective successor, and each such successor shall succeed to the rights, powers, and authority hereunder of its predecessor.

10.09 Term. The covenants, conditions and restrictions of this Declaration shall run with and bind the Property, and shall inure to the benefit of and be enforceable by the Association, DECLARANT, and the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of thirty-five (35) years from the date hereof, after which time the covenants, conditions and restrictions hereof shall be automatically extended for successive periods of ten (10) years, unless an instrument signed by a majority of the then Owners of these Lots, has been recorded, agreeing to abolish or change these covenants, conditions and restrictions in whole or in part.

10.10 Amendments. Subject to the provisions in 6.02, this Declaration of Covenants, Conditions and Restrictions may be amended only by the affirmative assent or vote of not less than seventy-five percent (75%) of the Owners; provided, however, no amendment materially impairing the rights of any mortgagee shall be binding on any such mortgagee unless consented to in writing by such mortgagee.

10.11 Mortgage Protection Clause. No breach of the covenants, conditions or restrictions herein contained nor the enforcement of any lien provisions herein, shall defeat or render invalid the lien of any Mortgage made in good faith and for value, but all of these covenants, conditions and restrictions shall be binding upon and effective against any Owner whose title is derived through foreclosure sale, or deed in lieu thereof.


10.12 Enforcement. The covenants set forth herein shall run with the land and bind the present Owner, its successors and assigns, and all parties claiming by, through or under it, shall be taken to hold, agree and covenant with the Owner of each building site, its successors and assigns, and with each of them, to conform and observe this Declaration and each and every term and condition hereof (but no restrictions herein set forth shall be personally binding upon any corporation, person or persons, except in respect to breaches committed during its, his or their title to said land), and DECLARANT or the Owner or Owners of any of the above land or the Association shall have the right to sue for and obtain an injunction, prohibitive or mandatory, to prevent the breach of or to enforce the observance of the terms and conditions set forth herein, in addition to ordinary legal action for damages.

10.13 Limitation of Liability, Indemnification. Notwithstanding the duty of the Association to maintain, repair and replace parts of the Common Area and facilities, the Association shall not be liable for injury or damage caused by any latent condition of the Common Area and facilities or for injury caused by the elements, owners or other persons, nor shall any officer or director of the Association be liable to any owner for injury or damage caused by such officer or director in the performance of his duties unless due to the willful misfeasance or malfeasance of such officer or director. Each officer and director of the Association shall be indemnified by the owners against all expenses and liabilities, including attorneys' fees, reasonably incurred or imposed upon him in connection with any proceeding to which he may be a party or in which he may become involved by reason of his being or having been an officer or director of the Association, or any settlement, whether or not he is an officer or director of the Association at the time such expenses and liabilities are incurred, except in such cases where the officer or director is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties, provided that in the event of a settlement, the indemnification shall apply only when the Board of Directors approves such settlement and reimbursement as being for the best interests of the Association.

IN WITNESS WHEREOF, DECLARANT has executed this Declaration the day and year first above written.

P.M.A. INC, a Kansas corporation

ATTEST:

  
William Arthur  
Secretary

Paul F. Foley Jr  
President

STATE OF KANSAS )  
                          ) SS  
COUNTY OF SEDGWICK)

BE IT REMEMBERED, That on this 30<sup>th</sup> day of  
December A.D. 1980 before me, the undersigned, a  
Notary Public in and for the County and State aforesaid came

Paul J. Foley, Jr., President, and J. E. McArthur,  
Secretary of P.M.A., Inc., a corporation duly organized,  
incorporated and existing under and by virtue of the laws of  
Kansas, who are personally known to me to be such officers,  
and who are personally known to me to be the same persons  
who executed as such officers, the within instrument of writing  
on behalf of said corporation, and such persons duly acknowledged  
the execution of the same to be the act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and



my official seal the day and year last above mentioned.

Nina A. Bastie  
Notary Public

My term expires on:  
November 28, 1983



REVISIONS requested 12-19

received  
12-29-80

OK

DECLARATION OF COVENANTS, CONDITIONS AND  
RESTRICTIONS

THIS DECLARATION, made this \_\_\_\_\_ day of \_\_\_\_\_, 1980,  
by P.M.A., Inc., a Kansas corporation, hereinafter referred to  
as "DECLARANT";

WITNESSETH, THAT:

WHEREAS, DECLARANT is the owner of and deems it desirable  
to impose a general plan for the improvement and development of  
the following-described real property, to-wit:

TRACT A. All of "FOLIAGE", an addition to Sedgwick  
County, Kansas, according to the plat  
recorded in the office of the  
Register of Deeds of Sedgwick County.

TRACT B. Beginning at a point on the west line of the east  
half of the southeast quarter of Section 8, Township  
27 South, Range 2 East of the 6th P.M., 50.00 feet  
north of the southwest corner thereof; thence  
northerly along the west line of said east half  
bearing N 0° 06' 10" E, 1030.26 feet to the southwest  
corner of "Foliage", an addition to Sedgwick County,  
Kansas; thence along the boundary of said addition  
bearing N 90° 0' 0" E, 404.89 feet; thence along a  
curve to the left having a central angle of 45° 55' 58",  
a radius of 118.00 feet, a length of 94.60 feet, and  
a chord 92.09 feet long bearing N 8° 02' 01" E;  
thence N 75° 04' 02" E, 269.96 feet to the southeast  
corner of Lot 1, Block 2 in said addition; thence  
S 0° 0' 0" E, 217.79 feet; thence S 31° 0' 0" W,  
317.07 feet; thence S 45° 11' 37" E, 54.35 feet;  
thence S 31° 0' 0" W, 200.00 feet; thence S 49° 30' 0" E,  
45.00 feet; thence along a curve to the right  
having a central angle of 49° 28' 50", a radius of  
162.21 feet, and a length of 140.08 feet; thence  
S 0° 1' 10" E, 194.00 feet; thence S 43° 33' 02" E,  
110.34 feet; thence S 0° 1' 10" E, 65.00 feet to a  
point 50.00 feet north of the south line of said  
east half; thence westerly parallel to and 50.00 feet  
north of said south line bearing S 89° 58' 50" W,  
620.00 feet to the point of beginning.

and the adoption and establishment of covenants, conditions and  
restrictions upon such real property and each and every Lot and  
portion thereof and upon the use, occupancy and enjoyment thereof,  
all for the purpose of enhancing and protecting the value,  
desirability and attractiveness of such property; and

WHEREAS, DECLARANT deems it desirable for the efficient preservation of the value, desirability and attractiveness of such property, pursuant to the provisions of this Declaration, to create a corporation to which may be delegated and assigned the powers of maintaining and administering the common area and administering and enforcing these covenants, conditions and restrictions and collecting and disbursing funds pursuant to the assessments and charges hereinafter referred to; and

WHEREAS, FOLIAGE ASSOCIATION, INC. a non-profit corporation, will be incorporated under the laws of the State of Kansas for the purpose of exercising the powers and functions aforesaid; and

WHEREAS, DECLARANT will convey title to all of the Lots in the addition above described subject to the covenants, conditions and restrictions hereinafter set forth;

NOW, THEREFORE, DECLARANT hereby covenants, agrees and declares that the property described above shall be held, sold and conveyed subject to the following covenants, conditions, restrictions and easements which are hereby declared to be for the benefit of all of the property described herein and the owners thereof, their successors and assigns.

#### ARTICLE I

##### DEFINITIONS

The following terms used in these covenants, conditions and restrictions shall be applicable to this Declaration and are defined as follows:

1.01 "Association" shall mean and refer to FOLIAGE ASSOCIATION, INC. a nonprofit corporation, to be incorporated under the laws of the State of Kansas, its successors and assigns.

1.02 "Property" shall mean and refer to all of the property described as:

TRACT A. All of "FOLIAGE", an addition to Sedgwick County, Kansas, according to the plat recorded in the office of the Register of Deeds of Sedgwick County.

TRACT B. Beginning at a point on the west line of the east half of the southeast quarter of Section 8, Township 27 South, Range 2 East of the 6th P.M., 50.00 feet north of the southwest corner thereof; thence northerly along the west line of said east half bearing N 0° 06' 10" E, 1030.26 feet to the southwest corner of "Foliage", an addition to Sedgwick County, Kansas; thence along the boundary of said addition bearing N 90° 0' 0" E, 404.89 feet; thence along a curve to the left having a central angle of 45° 55' 58", a radius of 118.00 feet, a length of 94.60 feet, and a chord 92.09 feet long bearing N 8° 02' 01" E; thence N 75° 04' 02" E, 269.96 feet to the southeast corner of Lot 1, Block 2 in said addition; thence S 0° 0' 0" E, 217.79 feet; thence S 31° 0' 0" W, 317.07 feet; thence S 45° 11' 37" E, 54.35 feet; thence S 31° 0' 0" W, 200.00 feet; thence S 49° 30' 0" E, 45.00 feet; thence along a curve to the right having a central angle of 49° 28' 50", a radius of

5.02 Each Owner shall not interfere with the rights of other Owners, the Association, or the DECLARANT, nor intentionally or unintentionally annoy any of such or any of the occupants of this development by unreasonable noises, offensive odors, improper neighborly conduct or otherwise.

5.03 Each Owner shall obey and comply with all applicable public laws, ordinances, rules and regulations and all rules and regulations now or hereafter promulgated as provided for in this Declaration.

5.04 No Owner shall do or allow to be done any act which causes or threatens to cause any damage, encroachment or disrepair to the Common Area or the residence or Lot of any other Owner.

5.05 No residence shall be erected, altered, placed or permitted to remain on any building sites other than one new single family residence, for private use, with a private garage and other structures incidental to residential use.

5.06 For the purposes of this Declaration, the following lots, or part or parts thereof, shall be deemed to front on the streets designated as follows:

<u>Street Name</u>	<u>Lots Fronting</u>
Greenleaf	- Lot 5 in Block 1 and - lots 1-10 in Block 2
Greenleaf Cove	- Lots 1-4 in Block 1
Barrier Cove	- Lots 7-14 in Block 1
Laurel Cove	- Lots 15-20 in Block 1
Duckcross Cove	- Lots 21-27 in Block 1

All residences on the above Lots shall front on the streets as designated above for said Lots.

For the purpose of this Declaration, the above-designated streets shall be considered as front streets and all other streets contiguous to any of such real property shall be considered as side streets.

The residence to be erected on Lot 6, Block 1 shall be situated on, or front on such street or streets contiguous to it as shall in the judgment of the Owner, with written approval of the Architectural Committee, best complement the Lot and the surrounding area.

DECLARANT shall, within 30 days after completion of construction of each street, install private street signs upon the property, and hereby reserves the right to install these signs upon such lots as it deems appropriate. The Association shall be responsible for the continued maintenance of such signs and replacement of any such signs which become damaged or destroyed.

5.24 As soon as practicable after purchase of a Lot, the Owner thereof shall plant a lawn and at least fifteen (15) trees on such Lot; and, after completion of a residence, the Owner shall plant at least fifteen (15) perennial shrubs, bushes, or trees on such lot.

5.25 Outdoor lighting shall not oversplash onto neighboring properties.

5.26 There shall be no chain link fences permitted as property line fencing.

5.27 Visually-restrictive solid fences shall not be permitted within 30 feet of the rear lot line on Lots 1-10, inclusive, in Block 2.

## ARTICLE VI

### THE ASSOCIATION

#### 6.01 Powers and Duties:

(a) The Association shall have the rights and powers as set forth in its Articles of Incorporation and By-Laws, together with its general powers as a nonprofit corporation and it shall perform each and every duty required of it by this Declaration.

(b) DECLARANT shall carry out all of the duties and powers herein delegated to the Association until thirty (30) lots have been sold and shall have residences constructed and occupied on the building sites of said 30 lots, at which time management shall be turned over to the Association, who shall then exercise the powers and duties herein set out; provided, however, that the DECLARANT may at its option at any earlier time turn the management over to the Association. The Association and the DECLARANT shall cooperate fully in the transition of management.

(c) The Association shall own, maintain, improve, landscape, mow and keep clean the Common Area.

(d) The Association shall maintain such insurance on the Common Area and facilities thereon as it deems necessary and advisable.

(e) The Association shall have the right to create and establish reserves for the repair, restoration, or replacement of any improvement it has the duty to repair, restore or replace hereunder.

(f) The Association, through its Board of Directors, shall have the right to adopt such Rules and Regulations as it may deem advisable for the maintenance, use, conservation, and beautification of the Property and for the health, comfort, safety and general welfare of the Owners and occupants of Lots in the Property.

(g) The Association shall determine whether and to what extent the security guardhouse, to be erected on Reserve A, shall be operated, and the manner and character of operations thereof.

12-17-80  
4:15 pm

Called Allen  
Banks 12-19-80  
to say covenants OK  
if Sec. 5.06 regarding  
signs is changed  
as noted.



DECLARATION OF COVENANTS, CONDITIONS AND  
RESTRICTIONS

THIS DECLARATION, made this \_\_\_\_\_ day of \_\_\_\_\_, 1980,  
by P.M.A., Inc., a Kansas corporation, hereinafter referred to  
as "DECLARANT";

WITNESSETH, THAT:

WHEREAS, DECLARANT is the owner of and deems it desirable  
to impose a general plan for the improvement and development of  
the following-described real property, to-wit:

TRACT A. All of "FOLIAGE", an addition to Sedgwick  
County, Kansas, according to the plat  
recorded in the office of the  
Register of Deeds of Sedgwick County, on  
\_\_\_\_\_, 1980, at \_\_\_\_\_, Page \_\_\_\_\_.

These  
covenants  
must be  
submitted  
prior to the  
recording  
plat

TRACT B. Beginning at a point on the west line of the east  
half of the southeast quarter of Section 8, Township  
27 South, Range 2 East of the 6th P.M., 50.00 feet  
north of the southwest corner thereof; thence  
northerly along the west line of said east half  
bearing N 0° 06' 10" E, 1030.26 feet to the southwest  
corner of "Foliage", an addition to Sedgwick County,  
Kansas; thence along the boundary of said addition  
bearing N 90° 0' 0" E, 404.89 feet; thence along a  
curve to the left having a central angle of 45° 55' 58",  
a radius of 118.00 feet, a length of 94.60 feet, and  
a chord 92.09 feet long bearing N 8° 02' 01" E;  
thence N 75° 04' 02" E, 269.96 feet to the southeast  
corner of Lot 1, Block 2 in said addition; thence  
S 0° 0' 0" E, 217.79 feet; thence S 31° 0' 0" W,  
317.07 feet; thence S 45° 11' 37" E, 54.35 feet;  
thence S 31° 0' 0" W, 200.00 feet; thence S 49° 30' 0" E,  
45.00 feet; thence along a curve to the right  
having a central angle of 49° 28' 50", a radius of  
162.21 feet, and a length of 140.08 feet; thence  
S 0° 1' 10" E, 194.00 feet; thence S 43° 33' 02" E,  
110.34 feet; thence S 0° 1' 10" E, 65.00 feet to a  
point 50.00 feet north of the south line of said  
east half; thence westerly parallel to and 50.00 feet  
north of said south line bearing S 89° 58' 50" W,  
620.00 feet to the point of beginning.

What part of  
the unplatted  
tract is this  
(the balance of the  
proposed development)

and the adoption and establishment of covenants, conditions and  
restrictions upon such real property and each and every Lot and  
portion thereof and upon the use, occupancy and enjoyment thereof,  
all for the purpose of enhancing and protecting the value,  
desirability and attractiveness of such property; and

WHEREAS, DECLARANT deems it desirable for the efficient preservation of the value, desirability and attractiveness of such property, pursuant to the provisions of this Declaration, to create a corporation to which (may) be delegated and assigned the powers of maintaining and administering the common area and administering and enforcing these covenants, conditions and restrictions and collecting and disbursing funds pursuant to the assessments and charges hereinafter referred to; and

WHEREAS, FOLIAGE ASSOCIATION, INC. a non-profit corporation, will be incorporated under the laws of the State of Kansas for the purpose of exercising the powers and functions aforesaid; and

WHEREAS, DECLARANT will convey title to all of the Lots in the addition above described subject to the covenants, conditions and restrictions hereinafter set forth;

NOW, THEREFORE, DECLARANT hereby covenants, agrees and declares that the property described above shall be held, sold and conveyed subject to the following covenants, conditions, restrictions and easements which are hereby declared to be for the benefit of all of the property described herein and the owners thereof, their successors and assigns.

#### ARTICLE I

##### DEFINITIONS

The following terms used in these covenants, conditions and restrictions shall be applicable to this Declaration and are defined as follows:

1.01 "Association" shall mean and refer to FOLIAGE ASSOCIATION, INC. a nonprofit corporation, to be incorporated under the laws of the State of Kansas, its successors and assigns.

1.02 "Property" shall mean and refer to all of the property described as:

TRACT A. All of "FOLIAGE", an addition to Sedgwick County, Kansas, according to the plat recorded in the office of the Register of Deeds of Sedgwick County, on \_\_\_\_\_, 1980, at \_\_\_\_\_, Page \_\_\_\_\_.

TRACT B. Beginning at a point on the west line of the east half of the southeast quarter of Section 8, Township 27 South, Range 2 East of the 6th P.M., 50.00 feet north of the southwest corner thereof; thence northerly along the west line of said east half bearing N 0° 06' 10" E, 1030.26 feet to the southwest corner of "Foliage", an addition to Sedgwick County, Kansas; thence along the boundary of said addition bearing N 90° 0' 0" E, 404.89 feet; thence along a curve to the left having a central angle of 45° 55' 58", a radius of 118.00 feet, a length of 94.60 feet, and a chord 92.09 feet long bearing N 8° 02' 01" E; thence N 75° 04' 02" E, 269.96 feet to the southeast corner of Lot 1, Block 2 in said addition; thence S 0° 0' 0" E, 217.79 feet; thence S 31° 0' 0" W, 317.07 feet; thence S 45° 11' 37" E, 54.35 feet; thence S 31° 0' 0" W, 200.00 feet; thence S 49° 30' 0" E, 45.00 feet; thence along a curve to the right having a central angle of 49° 28' 50", a radius of

162.21 feet, and a length of 140.08 feet; thence S 0° 1' 10" E, 194.00 feet; thence S 43° 33' 02" E, 110.34 feet; thence S 0° 1' 10" E, 65.00 feet to a point 50.00 feet north of the south line of said east half; thence westerly parallel to and 50.00 feet north of said south line bearing S 89° 58' 50" W, 620.00 feet to the point of beginning.

DECLARANT plans to plat Tract B above and hereby imposes these conditions, covenants and restrictions upon said property. Some terms and restrictions herein, by their definition, apply to only platted property. (For example, but not limited to, "lot", "owner" and "member"). However, DECLARANT intends that such terms and conditions shall be equally binding upon the unplatted property, but will not become operative until the same is platted.

1.03 "Common Area" shall mean those portions of the Property to be owned by the Association for the common use and enjoyment of the members of the Association. The Common Area to be conveyed to and owned by the Association is described as follows:

Reserves A, B, C, and D, as shown on the plat of Foliage, and that property which may be platted as reserve property in Tract B above, and all improvements and vegetation situated and to be situated thereon subject to reversionary rights as set forth hereafter.

? not shown on plat will be shown

1.04 "Lot" shall mean and refer to each Lot as platted on the plat of FOLIAGE. It shall not mean or include any part of the Common Area.

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

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

1.07 "Declarant" shall mean and refer to P.M.A. Inc., its successors and assigns.

1.08 "Board" shall mean and refer to the Board of Directors of the Association.

1.09 "Structure" shall mean and refer to any thing or device (other than trees, shrubbery, hedges less than two (2) feet high, and landscaping) the placement of which upon any Lot may affect the appearance of such Lot, including by way of illustration and not limitation, any building, garage, porch, shed, greenhouse or bathhouse, covered or uncovered patio, swimming pool, tennis court, clothes line, radio or television antenna, fence, curbing, paving, wall or hedge more than two (2) feet in height, signboard or any temporary or permanent improvement to such Lot. "Structure" shall also mean (i) any excavation, fill, ditch, diversion dam or other thing or device which affects or alters the natural flow of surface water from, upon or across any Lot, or which affects or alters the flow of any waters in any natural or artificial stream, wash or drainage channel from, upon or across any Lot, and (ii) any change in the grade of any Lot of more than six (6) inches from that existing at the time of purchase by each Owner.

1.10 "Building Site" is all land on the property in which title is held by a common owner. An owner may own more than one Lot, however, all of said lots, if contiguous, shall be considered one building site.

ARTICLE II

MEMBERSHIP AND VOTING RIGHTS

2.01 Membership. The Association shall have as members only Owners. All Owners shall, upon becoming such, be deemed automatically to have become members and there shall be no other qualification for membership. Membership shall be appurtenant to, and shall not be separated from the ownership of any Lot.

2.02 Voting Rights. All Members, so long as they shall qualify under this Article II, shall be entitled to vote on each matter submitted to a vote at a meeting of members. Each Member of the Association shall have one (1) vote, subject to the following exceptions and conditions:

- (A) If any Member owns or holds more than one (1) Lot, such member, subject to the provisions of this Article II, shall be entitled to one (1) vote for each such Lot.
- (B) When any such Lot is owned or held by more than one (1) Member as tenants in common or joint tenancy or any other manner of joint or common ownership or interest, such Members shall collectively be entitled to only one (1) vote relative to such Lot and if such Members cannot jointly agree as to how that vote should be cast, no vote shall be allowed with respect to such Lot.
- (C) Any Member who is in violation of this Declaration, as determined by the Board, shall not be entitled to vote during any period in which such violation continues. Any Member who fails to pay any assessments established pursuant to the terms hereof shall not be entitled to vote during any period in which any such assessments are due and unpaid.
- (D) The Board may adopt by By-Laws, consistent with the terms hereof, the Articles of Incorporation of the Association, and the laws of the State of Kansas, as it deems advisable for any meeting of Members in regard to proof of membership in the Association, evidence of right to vote, the appointment and duties of inspectors of votes, registration of members for voting purposes, voting by proxy, and such other matters concerning the conduct of meetings and voting as it shall deem proper.

ARTICLE III

PROPERTY RIGHTS IN THE COMMON AREAS

3.01 Members' Easements of Enjoyment. Every Member shall have a right and easement of enjoyment in and to the Common Area, and such easement shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- (A) The right of the Association to limit the number of guests of Members.

- (B) The right of the Association to establish uniform rules and regulations pertaining to the use of the Common Area, including but not limited to the recreational facilities thereof.
- (C) The right of the Association, in accordance with its Articles and By-Laws, to borrow money for the purpose of improving the Common Area and facilities and to mortgage the Common Area, provided that the rights of such mortgagees shall be subordinate to the rights of the Members.
- (D) The right of the Association to suspend the use of the recreational facilities by a Member for any period during which any assessment against his Lot remains unpaid and delinquent, and for a period not exceeding thirty (30) days for any single infraction of the Rules and Regulations of the Association.
- (E) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be determined by the Association; provided that such dedication or transfer shall not be effective unless authorized by a majority of Members present at a specially convened meeting called for such purpose.

3.02 Delegation of Use. A Member's right of enjoyment in the Common Area shall automatically extend to all members of his immediate family residing on any part of the Property. No guests shall be entitled to exercise such right of enjoyment or to any use of the Common Area except as provided in, and subject to, such regulations as may be promulgated by the Board.

3.03 Waiver of Use. No Member may exempt himself from personal liability for assessments duly levied by the Association, nor release the Lot owned by him from the liens and charges hereof, by waiver of the use and enjoyment of the Common Area and the facilities thereon or by abandonment of his Lot.

3.04 Title to the Common Area. DECLARANT may retain the title to the Common Area until such time as it has completed improvements thereon and until such time as, in the opinion of the DECLARANT, the Association is able to maintain the same but in any event DECLARANT covenants for itself, its successors and assigns, that it shall convey the Common Area to the Association not later than March 1, 1990; provided, however, in the event Reserve B ceases to be used and maintained for the common use and enjoyment of the members of the Association, all right, title and interest to that portion of said Reserve B lying south of a line running 30 feet south of and parallel to the south line of Lots 6 and 7, Block 2, FOLIAGE, shall revert to DECLARANT; provided; that DECLARANT shall maintain said property in accordance with the provisions of the plat of said property, and if DECLARANT fails to do so, Sedgwick County or other proper authority shall have the right to maintain the same.

*as stated in plat*

DECLARANT further covenants that it will, at its sole cost and without right of reimbursement, erect and install on Reserve A near Webb Road, a small security guard house to be opened and operated at such times as determined by the Association; and, it will cause to be planted and installed on the rest of Reserve A such vegetation and amenities as it deems appropriate.

ARTICLE IV

COVENANTS CONCERNING ASSESSMENTS AND LIENS

4.01 General Assessments. For the purpose of providing funds for the operation of the Association, and for the operation, maintenance, care and improvement of the Common Area, and to afford the Association the means and resources necessary to carry out its duties and functions, the Association shall, in each year, assess against each Lot in the Property a general assessment, which general assessment shall subject each Lot to a lien to secure payment thereof.

The first such assessment shall be for the fiscal year beginning March 1, 1982. It shall be fixed and levied prior to such date and thereafter it shall be due and payable on the 15th day of February, of each year. The Association will notify all Owners on or before that date, giving the amount of the assessment, when due, and the amount on each Lot owned by him. The failure of the Association to make the assessment prior to February 1 of each year shall not invalidate any such assessment made for that particular year; nor shall failure to levy an assessment for any one year affect the right of the Association to do so for any subsequent year. When the assessment is made subsequent to February 1 of any year, then it shall become due and payable not later than thirty (30) days from the date of levying the assessment.

4.02 Basis and Operating Fund. All general assessments shall be made against the Owners on an equal basis for each Lot or fraction thereof owned by the Owner or Owners, except that DECLARANT is exempted from imposition of an assessment, both general and special, for which exemption DECLARANT covenants to maintain all unsold Lots at its sole cost.

Each new Owner purchasing a Lot from DECLARANT shall deposit with the Association, at the closing of the purchase, such sum as may be required by DECLARANT as such OWNER'S initial contribution to the working capital of the Association. Such deposit shall be in the amount of \$1,000.00 or such amount as shall be specified in the contract covering the purchase of such Lot.

4.03 Limitations on General Assessments. The first general assessment shall be \$600.00 per Lot for fiscal year beginning March 1, 1982. Thereafter, the general assessment for each year shall be such amount as is necessary to raise the revenue required to finance the yearly budget as set by the Board of Directors of the Association. Such budget, and general assessment, may be amended by a 2/3 vote of the members present at a meeting of the association which is called for that purpose.

An Owner acquiring title from DECLARANT shall not be required to pay a general assessment for the remainder of the fiscal year in which the Owner acquires title.

4.04 Special Assessments. In addition to general assessments, the Association may, from time to time, at a regular meeting or a special meeting called upon notice for such purpose, establish a special assessment to be levied equally against each Lot for the purpose of providing additional funds (not available through general assessments) to carry out its duties and other functions and purposes contemplated hereunder. No such special assessment shall be valid unless two-thirds (2/3rds) of the Members present at the meeting vote for it. Any special assessments shall become a lien against each individual Lot in the same manner otherwise provided for in this Article.

Further, the Association shall have the authority to establish and fix a special assessment on any Lot to secure the liability of the Owner of such Lot to the Association for any breach by such Owner of any of the provisions of this Declaration, which breach shall require an expenditure by the Association for repair or remedy.

Any special assessments shall be payable in full on the first day of the second calendar month next following the date that the same shall be established and billed by the Association and shall thereafter bear interest until paid in full at the prevailing legal rate.

4.05 Collection and Expenditures. The Association shall have the sole authority to collect and enforce the collection of all general and special assessments provided for in this Declaration, and may in addition to such assessments charge and assess costs, including reasonable attorney fees, and penalties and interest for the late payment or nonpayment thereof. The Association shall have the authority to expend all moneys collected from such assessments, costs, penalties and interest for the payment of expenses and costs in carrying out the duties, rights and powers of the Association and provided for in this Declaration and the Articles of Incorporation and By-Laws of the Association. However, the Association shall not be obligated to spend in any year all the sums collected in such year by way of general assessments, or otherwise, and may carry forward, as surplus or in reserves, any balances remaining; nor shall the Association be obligated to apply any such surpluses or reserves to the reduction of the amount of the assessments in the succeeding year, but may carry forward from year to year such surplus as the Board in its absolute discretion may determine to be desirable for the greater financial security of the Association and the effectuation of its purposes.

4.06 Assessments and Liens; Delinquency. Thirty (30) days after any general or special assessment shall be due and payable, and unpaid or otherwise not satisfied, the same shall be and become delinquent and a lien on the Lot, and shall so continue until the amount of said charge and assessment together (will) all costs, penalties and interest as herein provided have been fully paid or otherwise satisfied. with

4.07 Notice of Delinquency. At any time after any general or special assessment against any Lot has become a lien and delinquent, the Association may record in the office of the Register of Deeds, Sedgwick County, Kansas, a Notice of Delinquency as to such Lot, which Notice shall state therein the amount of such delinquency and that it is a lien, and the interest, costs (including attorneys' fees) and penalties which have accrued thereon, a description of the Lot against which the same has been assessed, and the name of the owner thereof and such Notice shall be signed by an officer of the Association.

Upon payment or other satisfaction of said assessment, interest, penalties and costs in connection of which notice has been recorded, the Association shall record a further notice stating the satisfaction and the release of the lien thereof.

4.08 Enforcement of Liens. Each lien established pursuant to the provisions of this Declaration and which is specified in a Notice of Delinquency as hereinabove provided, may be foreclosed in like manner as a mortgage on real property as provided by the laws of Kansas. In any action to foreclose any such lien, the Association shall be entitled to costs, including reasonable attorneys' fees, and such penalties for delinquent charges and assessments as shall have been established by the Association.

4.09 Imposition of Liens. DECLARANT, as to each Lot in the Property, except those owned by DECLARANT, has established and does hereby establish, reserve and impose a lien thereon securing each assessment provided by this Declaration, together with the costs, penalties and interest attributable thereto, and DECLARANT does hereby assign to the Association the right to collect and enforce the collection of the same in accordance with and subject to the limitations contained in each of the provisions of this Declaration.

4.10 Subordination to Mortgages. Each and every assessment and lien, together with any costs, penalties and interest reserved under this Declaration, shall be subordinate to the lien of any valid bona fide mortgage which has been or may hereafter be given in good faith and for value on any interest of any Owner covered by this Declaration. Any subsequent Owner of any Lot purchased at foreclosure shall be bound by the restrictions, assessments and liens set out in this Declaration, not including, however, any assessment or lien arising prior to the foreclosure sale.

#### ARTICLE V

##### USE, OCCUPANCY AND CONDUCT RESTRICTIONS

5.01 The Property is subject to the conditions, covenants, restrictions, reservations and easements hereby declared to insure the best use and the most appropriate development and improvement of each lot thereof; to protect the owners of lots against such improper use of surrounding lots as will depreciate the value of their property; to preserve, so far as practicable, the natural beauty of such property; to guard against the erection thereon of poorly designed or proportioned improvements and improvements built of improper or unsuitable materials; to insure the highest and best development of said property; to encourage and secure the erection of attractive homes thereon, with appropriate locations thereof on building sites; to secure and maintain proper setback from streets, and adequate free spaces between structures; and in general to provide adequately for a high type and quality of improvement to such property.

5.02 Each Owner shall not interfere with the rights of other Owners, the Association, or the DECLARANT, nor intentionally or unintentionally annoy any of such or any of the occupants of this development by unreasonable noises, offensive odors, improper neighborly conduct or otherwise.

5.03 Each Owner shall obey and comply with all applicable public laws, ordinances, rules and regulations and all rules and regulations now or hereafter promulgated as provided for in this Declaration.

5.04 No Owner shall do or allow to be done any act which causes or threatens to cause any damage, encroachment or disrepair to the Common Area or the residence or Lot of any other Owner.

5.05 No residence shall be erected, altered, placed or permitted to remain on any building sites other than one new single family residence, for private use, with a private garage and other structures incidental to residential use.

5.06 For the purposes of this Declaration, the following lots, or part or parts thereof, shall be deemed to front on the streets designated as follows:

<u>Street Name</u>	<u>Lots Fronting</u>
Greenleaf	- Lot 5 in Block 1 and - lots 1-10 in Block 2
Greenleaf Cove	- Lots 1-4 in Block 1
Barrier Cove	- Lots 7-14 in Block 1
Laurel Cove	- Lots 15-20 in Block 1
Duckcross Cove	- Lots 21-27 in Block 1

All residences on the above Lots shall front on the streets as designated above for said Lots.

For the purpose of this Declaration, the above-designated streets shall be considered as front streets and all other streets contiguous to any of such real property shall be considered as side streets.

The residence to be erected on Lot 6, Block 1 shall be situated on, or front on such street or streets contiguous to it as shall in the judgment of the Owner, with written approval of the Architectural Committee, best complement the Lot and the surrounding area.

DECLARANT shall, within a reasonable time, install private street signs upon the property, and hereby reserves the right to install these signs upon such lots as it deems appropriate. The Association shall be responsible for the continued maintenance of such signs and the replacement of signs which become damaged or destroyed.

*Street signs*

*not acceptable  
Install signs within the parking areas between street curb and lot line.*

*not acceptable  
within 30 days after completion of construction of any street*

*What kind of signs?*

5.07 Each Owner shall comply with the minimum front, back and side setback requirements as shown on the recorded plat of the land covered hereby, and as herein provided in Section 8.03 hereof.

5.08 No excavations, except such as are necessary for the construction of a residence or improvements, shall be permitted on any Lot without written permission of DECLARANT.

5.09 No trash, ashes, dirt, rock or other refuse may be thrown or dumped on any Lot or building site. No building materials of any kind or character shall be placed or stored upon any building site more than thirty (30) days before the commencement of construction of a residence or improvements and then such materials shall be placed within the property lines of the building site upon which they are to be erected and shall not be placed in the street or between the curb and property line. All construction activities, including but not limited to, vehicles, building materials, scraps and trash shall be confined to the Lot or Lots under construction.

5.10 No retail, wholesale, manufacturing or repair business of any kind nor so-called home occupations shall be permitted on any lot or in any residence or appurtenant structure erected thereon, even though this does not include the employment of any additional person or persons in the performance of such services. No activity which may be or become a nuisance to the neighborhood shall be carried on upon any lot or in any residence or appurtenant structures erected thereon.

5.11 No basement, tent, shack, garage, barn or outbuilding other than guest houses or servant's quarters erected on a lot covered by this Declaration shall at any time be used for human habitation temporarily or permanently, nor shall any structure of a temporary character be used for human habitation.

5.12 No used, secondhand or previously erected house or building of any kind can be moved or placed, either in sections or as a whole, upon said land, nor shall any trailer be moved, placed or permitted to remain upon a lot subject to this Declaration.

5.13 The Board may, from time to time, publish and impose reasonable regulations setting forth the number and types of pets that may be kept on any Lot. Under no circumstances shall any commercial or agricultural business enterprise, including breeding, involving the use of birds, animals, reptiles or insects be conducted on the property.

5.14 No signs, advertisements, billboards or advertising structures of any kind may be placed, erected, or maintained on any Lot or the common area without the consent in writing of the Board. Homes offered for sale shall be shown by appointment.

5.15 No hedge, shrub, mass planting or tree shall be allowed by the Owner to obstruct sight lines at any corner. Trees, shrubs and other plants which die shall be promptly removed from the property.

5.16 Oil drilling, oil development operations, refining, mining operations of any kind or quarrying shall not be permitted upon or in any of the lots subject to this Declaration, nor shall oil wells, tanks, tunnels, mining excavations or shafts be permitted upon or in any of the lots covered by this Declaration. Fuel oil storage tanks as a part of the heating equipment of a residence shall be permitted only if located underground. No water well or septic tank shall be permitted on or under any lot.

5.17 There shall not be erected any external television or radio antennas, including receiving discs, or permanent clothesline structures and no Owner shall erect any structures, either permanent or temporary, upon any of the Common Area. All utility and phone lines shall be underground.

5.18 No automobile, truck, motorcycle, motorbike, boat, house trailer, boat trailer or trailer or any other vehicle of any type or description may be stored upon any of the Common Area, nor may any boat, boat trailer, house trailer, camper, camper trailers, or similar items be stored in the open on any Lot.

5.19 Motor scooters, mini bikes or similar vehicles shall be operated for transportation only and no joy riding on the streets, Lots, or Common Areas, shall be allowed except on a designated bike or cycle trail, if any.

5.20 No garage door shall be allowed to open directly to a street or an existing adjacent living quarter without being visually screened.

5.21 Each Owner (other than DECLARANT (who shall have an obligation to maintain and keep mowed all unsold Lots owned by it)) shall keep all Lots owned by him, and all improvements therein or thereon, in good order and repair, including but not limited to, the seeding, watering and mowing of all lawns, the pruning and cutting of all trees and shrubbery, and the painting (or other appropriate external case) of all buildings and other improvements, all in a manner and with such frequency as is consistent with good property management in relation to a quality residential neighborhood such as will exist in the Property. If in the opinion of the Association, any Owner fails to perform the duties imposed by the preceding sentence, the Association, after approval by a two-thirds (2/3rds) decision of the Board, and after fifteen (15) days' written notice to Owner to remedy the condition in question, shall have the right, through its agents and employees, to enter upon the Lot in question and to repair, maintain, repaint and restore the Lot or such improvements and the cost thereof shall be a binding personal obligation of such Owner and the Association may establish a special assessment on such Lot for the cost thereof and enforce the same as provided in Article IV hereof.

5.22 No Lot shall be divided into more than one building site but more than one lot may be used as a building site for one dwelling.

5.23 No tree shall be removed from any Lot without the express written authorization of the Architectural Committee, who, at its option may relocate such tree. The Board in its discretion, may adopt and promulgate rules and regulations regarding the preservation of trees and other natural resources upon the Property.

5.24 As soon as practicable after purchase of a Lot, the Owner thereof shall plant a lawn and at least fifteen (15) trees on such Lot; and, after completion of a residence, the Owner shall plant at least fifteen (15) perennial shrubs, bushes, or trees on such lot.

5.25 Outdoor lighting shall not oversplash onto neighboring properties.

5.26 There shall be no chain link fences permitted as property line fencing.

5.27 Visually-restrictive solid fences shall not be permitted within 30 feet of the rear lot line on Lots 1-10, inclusive, in Block 2.

*Incom-  
plete*

#### ARTICLE VI

##### THE ASSOCIATION

###### 6.01 Powers and Duties:

(a) The Association shall have the rights and powers as set forth in its Articles of Incorporation and By-Laws, together with its general powers as a nonprofit corporation and it shall perform each and every duty required of it by this Declaration.

(b) DECLARANT shall carry out all of the duties and powers herein delegated to the Association until thirty (30) lots have been sold and shall have residences constructed and occupied on the building sites of said 30 lots, at which time management shall be turned over to the Association, who shall then exercise the powers and duties herein set out; provided, however, that the DECLARANT may at its option at any earlier time turn the management over to the Association. The Association and the DECLARANT shall cooperate fully in the transition of management.

(c) The Association shall own, maintain, improve, landscape, mow and keep clean the Common Area.

(d) The Association shall maintain such insurance on the Common Area and facilities thereon as it deems necessary and advisable.

(e) The Association shall have the right to create and establish reserves for the repair, restoration, or replacement of any improvement it has the duty to repair, restore or replace hereunder.

(f) The Association, through its Board of Directors, shall have the right to adopt such Rules and Regulations as it may deem advisable for the maintenance, use, conservation, and beautification of the Property and for the health, comfort, safety and general welfare of the Owners and occupants of Lots in the Property.

(g) The Association shall determine whether and to what extent the security guardhouse, to be erected on Reserve A, shall be operated, and the manner and character of operations thereof.

6.02 Enforcement Rights in County. If the Association shall fail or refuse for any reason to maintain the Common Area, then Sedgwick County or other proper authority shall have the right to maintain such Common Area and assess the costs thereof equally to all the Lots in the Property and said costs may be established and treated as liens in the same manner as special assessments. This provision shall endure, even though the rest of the covenants herein may terminate, as long as such Common Area is used as such and until all of the Owners of property in the Property shall execute a written consent to the discontinuance of the use of any such Common Area as such. If the use of such Common Area shall be discontinued as a Common Area, as above set out, then the ownership of the same, except to the extent as otherwise provided herein, shall revert to the Owners of Lots in the Property. Notwithstanding any other provision of this Declaration, this section 6.02 shall not be amended without the consent of Sedgwick County or other proper authority.

6.03 Operations and Expenses. The Association shall establish such committees as may be provided for in its By-Laws, may engage a manager, secretaries, engineers, auditors, legal counsel, and other employees or consultants as may be reasonably necessary for the discharge of its duties hereunder. The expenses of committees, the salaries of a manager and other employees and the fees of consultants shall be established and paid for by the Association. The Association shall pay for all other expenses necessary or incidental to the conduct or carrying on of its business.

6.04 Enforcement. The Association may engage a management firm and turn over to such firm any duties required by its Articles of Incorporation and By-Laws and this Declaration. In addition to any and all other provisions concerning enforcement set forth herein, the Association shall have the duty to enforce each and every provision of this Declaration, including the duty to commence and maintain an action to enjoin any breach or threatened breach of any of the provisions hereof, and to pay all costs of any such action or other enforcement procedure.

6.05 Taxes and Assessments. Each Owner shall be obligated to pay the taxes or assessments assessed by the county Assessor against his own Lot and personal property.

6.06 Repair and Restoration of Improvements on Common Area. Should any improvements on the Common Area or any part or portion thereof be damaged or destroyed by fire or other casualty or by intentional mischief, the Association shall be responsible for the cost and expense of repair and restoration, and the same shall be done substantially in accordance with the original plans and specifications for the improvement of same.

The repair and restoration work referred to in this section shall be commenced promptly after the happening of the destruction or damage occasioning the same, and once commenced the same shall be pursued diligently to completion.

## ARTICLE VII

### EASEMENTS AND ACCESS CONTROL

7.01 Public Utility and Floodway Easements Dedicated. Easements for the installation and maintenance of all public utilities and for floodway on Lots subject to this Declaration are dedicated as shown on the recorded Plat of this property. There shall be no permanent improvements erected on any part of this property on which the floodway is shown in the recorded Plat hereof.

7.02 Easements in Favor of DECLARANT and of Association. DECLARANT specifically reserves unto itself, its successors and assigns, a perpetual, nonexclusive easement and right of way over the Common Area, for the purpose of constructing, maintaining, repairing, replacing and rebuilding underground pipelines, drains and/or mains for the purpose of conveying gas, water and sewerage over, across and through the lands hereinabove described, together with the right to excavate and level ditches and/or trenches for the location of said pipes, drains and/or mains.

*No  
floodway  
to have  
on plat*

The Association is hereby granted a perpetual, non-exclusive easement to enter upon any Lot on which is situated an entrance treatment, wall or berm installed or erected by DECLARANT, and maintain, improve, repair and/or replace the same.

7.03 Access Control. There shall be no vehicular access to 13th Street and Webb Road from Lots adjoining 13th Street and Webb Road.

#### ARTICLE VIII

#### ARCHITECTURAL COMMITTEE; ARCHITECTURAL CONTROL

8.01 The "Architectural Committee" shall be composed of those three (3) or more individuals so designated from time to time by the Board of Directors of the Association.

8.02 No Structure shall be commenced, erected, placed, moved on to or permitted to remain on any Lot, nor shall any existing Structure upon any Lot be altered in any manner which materially changes the exterior appearance thereof, nor shall any new use be commenced on any Lot, unless plans and specifications (including a description of any proposed new use) therefor shall have been submitted to and approved in writing by the Architectural Committee. Such plans and specifications shall be in such form and shall contain such information as may be required by the Architectural Committee, but in any event shall include (i) a site plan of the Lot or Lots showing the nature, exterior color scheme, kind, shape, height, materials and location with respect to the particular Lot or Lots (including proposed front, rear and side setbacks) of all Structures, the location thereof with reference to Structures on adjoining portions of the Property, and the number and location of all parking spaces and driveways on the Lot or Lots; and (ii) a finished landscape and grade plan for the particular Lot or Lots.

8.03 The Architectural Committee shall have the power to regulate the distance between improvements on adjoining Lots in order that no residence, including attached garages, breezeways, attached greenhouses, ells and porches, shall be closer than forty (40) feet to any other residence, including attached garages, etc. Further, and irrespective of any ordinance or set back line delineated on the Plat of Foliage, the following restrictions shall apply:

- (a) No residence, including attached garages, breezeways etc., shall be placed closer than forty (40) feet to any front lot line (except that exceptions to such 40-foot limitation may be made in respect to residences to be erected on Lots 12, 16, 19, 22, and 25, Block 1; and *lot 9 not included because it is deeper*)
- (b) No residence, including attached garages, breezeways, etc., shall be placed closer than twenty (20) feet to any side lot line or twenty-five (25) feet to any rear lot line; and
- (c) No detached garage, bath house, greenhouse, other out-buildings or improvements or outdoor recreational courts (including but not limited to tennis courts, sport courts, and racquetball courts) shall be placed closer than ten (10) feet to any side lot line or ten (10) feet to any rear lot line.

*Why not show 40' setbacks  
Architectural Committee would be able to waive the 40' setback down to 35'*

8.04 The Architectural Committee shall have the right to disapprove any Plans and specifications submitted hereunder because of any of the following:

- (a) the failure of such plans or specifications to comply with any of the terms of this Declaration.
- (b) failure to include information in such plans and specifications as may have been reasonably requested.
- (c) objection to the exterior design, appearance or materials of any proposed Structure;
- (d) incompatibility of any proposed Structure or use with existing Structure or uses upon other Lots in the vicinity;
- (e) objection to the location of any proposed Structure upon any Lot or with reference to other Lots in the vicinity;
- (f) objection to the finished landscape and grade plan for any Lot;
- (g) objection to the color scheme, finish, proportions, style of architecture, height, bulk or appropriateness of any proposed Structure;
- (h) objection to parking areas proposed for any Lot on the ground of (1) incompatibility to proposed uses and Structures on such Lot or (2) the insufficiency of the size of parking areas in relation to the proposed use of the Lot; or
- (i) any other matter which, in the judgment of the Architectural Committee, would render the proposed Structure, Structures or uses inharmonious with the general plan of improvement of the Property or with the Structures or uses located upon the Lots in the Vicinity.

In any case where the Architectural Committee shall disapprove any plans and specifications submitted hereunder, or shall approve the same only as modified or upon specified conditions, such disapproval or qualified approval shall be accompanied by a statement of the grounds upon which such action was based. In any such case the Architectural Committee shall, if requested, make reasonable efforts to assist and advise the applicant in order that an acceptable proposal can be prepared and submitted for approval.

Whatever shall be the decision of the Architectural Committee hereunder, its decision shall be final and conclusive and no member of the Committee shall be liable whatever for failure or neglect to approve any plans and specifications submitted.

8.05 Upon approval by the Architectural Committee of any plans and specifications submitted hereunder, a copy of such plans and specifications, as approved, shall at the Committee's request be deposited for permanent record with the Committee, and a copy of such plans and specifications bearing such approval, in writing, shall be returned to the applicant submitting the same.

8.06 The Architectural Committee may promulgate rules governing the form and content of plans to be submitted for approval or requiring specific improvements on Lots, including, without limitation, exterior lighting and planting, and may issue statements of policy with respect to approval or disapproval of the architectural styles or details, or other matters, which may be presented for approval. Such rules and such statements of policy may be amended or revoked by the Architectural Committee at any time, and no inclusion in, omission from, or amendment of any such rules or statement shall be deemed to bind the Architectural Committee to approve or disapprove any feature or matter subject to approval, or to waive the exercise of the Architectural Committee's discretion as to any such matter, but no change of policy shall affect the finality of any approval granted prior to such change. Approval for use on any Lot of any plans or specifications shall not be deemed a waiver of the Architectural Committee's right, in its discretion, to disapprove such plans or specifications or any of the features or elements included therein if such plans, specifications, features or elements are substantially submitted for use on any other Lot or Lots. Approval of any such plans and specifications relating to any Lot, however, shall be final as to that Lot and such approval may not be revoked or rescinded thereafter, provided, (i) that the Structure or uses shown or described on or in such plans and specifications do not violate any specific prohibition contained in this Declaration, and (ii) that the plans and specifications, as approved, and any condition attached to any such approval, have been adhered to and complied with in regard to all Structures on and uses of the Lot in question.

If the Architectural Committee fails to approve or disapprove any plans and specifications as herein provided within thirty (30) days after submission thereof, the same shall be deemed to have been approved, as submitted, and no further action shall be required.

8.07 If any Structure shall be altered, erected, placed or maintained upon any Lot, or any new use commenced on any lot, otherwise than in accordance with plans and specifications approved by the Architectural Committee pursuant to the provisions of this Article VIII, such alteration, erection, maintenance or use shall be deemed to have been undertaken in violation of this Article VIII and without the approval required herein, and upon written notice from the Architectural Committee, any such Structure so altered, erected, placed or maintained upon any Lot in violation hereof shall be removed or realtered, and any such use shall be terminated, so as to extinguish such violation.

If fifteen (15) days after the notice of such a violation the Owner of the Lot upon which such violation exists shall not have taken reasonable steps toward the removal or termination of the same, the Association shall have the right, through its agents and employees, to enter upon such Lot and to take such steps as may be necessary to extinguish such violation and the Association may establish a special assessment on such Lot for the cost thereof and enforce the same as provided in Article IV hereof.

8.08 Upon completion of the construction or alteration of any Structure in accordance with plans and specifications approved by the Architectural Committee, the Architectural Committee shall, upon written request of the Owner thereof, issue a Certificate of Compliance in form suitable for recordation, identifying such Structure and the Lot on which such Structure is placed, and stating that the plans and specifications, the location of such Structure and the use or uses to be conducted thereon have been approved and that such Structure complies therewith. Preparation and recording of such Certificate shall be at the expense of such Owner. Any Certificate of Compliance issued in accordance with the provisions of this Section 8.08 shall be prima facie evidence of the facts therein stated and as to any purchaser or encumbrancer in good faith and for value, or as to any title insurer or title examiner, such Certificate shall be conclusive evidence that all Structures on the Lot, and the use or use described therein comply with all the requirements of this Article VIII, and with all other requirements of this Declaration as to which the Architectural Committee exercises any discretionary or interpretive powers.

#### ARTICLE IX

##### PARKING

9.01 Off Street. Each residence site fronting on Duckcross Cove, Laurel Cove, Barrier Cove, and Greenleaf Cove shall contain a minimum of four (4) suitably surfaced off-street parking spaces, which parking spaces shall be situated so as to be in compliance with the laws of Sedgwick County or other proper authority. The parking space or spaces in the garage may be counted toward meeting this requirement. Each of such off-street parking spaces shall be of sufficient size to accommodate a passenger motor vehicle.

9.02 On Street. On street parking on the above-designated streets shall be restricted as follows:

Greenleaf - parking on Block 2 side only.

ARTICLE X

MISCELLANEOUS

10.01 Provisions Binding on Grantees. The Association and each grantee hereafter of any part or portion of the property covered by this Declaration and any purchaser under any grant, contract of sale or lease covering any part or portion of such property, accepts the same subject to all of the restrictions, liens and charges and the jurisdiction, rights and powers of the Association and DECLARANT provided for in this Declaration.

10.02 Interpretations of Restrictions. In interpreting and applying the provisions of this Declaration, they shall be held to be minimum requirements adopted for the promotion of the health, safety, comfort, convenience and general welfare of the Owners of this property. It is not the intent of this Declaration to interfere with any provisions of any law or ordinance or any rule, regulations or permits previously adopted or issued pursuant to law relating to the use of buildings or premises; nor is it the intention of this Declaration to interfere with or abrogate or ~~annual~~ easements, covenants, or other agreements between parties, provided, however, that where this Declaration imposes a greater restriction upon the use or occupancy of any residence site or upon the construction of buildings or structures, or in connection with any other matters that are imposed or required by such provisions of law or ordinances or by such rules, regulations or permits, or by such covenants, easements and agreements, then in that case the provisions of this Declaration shall control.

10.03 Construction and Validity of Restrictions. All of the restrictions, conditions, covenants, reservations, liens and charges contained in this Declaration shall be construed together, but if it shall at any time be held that any one or more of such restrictions, conditions, covenants, reservations, liens or charges, or any part thereof, is invalid or for any reason becomes unenforceable, no other restriction, condition, covenants, reservation, lien or charge, or any part thereof, shall be affected or impaired.

10.04 Assignment of Powers. Any and all rights and powers of the DECLARANT provided for in this Declaration and any modification or amendment hereof may be delegated, transferred, assigned, conveyed or released by DECLARANT to the Association, and the Association shall accept the same upon the recording of a notice thereof, and the same shall be effective for the period and to the extent stated therein. In a like manner and for a like term, such powers and duties may be assigned to any other responsible entity who assumes the obligations assigned to it. Upon the effective date of such assignment, the assigning party shall be released of any and all liabilities of whatever nature arising out of acts or omissions prior to the effective date of the assignment.

10.05 Waiver and Exceptions. The failure by the Association or of DECLARANT or of any owner of any residence site included in this development or any other person, to enforce any of the restrictions, conditions, covenants, reservations, liens or charges to which this property or any part thereof is subject, shall in no event be deemed a waiver of the right to do so thereafter or to enforce any other restriction, condition, covenant, reservation, lien or charge.

10.06 Titles. All titles used in this Declaration are intended solely for convenience of reference, and the same shall not affect that which is set forth in the terms and conditions of this Declaration nor the meaning thereof.

10.07 Singular and Plural, Masculine and Feminine. The singular shall include the plural and the plural the singular unless the context requires the contrary, and the masculine, feminine and neuter shall each include the masculine, feminine and neuter as the context requires.

10.08 Successors in Interest. Reference herein to either the Association or DECLARANT shall include its respective successor, and each such successor shall succeed to the rights, powers, and authority hereunder of its predecessor.

10.09 Term. The covenants, conditions and restrictions of this Declaration shall run with and bind the Property, and shall inure to the benefit of and be enforceable by the Association, DECLARANT, and the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of thirty-five (35) years from the date hereof, after which time the covenants, conditions and restrictions hereof shall be automatically extended for successive periods of ten (10) years, unless an instrument signed by a majority of the then Owners of these Lots, has been recorded, agreeing to abolish or change these covenants, conditions and restrictions in whole or in part.

10.10 Amendments. Subject to the provisions in 6.02, this Declaration of Covenants, Conditions and Restrictions may be amended only by the affirmative assent or vote of not less than seventy-five percent (75%) of the Owners; provided, however, no amendment materially impairing the rights of any mortgagee shall be binding on any such mortgagee unless consented to in writing by such mortgagee.

10.11 Mortgage Protection Clause. No breach of the covenants, conditions or restrictions herein contained nor the enforcement of any lien provisions herein, shall defeat or render invalid the lien of any Mortgage made in good faith and for value, but all of these covenants, conditions and restrictions shall be binding upon and effective against any Owner whose title is derived through foreclosure sale, or deed in lieu thereof.

10.12 Enforcement. The covenants set forth herein shall run with the land and bind the present Owner, its successors and assigns, and all parties claiming by, through or under it, shall be taken to hold, agree and covenant with the Owner of each building site, its successors and assigns, and with each of them, to conform and observe this Declaration and each and every term and condition hereof (but no restrictions herein set forth shall be personally binding upon any corporation, person or persons, except in respect to breaches committed during its, his or their title to said land), and DECLARANT or the Owner or Owners of any of the above land or the Association shall have the right to sue for and obtain an injunction, prohibitive or mandatory, to prevent the breach of or to enforce the observance of the terms and conditions set forth herein, in addition to ordinary legal action for damages.

10.13 Limitation of Liability, Indemnification. Notwithstanding the duty of the Association to maintain, repair and replace parts of the Common Area and facilities, the Association shall not be liable for injury or damage caused by any latent condition of the Common Area and facilities or for injury caused by the elements, owners or other persons, nor shall any officer or director of the Association be liable to any owner for injury or damage caused by such officer or director in the performance of his duties unless due to the willful misfeasance or malfeasance of such officer or director. Each officer and director of the Association shall be indemnified by the owners against all expenses and liabilities, including attorneys' fees, reasonably incurred or imposed upon him in connection with any proceeding to which he may be a party or in which he may become involved by reason of his being or having been an officer or director of the Association, or any settlement, whether or not he is an officer or director of the Association at the time such expenses and liabilities are incurred, except in such cases where the officer or director is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties, provided that in the event of a settlement, the indemnification shall apply only when the Board of Directors approves such settlement and reimbursement as being for the best interests of the Association.

IN WITNESS WHEREOF, DECLARANT has executed this Declaration the day and year first above written.

P.M.A. INC, a Kansas corporation

ATTEST:

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
President

STATE OF KANSAS    )  
                          ) SS  
COUNTY OF SEDGWICK)

BE IT REMEMBERED, That on this \_\_\_\_\_ day of \_\_\_\_\_ A.D. 1980 before me, the undersigned, a Notary Public in and for the County and State aforesaid came

\_\_\_\_\_, President, and \_\_\_\_\_,  
Secretary of P.M.A., Inc., a corporation duly organized,  
incorporated and existing under and by virtue of the laws of  
Kansas, who are personally known to me to be such officers,  
and who are personally known to me to be such persons,  
who executed as such officers, the within instrument of writing  
on behalf of said corporation, and such persons duly acknowledged  
the execution of the same to be the act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and  
affixed my official seal the day and year last above mentioned.

\_\_\_\_\_  
Notary Public

My term expires on:  
\_\_\_\_\_

CERTIFICATE

City of Wichita)  
Sedgwick County) ss  
State of Kansas)

P. M. A. INC., owner and plat-  
tor of Foliage Addition, do hereby  
certify that petitions for the following improvements have been submitted to the  
Board of Commissioners of the City of Wichita, Kansas:

1. Storm Sewer
2. Sanitary Sewer
3. Temporary Sanitary Sewer Lift Station
4. Water
- 5.
- 6.
- 7.

As a result of the above-mentioned petitions for improvements, lots within  
Foliage Addition may be subject to special  
assessments assessed thereto for the cost of construction the above-described im-  
provements.

Signed this 31st day of DECEMBER, 1980.

Put me

Paul J. Foley Jr  
PAUL J. FOLEY, JR.

City of Wichita)  
Sedgwick County) ss  
State of Kansas)

Be it remembered that on this 31<sup>st</sup> day of December 1980, before  
me, a notary public in and for said County and State, came Paul J. Foley Jr.  
to me personally known to be the same person who executed the fore-going instrument  
of 31st and duly acknowledge the execution of same.

In Testimony Whereof, I have hereunto set my hand and affixed my notarial  
seal the day and year above written.

Diana A. Bastie  
Notary Public



Appointment Expires:  
November 28, 1983

TEMPORARY EASEMENT

THIS EASEMENT made this 31st day of DECEMBER, 1980  
by and between P. M. A. INC.  
of the first part and Sedgwick County of the second part.

WITNESSETH: That the said first party, in consideration of the sum of One Dollar (\$1.00) and other valuable consideration, the receipt whereof is hereby acknowledged, do hereby grant and convey unto the said second party a temporary right of way and easement for the purpose of constructing vehicular turnaround over, along and under the following described real estate situated in Sedgwick County, Kansas to wit:

The west 35 feet of Lot 1, Block 2, Foliage , an addition to Sedgwick County, Kansas.

This easement does not include a right of way over land occupied by a permanent structure. Said easement shall expire upon the dedication of additional street right of way to Thirteenth Street.

IN WITNESS WHEREOF: The said first party has signed these presents the day and year first written.

PMA INC  
Paul J. Foley Jr  
Paul J. Foley, Jr.

STATE OF KANSAS )  
                          ) ss:  
SEDGWICK COUNTY )

Personally appeared before me a notary public in and for the County and State aforesaid came Paul J. Foley Jr

to me personally known to be the same person(s) who executed the foregoing instrument of writing and said person(s) duly acknowledged the execution thereof.



Dated at Wichita, Kansas, this 31st day of December, 1980.

Diosa A. Bostic  
Notary Public

My Appointment Expires: November 28, 1983

*copy sent to Andy Harkness,  
County Engineering, 1-8-81*

AVIGATIONAL EASEMENT

KNOW ALL MEN BY THESE PRESENTS:

That for a good and valuable consideration, the receipt of which is hereby acknowledged, that P.M.A., Inc.; 1550 S. West Street; Wichita, Kansas

does hereby grant a permanent Avigational Easement to the public authority authorized by law to own and operate public-owned airports in Sedgwick County, Kansas, for the use of "Navigable Airspace" as defined by the Federal Aviation Act of 1958, over all of the following described real estate, to-wit:

Foliage, An Addition to Sedgwick County

By virtue of this easement, the grantor, for and on behalf of himself and all successors in interest to any and all of the real property above described, waives as to the public authority only any and all claims for damage of any kind whatsoever incurred as a result of aircraft using the "Navigable Airspace" granted herein. This easement does not grant or convey any surface use rights, nor is it to be construed to grant any right to private persons or corporations.

"Navigable Airspace" means air space above the minimum altitudes of flight prescribed by regulations issued under the Federal Aviation Act of 1958, Section 101 (24) 49 U.S. Code 1301, and shall include air space needed to insure safety in take-off and landing of aircraft.

To have and to hold said easement forever.

IN WITNESS WHEREOF: The grantor has signed these presents this 30th day of December, 1980.

P. M. A., Inc.

Paul J. Foley, Jr.  
Paul J. Foley, Jr.

STATE OF KANSAS)  
SEDGWICK COUNTY) SS

Personally appeared before me a notary public in and for the County and State aforesaid Paul J. Foley Jr.

to me personally known to be the same person(s) who executed the foregoing instrument of writing and said person(s) duly acknowledged the execution thereof.

Dated at Wichita, Kansas this 30th day of December, 1980.



Penny K. Mann  
Notary Public  
Penny K. Mann

Appointment expires April 17, 1984

RESTRICTIVE COVENANT

RESTRICTIVE COVENANT AFFECTING Foliage ADDITION

THIS DECLARATION made this 30th day of December by  
P.M.A., Inc., hereinafter called the Grantor.

WITNESSETH

WHEREAS, Grantor is owner of Foliage  
Addition to Sedgwick County, which property  
is located near McConnell Air Force Base and is accordingly  
subject to considerable noise from the operation of aircraft, and  
is exposed at times to aircraft noise which may infringe upon a  
resident's enjoyment of property and may, depending upon the degree  
of accoustical treatment of the dwelling, affect his health and/or  
well being, and

WHEREAS, the City of Wichita in connection with approval of  
the plat of said addition considers it to be in the public interest  
to require any buildings constructed on said addition to be designed  
and constructed giving proper consideration to noise pollution in  
the area:

NOW THEREFORE, Grantor, hereby declares that Foliage  
Addition, shall be and the same is subjected to the following re-  
strictive covenant, to-wit:

Any building constructed on the premises  
shall be so designed and constructed as  
to minimize noise pollution in any such  
structure, giving due consideration to  
the use for which such structure is de-  
signed and built. This covenant is for  
the benefit of said property and shall  
run with the land and shall inure to the  
benefit of and pass with said property  
and shall apply to and bind the successors  
in interest and any owner thereof.

EXECUTED the date and year first above written.

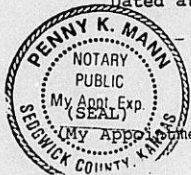
P.M.A., Inc.  
Paul J. Foley Jr.  
Paul J. Foley, Jr.

STATE OF KANSAS)  
SEDGWICK COUNTY) SS

Personally appeared before me a notary public in and for the  
County and State aforesaid Paul J. Foley Jr.

to me personally known to be the same person(s) who executed the  
foregoing instrument of writing and said person(s) duly acknowledged  
the execution thereof.

Dated at Wichita, Kansas, this 30th day of December, 1980.



Penny K. Mann  
Notary Public  
Penny K. Mann

My Appointment expires April 17, 1984

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS:

That, we P.M.A., Inc. as Principal, and Employers Mutual Casualty Company as Surety, are held and firmly bound unto the City of Wichita, County of Sedgwick and State of Kansas, in the sum of One Thousand Dollars - - - - - (\$ 1,000.00) Dollars, lawful money of the United States, for payment of which will and truly to be made, we bind ourselves, our heirs, executors, successors and assigns jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT:

WHEREAS, said Principal will make the following improvements. All improvements and other work as set forth to be done and performed in accordance with the plans, specifications and provisions as determined by the City of Wichita for the development and improvement in Foliage (name of subdivision) SE/4 Sec. 8 Township 27S Range 2E, Sedgwick County, Kansas.

NOW, THEREFORE, the said Principal P.M.A., Inc. shall perform the following obligations and conditions:

1. Remove outbuilding South line, lot 2, block 1
2. N/A
3. N/A
4. N/A
5. Reimbursement to the City of Wichita at an actual cost figure, all costs and expenses related to the preparation of plans and specifications and the inspection of construction of the above listed projects.

which obligations and each of them shall be performed on or before December 31, 1982 \*\* and all of which shall be performed and accomplished in accordance with presently established standards and specifications of the Department of Public Works of the City of Wichita.

NOW, THEREFORE, if the said Principal shall fully and faithfully perform all the work specified to be done and performed within the time prescribed, and in accordance with the plans, specifications and provisions, therefore, to which reference is here made; then this obligation shall be void; otherwise to remain in full force and effect in law; it being expressly understood and agreed that the liability of the Surety for any or all claims hereunder, shall in no event exceed the penal amount of this obligation, as herein stated. It is expressly understood that the City may declare said bond forfeited if the conditions herein have not been fully complied with in every respect and further, that the City may install said projects and pay for same out of said forfeited bond funds.

The said Surety hereby stipulates and agrees that no modifications, omissions, or additions, in or to the plans or specifications therefore, or any extension of time, shall in any wise affect the obligation of said Surety on its bond.

IN WITNESS WHEREOF, we have hereunto set our hand and seals on this 31st day of December, 1982

P.M.A., Inc.  
Paul J. Foley, Jr. Principal

EMPLOYERS MUTUAL CASUALTY COMPANY Surety

\* Insert N/A (Not Applicable) when blanks are not used. BY: Patrick J. Manning  
Attorney-in-Fact  
\*\* Insert date, 2 years following the date of approval of the final plat by the Planning Commission.

STATE OF KANSAS, COUNTY OF SEDGWICK, SS:

Be it remembered that on this 31st day of December, 1980, before me, a Notary Public in and for said County and State, came Paul Foley, Jr. and Patrick J. Manning  
(Principal) (Surety)

to me personally known to be the same persons executing the foregoing instrument of writing and duly acknowledged the execution of same, in testimony whereof I have hereunto set my hand and affixed my notarial seal the day and year above written.

BETTY L. CHITTESTER  
NOTARY PUBLIC  
Sedgwick County, Kansas  
My Commission Expires 03-15-1984  
My Appt. Exp.

Betty L. Chittester Notary Public

*Employers Mutual* CASUALTY COMPANY  
HOME OFFICE • DES MOINES, IOWA

**Certificate of Authority Individual Attorney-in-Fact**

KNOW ALL MEN BY THESE PRESENTS, that the Employers Mutual Casualty Company, a Corporation duly organized under the laws of the State of Iowa and having its general office in the City of Des Moines, in said State, hath made, constituted and appointed, and does by these presents make, constitute and appoint:

PATRICK J. MANNING, INDIVIDUALLY  
BETTY L. CHITTESTER, INDIVIDUALLY  
WICHITA, KANSAS

its true and lawful Attorney in Fact, with full power and authority conferred to sign, seal and execute its lawful bonds, undertakings, and other obligatory instruments of a similar nature as follows:

IN AN AMOUNT NOT EXCEEDING ONE HUNDRED THOUSAND-----DOLLARS (\$100,000.00)

and to bind the Employers Mutual Casualty Company thereby as fully and to the same extent as if such instruments were signed by the duly authorized officers of the Employers Mutual Casualty Company and all the acts of said attorney pursuant to the authority hereby given are hereby ratified and confirmed.

This Power-of-Attorney is made and executed pursuant to and by authority of the following Resolution of the Board of Directors of the Company regularly adopted at a meeting duly called and held on June 10, 1953:

**"RESOLUTION"  
APPOINTMENT OF ATTORNEY-IN-FACT**

- (a) The Chairman of the Board of Directors, the President, any Vice President, the Treasurer and the Secretary shall have power and authority to (1) appoint attorney-in-fact and authorize them to execute on behalf of the Company and attach the seal of the Company thereto, bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof, and (2) to remove any such attorney-in-fact at any time and revoke the power and authority given to him.
- (b) Attorneys-in-fact shall have power and authority, subject to the terms and limitations of the power of attorney issued to them to execute and deliver on behalf of the company and attach the seal of the company thereto, bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof, and any such instrument executed by any such attorney-in-fact shall be fully and in all respects binding upon the company.

The Authority hereby granted shall expire April 1, 1981, unless sooner revoked.

IN WITNESS WHEREOF, the Employers Mutual Casualty Company has caused these presents to be signed by its Paul J. Foley Jr.  
President and Darrell B. Southern Secretary and its corporate seal to be thereto affixed this 22nd day of  
March, 1978

EMPLOYERS MUTUAL CASUALTY COMPANY

BY: Robb B. Kelley  
Robb B. Kelley, President

BY: Darrell B. Southern  
Darrell B. Southern, Secretary

SEAL

STATE OF IOWA }  
COUNTY OF POLK } ss.

On this 22nd day of March, A.D. 1978, before me a Notary Public in and for Polk County, Iowa, personally appeared Robb B. Kelley and Darrell B. Southern, who being by me duly sworn, did say that they are the PAUL J. FOLEY JR. President and J. F. McARTHUR Secretary, respectively of said Employers Mutual Casualty Company, that the seal affixed to said instrument is the seal of said corporation; that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors; and that said Robb B. Kelley and Darrell B. Southern acknowledge the execution of said instrument to be the voluntary act and deed of said corporation by it voluntarily executed.  
My Commission Expires Sept. 30, 1979

Mary Kay Ranker  
Mary Kay Ranker  
Notary Public

**CERTIFICATE**

I, Richard E. Haskins, Vice President of the Employers Mutual Casualty Company, do hereby certify that the attached Power-of-Attorney dated March 22, 1978 in behalf of Patrick J. Manning, Betty L. Chittester, Individually

is a true and correct copy and that the same is still in force.

In Testimony Whereof I have subscribed my name and affixed the corporate seal of said Company this 31st day of

December, 1980

Richard E. Haskins  
Richard E. Haskins, Vice President

12 29 80

SCHEDULE A

Number

Effective Date

287181

April 28, 1980 @ 7:00 A. M.

1. Owners Policy to be issued:

ALTA Form B - 1970  
(Amended 10-17-70)

Amount: Unknown

Proposed Insured:

Metropolitan Area Planning Department

Loan Policy to be issued:

ALTA Form 1970  
(Amended 10-17-70)

Amount:

Proposed Insured:

2. The estate or interest in the land described or referred to in this Commitment and covered herein is a fee simple and title thereto is at the effective date hereof vested in:

P.M.A., Inc.

3. The land referred to in this Commitment is described as follows:

The East Half of the Southeast Quarter of Section 8, Township 27 South, Range 2 East of the 6th P.M., Except the right of way of the St. Louis and San Francisco Railway Company, in Sedgwick County, Kansas.

## SCHEDULE B

Upon payment of the full consideration to, or for the account of, the grantors or mortgagors, and recording of the deeds and/or mortgages, the form and execution of which is satisfactory to the Company, the policy or policies will be issued containing exceptions in Schedule B thereof to the following matters (unless the same are disposed of to the satisfaction of the Company):

1. If an owner's policy is to be issued, the mortgage encumbrance, if any, created as part of the purchase transaction.
2. Defects, liens, encumbrances, adverse claims or other matters, if any created, first appearing in the public records or attaching subsequent to the effective date hereof but prior to the date the proposed insured acquires for value of record the estate or interest or mortgage thereon covered by this commitment.
3. Rights or claims of parties in possession not shown by the public records.
4. Encroachments, overlaps, boundary line disputes, and any other matters which would be disclosed by an accurate survey and inspection of the premises.
5. Easements or claims of easements not shown by the public records.
6. Any lien, or right to a lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by the public records.
7. Taxes or special assessments which are not shown as existing liens by the public records.
8. General and special taxes and assessments as hereafter listed, if any (all amounts shown being exclusive of interest, penalties and costs): Taxes for the year 1979 \$4,654.19; 1st Half Paid; Last Half \$2,327.10. Key #MI-40 (E $\frac{1}{2}$  of SE $\frac{1}{4}$  Exc Beg 295.17' N of SE cor of SE $\frac{1}{4}$ ; W 295.17'; N 147.58'; E 295.17'; S to beg)  
Taxes for year 1979 \$47.87; 1st Half Paid; Last Half \$23.94. Key #MI-41 (Beg 295.17' N of SE cor of SE $\frac{1}{4}$ ; W 295.17'; N 147.58'; E 295.17'; S to beg)
9. Pipeline right-of-way granted to Cities Service Gas Co. over the E $\frac{1}{2}$  of SE $\frac{1}{4}$  of Sec. 8-27-2E (Except 1 Acre Tract) as set forth in instrument filed in Book Misc. 236, Page 96, which is confined in Book Misc. 495, Page 52 and Book Misc. 495, Page 221, as follows:  
  
Pipeline Route is as follows: Beg 50' W of NE cor SE $\frac{1}{4}$ ; South to a point on South line of SE $\frac{1}{4}$ , 59' West of SE cor of SE $\frac{1}{4}$ . Pipeline is limited to a strip which lies East of a line located 33 feet West of the Route of the pipeline. (See copies attached)
10. Pipeline right-of-way granted to Cities Service Gas Co. in instrument filed in Book Misc. 236, Page 213, over the following described property: Beg 295.17' N of SE cor of SE $\frac{1}{4}$  of Sec. 8-27-2E; W 295.17'; N 147.58'; E 295.17'; S 147.58' to beg. (See copy attached)
11. Restrictive Covenants filed on Film 213, Page 257. (See copy attached)  
*12-29-80 advised Bengtson to check trees to make sure no statements on restriction need to be checked on plat.*
12. Rights of the Public in and to the East 30 feet and the South 30 feet for Roadways.

See added page

(Schedule B continued)

Policy Number \_\_\_\_\_ Owners

Policy Number \_\_\_\_\_ Loan

13. Affidavit of Kansas Gas & Electric Company showing that said Company acquired the necessary right-of-way easement to provide electric service to captioned property, that the electric lines were installed underground, and that by agreement locating the line the right-of-way easements consist of a 10 foot strip 5 foot right & left of the following described line, in the SE $\frac{1}{4}$  SE $\frac{1}{4}$  of Sec. 8-27-2E:  
Beginning at a point, which point is approximately thirteen hundred thirty six (1336) feet west and approximately eight hundred twenty four (824) feet North of the Southeast corner of above described quarter section. Thence east at an angle to the right of approximately 83° for a distance of one hundred sixty nine (169) feet, thence left at an angle of approximately 5° for a distance of approximately two hundred ten (210) feet, thence right at an angle of approximately 11° for a distance of approximately one hundred thirty nine (139) feet, thence right at an angle of approximately 15° for a distance of approximately one hundred thirty six (136) feet, thence right at an angle of approximately 62° for a distance of approximately one hundred seventeen (117) feet. All being in the SE $\frac{1}{4}$ , Sec. 8-27-2E.  
(See copy attached)
14. Any interest outstanding of record in and to all the oil, gas and other minerals in and under and that may be produced from said premises, together with all rights incident to or growing out of said outstanding minerals, including but not limited to outstanding oil and gas leases.
15. It is noted for informational purposes only, and not as an exception to title which will appear in our policy that captioned property may become subject to special assessments for Water as set forth in resolution filed on Film 210, Page 624.

2ND HALF STATEMENT  
INSTRUCTIONS ON BACK  
INTEREST 12%

INTEREST  
CA \_\_\_\_\_  
CK \_\_\_\_\_

79-0-MI - -00041- - 1401  
P M A INC  
1550 WEST ST  
WICHITA KS 67213

MAKE CHECKS PAYABLE TO:  
SEDGWICK COUNTY TREASURER  
P.O. BOX 2909 WICHITA, KANSAS 67201

TAX STATEMENT

IMPORTANT: IF THIS STATEMENT IS \$10.00 OR LESS IT MUST BE PAID IN FULL

VALUATION	MILL LEVY	GENERAL TAX	OTHER TAX	HALF TAX	TOTAL DUE			
55,750	72.533	4,043.71	610.48		2,327.10			
83.63	960.18	467.30	2505.34		27.26			
STATE	COUNTY	COUNTY FIRE DISTRICT	SCHOOL	OLD SCHOOL BOND	CITY	TOWNSHIP	OTHER LEVIES	BREAK DOWN

1979 REAL ESTATE  
E172-SE1/4-EXC-BEG-295-17-FT-N-SE-COR-SE1/4-W-295-17-FT-N-147-58-FT-E  
295-17 FT S TO BEG SEC 8-27-2E

DO NOT REMOVE THIS SLIP

INCOME UNDER 10,000% AFTER JANUARY 1, HOMESTEAD & SALES TAX REFUND FORMS AVAILABLE FROM KANSAS DEPT. OF REVENUE, OR COUNTY CLERK, IF YOU QUALIFY.

2ND HALF STATEMENT  
INSTRUCTIONS ON BACK  
INTEREST 12%

INTEREST  
CA \_\_\_\_\_  
CK \_\_\_\_\_

79-0-MI - -00040- - 039023 1401  
F M A INC  
1550 S WEST KS ST  
WICHITA

*Second 1/2 1979 taxes  
received 12-31-80*

*This is a tax BILL not a  
paid receipt!*

12-31-80



**Van Doren  
Hazard  
Stallings**

Architects - Engineers - Planners

250 Rockborough Building  
280 North Rock Road  
Wichita, Kansas 67206  
316/686-7303

DATE 12-11-80 JOB NO. 80-204-A0

PROJECT Foliage

TO Louise Olivarez  
Planning Department

455 North Main

Wichita, Ks. 67202

**TRANSMITTAL**

COPIES TO:

Alan Burke  
Group III

We are sending you the following items:

- PRINTS
- SPECIFICATIONS
- SHOP DRAWINGS
- TRACINGS
- BULLETIN
- CORRESPONDENCE
- OTHER

- FOR YOUR APPROVAL
- APPROVED AS TO GENERAL CORRECTNESS
- APPROVED AS CORRECTED
- REVISE & RESUBMIT
- FOR YOUR FILES
- FOR YOUR USE
- OTHER

REMARKS: Submitted herewith is a copy of the agreement with Cities Service Gas  
Company in relation to the above mentioned project.

**RECEIVED**

DEC 12 1980

METROPOLITAN PLANNING

ROUTE  1000  
 \_\_\_\_\_

Signed Kenneth H. Bengtson  
Kenneth H. Bengtson  
Partner

A G R E E M E N T

THIS AGREEMENT, made and entered into this 28th day of December, 1961, by and between GERTRADE M. WALLINGFORD and S. P. Wallingford WALLINGFORD, her husband, Parties, herein called "Owners", and OKLAHOMA SERVICE GAS COMPANY, a Public Corporation, with an office in Oklahoma City, Oklahoma, Second Party, herein called "Company",

WITNESSETH: That,

WHEREAS, Owners represent and warrant to Company that they own and are in possession of the following described real estate, to-wit:

The East Half of the Southeast Quarter (E 1/2 SE 1/4) of Section 8, Township 27 South, Range 2 East, E 1/2 of the right of way of the St. Louis and San Francisco Railway Company, and also except a tract beginning 295.17 feet North of the Southeast Corner of the Southeast Quarter, thence West parallel with South line of Section 8, 295.17 feet; thence North 147.58 feet, thence East 295.17 feet; thence South 147.58 feet to point of beginning, in Sedwick County, Kansas, herein called "Owners Tract",

RECORDED  
FEB 2 1962  
2074  
RUFUS E. DEERING  
G. C. Sullivan

subject to that certain valid and subsisting right of way contract, herein called "Contract", dated June 16, 1948, granted by Claude B. Innes and Pauline M. Lambe, his wife, to Company, recorded in Book 236 of M, Page 96, Register of Deeds Office, Sedwick County, Kansas, and under which Contract Company owns, operates and maintains a 16-inch high pressure natural gas pipeline, herein called "said pipeline", upon and across said Owners Tract; and,

WHEREAS, Owners have requested Company to modify said Contract as to said Owners Tract by limiting the width of the right of way and releasing the remainder of said Owners Tract from the operation of said Contract; and,

WHEREAS, subject to and as provided in this Agreement, Company is willing to comply with Owners' request.

NOW, THEREFORE, the parties hereto, each in consideration of the covenants and agreements of the other, hereby mutually covenant and agree as follows:

1. The Whereas Clauses hereof shall be considered and held to be contractual in character and not mere recitals.
2. The route of said pipeline across said Owners Tract is as follows:

Commencing at a point on the North line of said Owners Tract, 50 feet West of the Northeast corner thereof; thence South from point on the South line of said Owners Tract 17 feet West of the Southeast corner thereof.

PIPELINE LOCATION

3. The line and the place of said Contract covering all of said Owners Tract, said Contract shall, from and after the execution and delivery of this Agreement, cover only the following described part of said Owners Tract, to-wit:

A strip of land along all that part of Owners Tract beginning at the Northwest corner thereof, 11 feet West of the route of said pipeline, thence East to the Southeast corner thereof, thence South and East hereinafter described "Easement Location".

EASEMENT LOCATION

MICROFILMED  
FROM THE BEST  
AVAILABLE COPY

(b) Except for and excluding the land embraced within said Retained Strip, Company hereby releases from the operation of said Contract all of the remainder of the land embraced within said Owners Tract.

(c) Said Contract shall stand modified to conform with the provisions of this Agreement and as so modified shall apply to said Retained Strip.

4. Owners, for themselves, their heirs and assigns, agree that during the existence and continuance of said Contract, they and each of them are hereby prohibited, enjoined and restrained from:

- (a) erecting any buildings, improvements or structures whatsoever which, without limiting the generality of the foregoing, includes trees, shrubs, driveways and parking lots, EXCEPT streets as provided in Paragraph 8 hereof;
- (b) grading or removing soil so as to lessen the existing surface level or adding more than 20 inches of soil to the existing surface level; and,
- (c) parking or placing or permitting to be parked or placed any object or thing whatsoever,

upon any portion of said Retained Strip.

5. If owners or their heirs and assigns erect, place or permit anything whatsoever to be erected, placed or parked upon any portion of said Retained Strip, EXCEPT as provided in Paragraph 8 hereof, then Company, after giving five (5) days notice in writing to the owner, if known, of the improvements, buildings, structures or other thing or things so placed or parked upon said Retained Strip, may remove the same at the expense of such owner, and Company, its successors and assigns, shall not be liable for any damages occasioned by any such removal; provided, however, when an emergency in the operation, maintenance or replacement of said pipeline requires prompt action, in Company's opinion, then Company shall have the right to remove such thing or things without notice to the owner or owners and without liability for so doing.

6. Failure of Company to give the five (5) day notice provided in Paragraph 5 hereof, or to remove any thing or things that may be placed on any portion of said Retained Strip shall in no way affect or impair the right of Company thereafter to give such notice and remove such thing or things, nor shall any acquiescence by Company in the existence of such thing or things upon said Retained Strip constitute a waiver or relinquishment of Company's right at any time thereafter to give such notice and remove such thing or things.

Block Setback

7. In the event all or a portion of said Owners Tract should be subdivided and platted, Owners, for themselves, their heirs and assigns agree to establish a building line not less than 50 feet West of the route of said pipeline as set forth in Paragraph 2 hereof.

8. It is agreed by the parties hereto that future utilization by Owners of said Owners Tract shall entail the construction of Streets across said Retained Strip. Accordingly, it is agreed, notwithstanding any express or implied provisions of this Agreement to the contrary, that streets may hereafter be constructed and laid in approximately right angles across said Retained Strip, provided, however, Owners, their heirs or assigns shall first:

(a) give Company written notice 30 days prior to the commencement of the construction of said Streets and furnish Company with the exact location of the same; and,

(b) cause the same to be constructed and/or lowered to the grade of the existing ground or existing and/or lowering the same to the grade of the existing ground.

MICROFILMED FROM THE BEST AVAILABLE COPY

Company agrees:

(a) Within a reasonable time after receipt of such notice and locations from said Omere, to submit to Omere an estimate of the cost of encasing and/or lowering its said pipeline at each such crossing;

(b) After receipt of such payment from Omere, to within a reasonable time commence encasing and/or lowering its said pipeline at each such crossing;

(c) To furnish all labor and materials necessary to perform the work of encasing and/or lowering said pipeline at each such crossing and to complete same with due diligence in a workmanlike manner; and

(d) To refund to Omere the amount, if any, of their payment over and above Company's actual cost of doing such work.

THIS AGREEMENT shall be binding upon the parties hereto and their respective voluntary and involuntary successors and assigns.

Executed the day and year first herein above written.

*Victoria M. Wallingford*  
Victoria M. Wallingford

*S. P. Wallingford*  
S. P. Wallingford

CHIEF SERVICE GAS COMPANY

*Clint D. Rogers*  
By Clint D. Rogers, Vice President

*O. M. Handy*  
O. M. Handy, Assistant Secretary

MICROFILMED  
FROM THE BEST  
AVAILABLE COPY



**COUNTY OF SEDGWICK**

DEPARTMENT OF PUBLIC WORKS

**RECEIVED**

1250 S. Seneca

WICHITA, KANSAS 67213

PHONE 268-7901

NOV 19 1980

SEDGWICK COUNTY COURTHOUSE

METROPOLITAN PLANNING

ROUTE

Louise

JOE D. FREEMAN, P.E.  
ACTING COUNTY ENGINEER

November 18, 1980

Van Doren Hazard Stallings  
260 North Rock Road, Suite 250  
Wichita, Kansas 67206

ATTENTION: Ken Bengtson

RE: Drainage Plan, Foliage

Dear Mr. Bengtson:

This is to confirm a verbal approval to you by Phil Dietrich for the drainage plan for Phase I of the Foliage. A reminder that this approval was subject to indicating on the plan the fill area south of the proposed lake. This should be submitted as soon as possible.

I should like to take this opportunity to discuss and clarify Item 6 of a Confirmation Memo to Phil Dietrich from John Scott III the same dated October 31, 1980. This item stated "You (Mr. Dietrich) have no objections to the private street located in the plat." This departments position concerning private streets is that if they are to be allowed, we would have no objections provided the street construction is to public standards (40 year life if paved), adequate reserve widths provided (equal to public right-of-way), adequate maintenance covenants provided, and guarantee provided for the construction of the streets.

Insofar as allowing the private street concept, we feel this if a function of the respective planning agencies.

Very truly yours,

Joe D. Freeman, P. E.  
Deputy Director of Public Works

JDF/PED/bd

cc: Jack Galbraith, M.A.P.D. ✓  
Mike Lindebak, City of Wichita Engineering  
Syd Werbin  
Plat File

November 20, 1980

Van Doren-Hazard-Stallings  
Suite 250, 260 N. Rock Rd.  
Wichita, Ks. 67206

Re: S/D 80-53 - Final plat of Foliage Addition

Gentlemen:

At the regular meeting of the Metropolitan Area Planning Commission on Thursday, November 20, 1980, the above-captioned plat was considered. The action of the Planning Commission was to recommend that the plat be approved as recommended by the Subdivision Committee subject to the conditions stated in our letter of November 14, 1980.

In addition to complying with those conditions, it is necessary that you meet the following requirements before this plat can be forwarded to the Board of City Commissioners for consideration:

- 12-31-80. Submission of the fully completed and signed tracing of the subdivision to the Metropolitan Area Planning Department.
- 12-29-80. Submission of a title report by an abstract or title insurance company or an attorney's opinion that fee title is vested in the plattor.
3. Certification that all taxes due and payable for 1980 and prior years have been paid.

Please call if you have any questions.

Very truly yours,

Louise Olivarez  
Senior Planner

LO:bb cc  
F.M.A., Inc., 9200 E. 13th, 67206  
Group 3, Attention: Allan Burke, P.O. Box 131, 67201  
Mert Buckley, P.O. Box 1034, 67201

petitions to Eng. 12-31 } temp. san. sew lift station  
san. sew  
storm water

November 14, 1980

Van Doren-Hazard-Stallings  
Suite 250, 260 N. Rock Road  
Wichita, Ks. 67206

Re: S/D 80-53 - Final plat of Foliage Addition

Gentlemen:

At the regular meeting of the Subdivision Committee of the Metropolitan Area Planning Commission on November 13, 1980, the above-captioned plat was considered. The action of the Committee was to recommend that this plat be approved, subject to:

- 12-31 A. ✓ The final plat shall indicate a minimum pad elevation of 188 City datum on Lots 8, 9, and 10, Block 2.
- 12-31 B. ✓ The applicant shall guarantee all drainage improvements required by the platting of this property including culvert crossings on Webb Road. Any necessary off-site drainage easements shall be granted by separate documents. *included in petition. none required according to Mike Gundlach*
- 12-31 C. ✓ Since the interior street system within this subdivision is proposed as a private system, it is recommended that the platting text distinguish between public streets (Webb Road) and private streets (all Reserves "A"). The platting text should also state how the reserves are to be owned and maintained.
- 12-31 D. ✓ The applicant shall guarantee by letter of credit, bond, cash or actual construction, the installation of the private street system to public street paving standards. The cul-de-sacs off of the main street are proposed for the 21-foot paving width and the Subdivision Committee recommends a waiver of the design restriction that a street paved to this width be no longer than 300 feet. The amount of the paving guarantee shall be approved by County Public Works prior to submission. *bond to County 12-31-80 OK from County 1-5-81*
- 12-31 E. ✓ The applicant shall submit a restrictive covenant stating that four off-street parking spaces will be provided for each dwelling unit located on one of the narrow streets. *in Declaration of Covenants of the Homeowners Assoc.*
- 12-31 F. ✓ The applicant shall guarantee the extension of municipal sewer and water to serve all lots. Any requests for extension of water and sanitary sewer systems outside the cor- *petitions and applications*

porate limits of the City of Wichita must be accompanied by a request for annexation to Wichita and a covenant prohibiting the property owners from petitioning for incorporation as a separate city or as part of some other city. The cost of any system extension will be paid 100% by the petitioners.

12-31 G. ✓

If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.

12-31 H. ✓

The applicant shall submit an avigational easement covering all of subject property and a covenant assuring that adequate construction methods will be used to minimize noise pollution within any habitable buildings built on subject property.

I. ✓

The Subdivision Committee recommends a waiver of the recommended lot width-to-area ratio.

12-31 J. ✓

A temporary turnaround shall be granted at the south end of Greenleaf. This may be shown on the plat and referenced in the plat's text or may be granted by separate document.

OK K. ✓

The utility easements and storm sewer easements shall be separated on the final plat tracing.

OK L. ✓

Bearings and dimensions on the perimeter of Reserve B shall be added to the final plat tracing.

M. ✓

If street lights are desired within this private street system, the developer should contact K.G. and E.

N. ✓

The applicant shall obtain approval from Cities Service Gas Company for the proposed street crossing their easement and for a building setback (if any) from their easement. A letter from Cities Service or a copy of the easement agreement addressing these matters shall be submitted to the Planning Department. Any relocation or encasing of the pipelines within this easement necessitated by this plat will not be at the City's or County's expense.

O. ✓  
1000.00  
bond

The existing structure located over the easement on the south line of Lot 2, Block 1, shall be removed prior to recording of this plat. When the structure has been removed, a letter so stating shall be submitted by the applicant to the Planning Department.

*(City Engineering OKed the bond in lieu of actual removal now)*

OK P. ✓  
12-31

Protective covenants shall be submitted to the Planning Department for review, approval and recording which provide for the perpetual ownership and maintenance of the reserves and which provide for the timely installaton, and continued maintenance, of private street signs. There shall also be included in these covenants, a statement which gives the appropriate governing body the authority to enter onto the reserves to perform necessary maintenance, in the event the owners fail to do so, "the cost of which shall be assessed

*Co. P. v. W. v. s.  
OKed the  
covenants  
12-30-80*

equally among all the lots and may be established and treated as liens in the same manner as special assessments." A copy of the approved covenants shall be submitted to County Public Works.

0. Recording of the plat within 30 days after approval by the Board of City Commissioners.

Enclosed with the applicant's copy of this letter is a list of the five methods which have been adopted as being acceptable for guaranteeing improvements required in the approval of plats. Forms for the bond and irrevocable letter of credit are available from this office. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.

The enclosed "marked" copy of the final plat is for your information and files.

This matter will be forwarded to the Planning Commission for its consideration on Thursday, November 20, 1980, at 1:30 p.m. If you should have any questions concerning this matter, please call.

Sincerely,

Louise Olivarez  
Senior Planner

LO:bh

cc: P.M.A., Inc. 9200 E. 13th, 67206  
Group 3, P.O. Box 131, Attention: Allan Burke, P.O. Box 67201  
Mert Buckley, P.O. Box 1034, 67201  
Andy Harkness, County Department of Public Works  
Mike Lindebak, City Engineering

## SUBDIVISION REPORT

SUBDIVISION COMMITTEE  
METROPOLITAN AREA  
PLANNING COMMISSION

S/D NO. 80-53 Name Foliage  
 Date Application Rec'd. 7-11-80 Preliminary Approval 8-7-80  
 Scheduled S/D Meeting 11-13-80

## DESCRIPTION

General Location West of Webb Road in an area north of 13th

Owner P.M.A., Inc.

Surveyor/Engineer Van Doren-Hazard-Stallings

Address 260 N. Rock Road, Suite 250 Phone 686-7303

- |   |   |                                  |                 |
|---|---|----------------------------------|-----------------|
| 1. Gross Acreage of Plat                          | <u>32+</u>  | 7. Lineal Feet of New Streets:   |                 |
| 2. Number of Lots:                                |   | a. <u>64</u> R/W <u>1800</u> ft. |                 |
| Residential                                       | <u>37</u>   | b. <u>58</u> R/W <u>1000</u> ft. |                 |
| Commercial  |   | c. _____ R/W _____ ft.           |                 |
| Industrial  |   | d. _____ R/W _____ ft.           |                 |
| Other   |   | e. _____ R/W _____ ft.           |                 |
| Total Number of Lots                              | <u>37</u>   | TOTAL                            | <u>2800</u> ft. |
| 3. Minimum Lot Frontage                           | <u>50</u> ft.                                     | 8. Sidewalk adjacent to all      |                 |
| 4. Minimum Lot Area                               | <u>20,000 sq. ft.</u>                             | streets? <u>yes</u> <u>no</u>    |                 |
| 5. Existing Zoning                                | <u>R-1</u>  |                                  |                 |
| 6. Proposed Zoning                                | <u>AA</u>   |                                  |                 |
| 9. Public Water Supply                            | <u>Yes (Yes-No)</u> , Name <u>City of Wichita</u> |                                  |                 |
| 10. Public Sanitary Sewers                        | <u>Yes (Yes-No)</u> , Name <u>City of Wichita</u> |                                  |                 |
| 11. Health Department Approval (where applicable) | <u>NA</u> (Yes-No)                                |                                  |                 |
| 12. City of Wichita                               | <u>Three-Mile Area</u> <u>X</u>                   |                                  |                 |

## STAFF COMMENTS:

- A. County Public Works shall be prepared to comment on the applicant's drainage plan and state what drainage improvements will be required.
- B. The applicant shall guarantee all drainage improvements required by the platting of this property and shall grant any necessary off-site drainage easements.
- C. The entire street system within this subdivision is proposed as a private system. If private streets are approved, it is recommended that the platting distinguish between public streets (Webb Road) and private streets (all Reserves "A"). The platting should also state how the reserves are to be owned and maintained.
- D. The applicant proposes private street names as shown on the plat with the exception of Hidden Cove which has been changed to Barrier Cove. The cul-de-sac adjacent to Lots 1 thru 4 in Block 1 is proposed as Greenleaf Cove.
- E. The applicant has stated his intention to pave the private streets to public street standards. The cul-de-sacs off of the main street are proposed for the 21-foot width which allows no parking.
- F. The applicant shall guarantee by letter of credit, bond, cash or actual construction, the installation of the private street system to public street paving standards. The amount of the guarantee shall be approved by County Public Works prior to submission.
- G. The applicant shall submit a restrictive covenant stating that four off-street parking spaces will be provided for each dwelling unit located on one of the narrow streets.
- H. The applicant shall guarantee the extension of municipal sewer and water to serve all lots. Any requests for extension

(Over)

sion of water and sanitary sewer systems outside the corporate limits of the City of Wichita must be accompanied by a request for annexation to Wichita and a covenant prohibiting the property owners from petitioning for incorporation as a separate city or as part of some other city. The cost of any system extension will be paid 100% by the petitioners.

- I. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- J. The applicant shall submit an avigational easement covering all of subject property and a covenant assuring that adequate construction methods will be used to minimize noise pollution within any habitable buildings built on subject property.
- K. Approval of this plat will require a waiver of the recommended lot widths as specified in 7-204 (D) of the Subdivision Regulations.
- L. The applicant shall obtain approval from Cities Service Gas Company for the proposed street crossing their easement and for a building setback (if any) from their easement. A letter from Cities Service or a copy of the easement agreement addressing these matters shall be submitted to the Planning Department. Any relocation or encasing of the pipelines within this easement necessitated by this plat will not be at the City's or County's expense.
- M. The existing structure located over the easement on the south line of Lot 2, Block 1, shall be removed prior to recording of this plat. When the structure has been removed, a letter so stating shall be submitted by the applicant to the Planning Department.
- N. Protective covenants shall be submitted to the Planning Department for review, approval and recording which provide for the perpetual ownership and maintenance of the reserves and which provide for the timely installaton, and continued maintenance, of private street signs. There shall also be included in these covenants, a statement which gives the appropriate governing body the authority to enter onto the reserves to perform necessary maintenance, in the event the owners fail to do so, "the cost of which shall be assessed equally among all the lots and may be established and treated as liens in the same manner as special assessments."
- O. Recording of the plat within 30 days after approval by the Board of City Commissioners.



SEDGWICK COUNTY COURTHOUSE

RECEIVED

OCT 29 1980

METROPOLITAN PLANNING  
ROUTE  Local

COUNTY OF SEDGWICK  
DEPARTMENT OF PUBLIC WORKS

1015 STILLWELL  
WICHITA, KANSAS 67213

PHONE 268-7901

JOE D. FREEMAN, P.E.  
ACTING COUNTY ENGINEER

October 24, 1980

Van Doren, Hazard, Stallings  
260 N. Rock Road, Suite 250  
Wichita, Kansas 67206

Att: Ken Binston, P.F.

Re: Drainage Plan, The Foilage

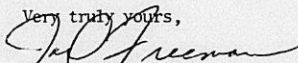
Dear Mr. Binston:

This is to acknowledge the receipt of the above referenced Drainage Plan on October 21, 1980. As per discussion at that time with Phil Dietrich, the following will be needed to be shown on the plan in order to complete our evaluation.

1. Storm sewer sizes.
2. Approximate street grades at high and low points.
3. Areas of Drainage subbasins along with Discharges for  $Q_2$  and  $Q_{100}$  (Maximums for subbasin).
4. Outline of the limits of static pool and maximum pool of proposed ponds supplemented with elevations.
5. Maximum elevations of 100 yr. storm outlet channel periodically indicated.
6. Proposed fill areas around the pond and channel shown.
7. If storm sewers that cross between Lots are not of 100 yr. design, a swale should be indicated giving limits and capacities of the same.
8. Any contributing offsite drainage shown.
9. Clarification as to proposed and "to remain" cross road structures on Webb Road and 13th Street North.
10. Any proposed minimum building pad elevations shown.
11. The plan shall be clearly labeled 'Drainage Plan', dated, along with the firm or individual concerned with the preparation of the plan and along with the seal of the designer.
12. Supportive calculations need to make reference to the Addition which they are prepared for along with the individual of firm responsible.
13. Some discussion Tuesday concerned the possibility of a weir structure to be constructed at the outlet of the northerly pond. If this is to be constructed, it should be noted on the plan along with supportive calculations.

If you should have any questions concerning these items, please feel free to contact this office.

Very truly yours,



Joe D. Freeman, P.E.  
Acting County Engineer

cc: Louise Oliveraz, M.A.P.D.  
Mike Lindeback, City Engineering  
Andy Harkness, County Public Works Dept.

Applicant requested  
a 2-week referral  
for re-design.  
(The south portion of the  
plot will be deleted)

Final plat

SUBDIVISION REPORT

SUBDIVISION COMMITTEE  
METROPOLITAN AREA  
PLANNING COMMISSION

S/D NO. 80-53 Name Foliage Preliminary Approval 8-7-80  
Date Application Rec'd. 7-11-80 Scheduled S/D Meeting 10-30-80

DESCRIPTION

General Location West of Webb Road in an area north of 13th

Owner P.M.A., Inc.  
Surveyor/Engineer Van Doren-Hazard-Stallings Phone 686-7303  
Address 260 N. Rock Rd., Suite 250

1. Gross Acreage of Plat 66+
2. Number of Lots: 51  
Residential \_\_\_\_\_  
Commercial \_\_\_\_\_  
Industrial \_\_\_\_\_  
Other \_\_\_\_\_
3. Total Number of Lots 51
4. Minimum Lot Frontage 50 ft.
5. Minimum Lot Area 20,000 square feet
6. Existing Zoning R-1  
Proposed Zoning AA
7. Lineal Feet of New Streets:  
a. 64 R/W 3050 ft.  
b. 58 R/W 1710 ft.  
c. \_\_\_\_\_ R/W \_\_\_\_\_ ft.  
d. \_\_\_\_\_ R/W \_\_\_\_\_ ft.  
e. \_\_\_\_\_ R/W \_\_\_\_\_ ft.  
TOTAL 4760 ft.
8. Sidewalk adjacent to all streets? yes X no
9. Public Water Supply Yes (Yes-No), Name City of Wichita
10. Public Sanitary Sewers Yes (Yes-No), Name City of Wichita (Yes-No)
11. Health Department Approval (where applicable) NA
12. City of Wichita Three-Mile Area X

STAFF COMMENTS:

NOTE: This plat is an addition to Sedgwick County, not to the City of Wichita. As of October 21, 1980, not enough drainage information had been submitted to County Public Works to enable them to determine the adequacy of the drainage plan. This plat is being scheduled for the October 30th agenda with the understanding that it will be deferred if the drainage plan has not been approved by that date.

- A. County Public Works shall be prepared to comment on the applicant's drainage plan and state what drainage improvements will be required.
- B. The applicant shall guarantee all drainage improvements required by the platting of this property.
- C. The entire street system within this subdivision is proposed as a private system. For clarity, it is recommended that the plat's text distinguish between public (Webb and 13th) and private streets (all Reserves "A") and that the words "private street" be added in parentheses to the face of the plat after each private street name.
- D. The private street name adjacent to Lots 11 thru 14 in Block 1 is proposed as "Greenleaf Cove." "Hidden Cove" has been changed to "Barrier Cove."
- E. The applicant has stated his intention to pave the private streets to public street standards. The five cul-de-sacs off of the main street are proposed for the 21-foot width which allows no parking.
- F. The applicant shall submit a restrictive covenant stating that four off-street parking spaces will be provided for each dwelling unit located on one of the narrow streets.
- G. The applicant shall guarantee by letter of credit, bond, cash, or actual construction, the installation of the private street system.
- H. The applicant shall guarantee the extension of municipal sewer and water to serve all lots. Any requests for extension of water and sanitary sewer systems outside the corporate limits of the City of Wichita must

(Over)

be accompanied by a request for annexation and a covenant (to be recorded) prohibiting the person from petitioning for incorporation. The cost of any system extension will be paid 100% by the petitioner.

- I. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- J. The applicant shall submit an avigational easement covering all of subject property and a covenant acknowledging aircraft noise and assuring that adequate construction methods will be used to minimize noise pollution within any habitable buildings built on subject property.
- K. Approval of this plat will require a waiver of the recommended lot widths as specified in 7-204 (D) of the Subdivision Regulations.
- L. The applicant shall obtain approval from Cities Service Gas Company for the proposed street crossing their easement and for a building setback (if any) from their easement. A letter from Cities Service or a copy of the easement agreement addressing these matters shall be submitted to the Planning Department. Any relocation or encasing of the pipelines within this easement necessitated by this plat will not be at the City's or County's expense.
- M. The existing structure located over the easement on the south line of Lot 12, Block 1, shall be removed prior to recording of this plat. When the structure has been removed, a letter so stating shall be submitted by the applicant to the Planning Department.
- N. Protective covenants shall be submitted to the Planning Department for review, approval and recording which provide for the perpetual ownership and maintenance of the reserves. These covenants shall include a statement which gives the appropriate governing body the authority to maintain the reserves if they are not adequately maintained by the owners as specified in the declaration, with maintenance costs being assessed to the lots on an equal basis.
- O. Recording of the plat within 30 days after approval by the Board of City Commissioners.

August 11, 1980

Bill G. Yung Design  
1355 N. Waco  
Wichita, Ks. 67203

Re: S/D 80-53 - Preliminary plat of Foliage

Dear Mr. Yung:

At the regular meeting of the Subdivision Committee of the Metropolitan Area Planning Commission, August 7, 1980, the above-captioned plat was considered. The action of the Committee was to approve the preliminary and authorize preparation of the final plat subject to the following;

- A. Prior to submission of a final plat, a final drainage plan shall be submitted to Sedgwick County Public Works for review and approval.
- B. The applicant shall guarantee all drainage improvements required by the platting of this property.
- C. Prior to submission of a final plat, the applicant's representative shall meet with County Public Works and others concerned with the use and naming of streets (Fire Department, Water Department, Planning Department, Gas Service, etc.,) and determine whether the streets will be public or private and what the street names will be. It has been recommended that all the streets be public or all be private and that the street names be in accordance with the existing street naming policy.
- D. The applicant shall guarantee the extension of sanitary sewer to serve all the lots being platted.
- E. The applicant shall guarantee the extension of City water to serve each lot being platted.
- F. The applicant shall guarantee the paving of all interior streets to County standards.
- G. Approval of the final plat shall be subject to approval of appropriate zone changes.
- H. Protective covenants shall be submitted for review and approval which provide for the ownership and maintenance

of common non-public open spaces, parking areas, private streets or drives, signs, guardhouse, etc. The covenants shall contain a provision which gives the appropriate governing body the authority to maintain the reserves and charge the costs to the owners in the event the owners fail to maintain the common non-public areas.

- I. The Flood Control Office has requested a copy of the plans for lake construction.
- J. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations.
- K. Requirements for a final plat (see pages 20-25, Part 4, Article 5 of the MAPC Subdivision Regulations).

Enclosed herewith is the "marked" copy of the preliminary plat for your information and files.

If you have any questions concerning this matter, please call.

Sincerely,

Louise Olivarez  
Senior Planner

LO:hh

cc: P.M.A., Inc. 9200 E. 13th, 67206  
Dean Sellers, Acting City Engineer

July 25, 1980

Bill G. Yung Design  
1355 N. Waco  
Wichita, Ks. 67203

Re: S/D 80-53 - Preliminary plat of Foliage

Dear Mr. Yung:

At the regular meeting of the Subdivision Committee of the Metropolitan Area Planning Commission on July 24, 1980, the above-captioned plat was considered. At your request, the action of the Committee was to defer this item for two weeks.

If you have any questions concerning this, please call.

Sincerely,

Forrest L. Nagley  
Junior Planner

FLN:bh

cc: P.M.A., Inc. 9200 E. 13th, 67206  
Dean Sellers, Acting City Engineer

Preliminary plat

SUBDIVISION REPORT

SUBDIVISION COMMITTEE  
METROPOLITAN AREA  
PLANNING COMMISSION

S/D NO. 80-53 Name Foliage  
Date Application Rec'd. 7-11-80 Preliminary Approval 8-7-80  
Scheduled S/D Meeting 7-24-80

DESCRIPTION

General Location West of Webb Road in an area north of 13th NW corner of 13th St. North and Webb Road

Owner P.M.A., Inc.  
Surveyor/Engineer Bill G. Yung Design Van Dusen Harold - Station  
Address 1355 N. Waco, 67203 Phone 264-0676

- |   |  |  |
|---|--|--|
| 1. Gross Acreage of Plat                          | <u>78.34</u> <u>66±</u>                          | 7. Lineal Feet of New Streets:                                     |
| 2. Number of Lots:                                |  | a. <u>64</u> R/W <u>3050</u> ft.                                   |
| Residential                                       | <u>53</u> <u>51</u>                              | Public   |
| Commercial  |  | Private  |
| Industrial  |  | b. <u>58</u> R/W <u>1710</u> ft.                                   |
| Other   | <u>Office - 1</u>                                | c. _____ R/W _____ ft.   |
| Total Number of Lots                              | <u>54</u> <u>51</u>                              | d. _____ R/W _____ ft.   |
| 3. Minimum Lot Frontage                           | <u>110</u> <u>50</u> ft.                         | e. _____ R/W _____ ft.   |
| 4. Minimum Lot Area                               | <u>20,000 sq. ft.</u>                            | TOTAL  |
| 5. Existing Zoning                                | <u>R-1</u>                                       | <u>4760</u> ft.  |
| 6. Proposed Zoning                                | <u>AA w/CUP</u> <u>AA</u>                        | 8. Sidewalk adjacent to all streets? <u>yes</u> <u>X</u> <u>no</u> |
| 9. Public Water Supply                            | <u>Yes</u> (Yes-No), Name <u>City of Wichita</u> |  |
| 10. Public Sanitary Sewers                        | <u>Yes</u> (Yes-No), Name <u>City of Wichita</u> |  |
| 11. Health Department Approval (where applicable) | <u>NA</u> (Yes-No)                               |  |
| 12. City of Wichita                               | : Three-Mile Area <u>X</u>                       |  |

STAFF COMMENTS:

- A. The representative from City Engineering should be prepared to comment on the status of the applicant's drainage concept plan.
- B. This plat proposes that all cul-de-sacs be private streets. In order to insure that all lots will have direct access to a public right-of-way, it is the recommendation of City Public Works and the Planning Department that all streets should be public.
- C. The applicant shall guarantee all drainage improvements required by this plat.
- D. The applicant shall guarantee the extension of sanitary sewer to serve all the lots being platted.
- E. The applicant shall guarantee the extension of City water to serve each lot being platted.
- F. The applicant shall guarantee the paving of Greenleaf, Street.
- G. Building setbacks per the Community Unit Plan shall be indicated on the final plat. No final plat shall be submitted until the associated C.U.P. has been approved.
- H. Access controls to the adjacent major streets shall be in agreement with the provisions of the associated Community Unit Plan. Such access controls shall be indicated on the final plat.
- I. A Homeowners' Association Agreement shall be submitted for review and approval. Such agreement shall provide for the maintenance of non-public open space, parking

(OVER)

areas, private streets or drives, signs, logos, buffer areas, drainage channels, swales, etc. The agreement shall contain a provision which gives the City of Wichita the authority to maintain the reserves and charge the costs to the owner(s) in the event the owner(s) fail to maintain the reserves.

- J. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations.
- K. Requirements for a final plat (see pages 20-25, Part 4, Article 5 of the MAPC Subdivision Regulations).

Map No.: 6049  
Section No.: 8  
Twp. No.: 27 south  
Range: 2 east

S/D No. 80-53

APPLICATION FOR SUBDIVISION APPROVAL

Name of Subdivision: Foliage

General Location: NW Corner of 13th Street North & Webb Road, (approx. 80 acres)

Name of Property Owner: P.M.A. Inc.  
Address: 9200 E. 13th, Wichita, Ks 67206 Phone: 683-0168  
Name of Subdivider: P.M.A. Inc.  
Address: 9200 E. 13th, Wichita, Ks 67206 Phone: 683-0168  
Name of Agent/Surveyor: Bill G. Yung Design  
Address: 1355 N. Waco, Wichita, Ks. 67203 Phone: 264-0676  
Date of Application: July 11, 1980

SUBDIVISION INFORMATION:

1. Gross Acreage of Plat 78.3 acres ±
2. Number of Lots:
  - Residential 53
  - Commercial \_\_\_\_\_
  - Industrial \_\_\_\_\_
  - Other office - 1
  - Total Number of Lots 54
3. Minimum Lot Frontage 110 ft.
4. Minimum Lot Area \_\_\_\_\_ ft.
5. Existing Zoning R1
6. Proposed Zoning AA w/CUP
7. Lineal Feet of New Streets:
  - public a. 64 R/W 3050 ft.
  - private b. 58 R/W 1710 ft.
  - c. \_\_\_\_\_ R/W \_\_\_\_\_ ft.
  - d. \_\_\_\_\_ R/W \_\_\_\_\_ ft.
  - e. \_\_\_\_\_ R/W \_\_\_\_\_ ft.
  - TOTAL 4760 ft.
8. Sidewalk adjacent to all streets? yes  no
9. Public Water Supply Yes (Yes-No), Name City of Wichita
10. Public Sanitary Sewers Yes (Yes-No), Name City of Wichita
11. Health Department Approval (where applicable) NA (Yes-No)
12. City of Wichita Three-Mile Area

Annexation application currently being reviewed

The owner herein agrees to comply with the Subdivision Regulations for the Wichita-Sedgwick County Metropolitan Area, as approved, and all other pertinent ordinances of the City of Wichita and/or Resolutions of Sedgwick County, Kansas, and Statutes of the State of Kansas. He further agrees that he waives the 60-day statutory period in which the Planning Commission or governing body must act. In addition, it is agreed that all costs of recording the plat and supplemental documents thereto with the Register of Deeds, as well as all costs of publication of initiating resolutions approving any petition for improvements, such as streets, sewer, sidewalks, etc. shall be assumed and paid by the owner when billed. The undersigned further states that he is the owner of the property proposed for platting.

Owner's Signature: [Signature] agent for P.M.A. INC.

Wichita-Sedgwick County Metropolitan Area  
Planning Commission, 10th Floor, City Hall,  
455 North Main, Wichita, Kansas 67202.

Received by LO.  
Date 7/11/80  
Fee Submitted 470.00

FORM 29-81

PAYMENT NOTICE  
City of Wichita

Bldg.	Use of Str.	Code Bks	Copies
Elec	Elev. Insp.	Hse Moving	Lic.
Mech	Boiler Insp.	Pav. Cuts	Cert.
Pibg	Exam Fees	Sewer	Elev.
Signs	Plan Rev. (P.W.)	Cement	M.S.P.
	<u>Planning</u>		

DESCRIPTION	470 <sup>00</sup>	AMOUNT
<i>subdivision application</i>		
<i>Folsize Addition</i>		
NAME	<i>P.M.A. Inc.</i>	
ADDRESS	<i>9200 E. 13th</i>	
FUND	DUE DATE	
<i>111-40071-003-003</i>	<i>5-000</i>	<i>7-11-80</i>
COMMENTS		
DATE	BY	
<i>7-11-80</i>	<i>L.C.</i>	