

EXHIBIT "E"

DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
WOODS OF WAYNE
Wayne, Illinois

89-082757

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**GENERAL PLAN OF DEVELOPMENT FOR WOODS OF WAYNE
A PLANNED COMMUNITY DEVELOPMENT**

Woods of Wayne is a planned private residential community development. Located in the Village of Wayne, DuPage County, Illinois, it will offer residents superb country living, yet close proximity to transportation, shopping and a multitude of recreational facilities.

DESCRIPTION OF PROPERTY:

Woods of Wayne is located in Dupage County, Illinois, approximately 4 miles east of St. Charles, in the Village of Wayne. The property lies approximately 1/4 mile south of Army Trail Road, and is adjacent to State Highway 59 on the east. The southern most portion of the property fronts on Smith Road.

It is planned that the development will encompass more than 153 acres utilizing lands which are owned by the Developer. The lands are gently rolling and much of the property is heavily wooded. The plan of development has been carefully designed to maximize the presentation of wooded areas.

MASTER PLAN:

A master plan for development has been conceived which will serve as an evolutionary guideline for development of the property. The plan (a map depicting the plan is available to each purchaser) designates areas to be set aside for residential and open space uses. This approach permits a desirable community plan to reflect historical experience and changing conditions.

PRINCIPAL LAND USE: RESIDENTIAL

In accordance with the master plan, Woods of Wayne will contain single family homesites of not less than 40,000 square feet in size. Eight equestrian lots of 100,000 square feet are also planned.

COMMON PROPERTIES:

Open Land Areas - A portion of the land in Woods of Wayne will be left in green areas or open space for permanent use and enjoyment of property owners. The open space areas will be conveyed to the Woods of Wayne Homeowners' Association (discussed in subsequent section) and will be maintained by the Association. In addition, certain areas around the perimeter of the property have been designated as equestrian easements.

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WOODS OF WAYNE HOMEOWNERS' ASSOCIATION:

The Developer has caused to be created as a nonprofit corporation under the laws of Illinois a property owners' association named the Woods of Wayne Homeowners' Association. The Association will own and operate the Common Properties transferred to it by Developer, and will own and maintain the private roads within the development. Membership in the Association is mandatory for all Lot Owners and contract purchasers. A copy of the Articles and By-laws of the Association will be furnished to each purchaser.

Providing Funds for Association Expenses:

Each Owner is subject to annual assessment by the Association for the purpose of providing the Association with adequate funds to carry out its obligations. In addition, a reserve fund for the Association will be established through the payment of \$200 by each lot owner at the time of the sale of each lot to its initial purchaser. Failure of Owners (which includes contract purchasers) to pay when due any assessment made in respect to his property will result in a lien being imposed thereon for the amount of such assessment, together with interest and costs of collection, and will also be his personal obligation. The Village of Wayne will have the legal right, under certain circumstances, to enforce assessments for maintenance or repair of the streets, and to provide for police patrols. Each Purchaser should carefully read the provisions of the Declaration of Covenants and Restrictions relating to assessments, a copy of which will be furnished each Purchaser.

Protective Covenants and Restrictions:

A Declaration of Covenants, Conditions and Restrictions setting forth provisions for the common benefit of all Owners in the project has been recorded. Through this means the Developer intends to provide for the preservation of natural beauty, value and amenities within the project.

Architectural Control:

In the interest of providing for the development of an ecologically sound and aesthetically pleasing community, the Developer has created an Architectural Review Committee. This Committee is charged with the responsibility of reviewing and approving in advance all plans and specifications for physical improvements and alterations on the properties covered by the Declaration. Matters with which the Committee is concerned include location of buildings on a homesite; size, type, style, quality and exterior appearance of buildings; erection of buildings, fences or other structures; etc.

Roads and Utilities:

All roads within the development will be private and will be conveyed by the Trustee and the Developer to the Homeowners' Association, whose responsibility it will be to maintain them. Roads will be constructed by Developer in accordance with standards imposed by the Village of Wayne.

The Owner of any Lot will be responsible for having a well drilled at his expense prior to occupying any building on the site. All purchasers should examine the provisions of their purchase contract.

Sewage disposal for Single-Family Lots will be by individual septic systems for individual Lots which conform to DuPage County and Village ordinances. Installation of such systems will be the responsibility of the Lot Owner and the cost thereof will be paid by him.

It is intended that this document is a general description of Developer's General Plan for Woods of Wayne and that its provisions do not create any contractual obligation upon Developer or the Trustee. Each purchaser should examine his purchase contract, the Annexation Agreement, the Declaration of Covenants, Conditions and Restrictions pertaining to his property, the Articles of Incorporation and By-Laws of the Association and the Architectural Guidelines. If any statement herein conflicts with any provision of any such document, the provisions of such document shall prevail with respect to such matters.

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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION made this _____ day of _____, 19____ by WORTH BANK AND TRUST COMPANY, not personally but as Trustee under Trust Agreement dated June 9, 1989 and known as Trust No. 4444 (hereinafter referred to as "Trustee") and BND INVESTMENTS, INC., an Illinois corporation (hereinafter referred to as "Developer").

**ARTICLE I
DECLARATION - PURPOSES**

Section 1. General Purposes. The Trustee is the owner and Developer is the developer of certain real property located in DuPage County, Illinois, and legally described in Exhibit "A" attached hereto and incorporated herein, and desire to create thereon a planned private community development provided with Common Properties designed for the private use of Owners within such development, except as herein otherwise provided.

(a) Trustee and Developer intend to subject the real property described in Exhibit "A" to certain covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, each and all of which are for the benefit of purchasers and Owners of Lots on the Subject Property and for the benefit of the Association.

(b) Trustee and Developer intend to grant certain water detention easements and to establish an Illinois not-for-profit corporation known as Woods of Wayne Homeowners' Association ("the Association"); and

(c) Trustee and Developer have deemed it desirable for the efficient preservation of the values and amenities of the subject development to create the Association for the purpose of administering and enforcing the covenants, conditions and restrictions, and for collecting and disbursing the assessments and charges hereinafter created.

Section 2. Declaration. Trustee and Developer hereby declare that the Subject Property shall be held, sold and conveyed subject to the following covenants, conditions, restrictions, easements, charges and liens which are for the purpose of protecting the value and desirability of Subject Property, and which shall run with the Subject Property and be binding on and inure to the benefit of all parties having any right, title or interest in the Subject Property or any part thereof, and their heirs, successors and assigns.

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Section 3. Rights of Village. This Declaration of Covenants, Conditions and Restrictions is incorporated in an Annexation Agreement between, inter alia, Trustee and Developer, on the one hand, and the Village of Wayne ("Village") on the other hand, and was part of the consideration flowing to the Village and inducing the Village to approve the development and to annex the Subject Property. Accordingly, it is specifically intended that the Village be a beneficiary of the covenants, conditions, restrictions and easements set forth in this Declaration, and that the same be enforceable by the Village in any appropriate action at law or in equity.

ARTICLE II DEFINITIONS

Section 1. The following words and terms, when used in this Declaration or any Supplemental Declaration (unless the context shall prohibit) shall have the following meanings:

(a) "Association" shall mean and refer to the Woods of Wayne Homeowners' Association, its successors and assigns.

(b) "The Properties" shall mean and refer to the Existing Properties, subject to this Declaration.

(c) "Existing Properties" shall mean and refer to the real estate described in Article III Section 1 hereof, and on Exhibit "A" attached hereto and incorporated herein.

(d) "Common Properties" shall mean any real property and improvements thereon and any personal property or equipment with respect to which the Developer grants, assigns or conveys to the Association, title, interest in or rights of use, or with respect to which the Developer permits use by the Association and its members, and any replacements of or for any of the foregoing.

(e) "Lot" shall mean any plot of land described by a number upon any recorded subdivision map of the Properties, but shall not include any plot designated therein as an "outlot." "Lot" may also include, where applicable, a "Dwelling Lot."

(f) "Single Family Residential" shall mean all of the Properties restricted to use for improvement with dwellings.

(g) "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. For any purposes of this Section, holders of beneficial interests under land trusts holding title to any Lot which is a part of the property shall be considered an Owner. Trustee or Developer shall, as long as it owns lots, be an Owner.

(h) "Member" shall mean all those Owners who are members of the Association as hereinafter provided.

(i) " Dwelling Lot" shall mean any Lot intended for improvement with a dwelling.

(j) " Dwelling" shall mean any building located on a Dwelling Lot and intended for the shelter and housing of a single family.

(k) " Dwelling Accessory Building" shall mean a subordinate building or a portion of a Dwelling, the use of which is incidental to the Dwelling and customary in connection with that use.

(l) " Single Family" shall mean one or more persons, each related to the other by blood, marriage or adoption, or a group of not more than three persons not all so related, together with his or their domestic servants, maintaining a common household in a Dwelling.

(m) " Story" shall mean that portion of a Dwelling included between the surface of any floor and the surface of a floor next above, or if there is not floor above, the space between the floor and the ceiling next above.

(n) " Living Area" shall mean that portion of a Dwelling which is enclosed and customarily used for Dwelling purposes and having not less than six (6) feet headroom, but shall not include open porches, open terraces, breezeways, attached garages, carports, basements or Dwelling Accessory Buildings. The minimum square footage of living area for any Dwelling on any Dwelling Lot in the Existing Properties shall be 2500 square feet if a one-story home, and 3000 square feet if a multi-story home.

(o) " Structure" shall mean any building or other improvement erected or constructed, the use of which requires more or less permanent location on or in the ground, or attached to something having a permanent location on or in the ground. A sign or other advertising device, attached or projecting, shall be construed to be a separate Structure.

(p) " Committee" shall mean the Architectural Review Committee of the Woods of Wayne Homeowners' Association established in Article IV hereof.

(q) " Declaration" shall mean the within instrument together with those exhibits which are attached hereto and made a part hereof and shall include such amendments, if any, to the within instrument as may be from time to time adopted pursuant to the terms hereof. The within Declaration may be referred to in any other document as the Declaration of Covenants, Conditions and Restrictions for Woods of Wayne, Village of Wayne, Illinois.

(r) "Village" shall mean the Village of Wayne, DuPage and Kane Counties, Illinois, or, where applicable, the corporate authorities of said Village, or its duly authorized officers or employees.

(s) "Developer" shall mean BND Investments, Inc., an Illinois corporation, and its successors, assigns and affiliates.

(t) "Trustee" shall mean Worth Bank and Trust Company, as Trustee under a title-holding land trust holding legal title to the Subject Property, or its successors and assigns.

**ARTICLE III
EXISTING PROPERTIES - ADDITIONS THERETO - MERGERS:**

Section 1. Existing Properties. The real property which is and shall be held transferred, sold, conveyed and occupied subject to this Declaration is located in DuPage County, Illinois and more particularly described in Exhibit A attached hereto and hereby made a part hereof.

Section 2. Mergers. In the event of a merger or consolidation of the Association with another association as authorized by its Articles of Incorporation, its properties, rights and obligations may be transferred to another surviving or consolidated association. Alternatively, if the Association is the surviving corporation in a merger or consolidation, it may administer the covenants and restrictions established by this Declaration within the Existing Properties together with the covenants and restrictions established upon any other properties as one scheme. However, no such merger or consolidation shall affect any revocation, change or addition to the covenants established by this Declaration with respect to the Existing Properties.

**ARTICLE IV
ARCHITECTURAL REVIEW PROCESS:**

Section 1. Objectives. Developer's objectives are to carry out the general purposes expressed in this Declaration; and to assure that any improvements or changes in the properties will be of good and attractive design and in harmony with the natural setting of the area and will serve to preserve and enhance existing features of natural beauty; and to assure that materials and workmanship of all improvements are of high quality and comparable to other improvements in the area.

Section 2. Architectural Review Committee. To achieve Developer's objectives, the Developer shall create an Architectural Review Committee (the "Committee") with power to administer this

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Declaration with regard to approving or disapproving those matters which are expressed herein to be within the jurisdiction of the Committee. The Committee shall consist of not less than three members. The names and addresses of the persons who from time to time comprise the membership of the Committee shall be furnished the Association. Matters requiring approval of the Committee shall be submitted to its Chairman, or as the Committee otherwise designates. The appointment of the Committee members may be transferred to the Association Board of Directors at any time at the option of the Developer, but in no event later than the date on which at least 50% of the lots have been built upon and occupied.

Section 3. Matters Requiring Approval. Prior written approval shall be obtained from the Committee with respect to all matters stated in this Declaration as requiring such approval. In addition thereto, no building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or alteration to or exterior change in color or material change or alteration therein be made, nor shall any clearing of trees, change of property drainage grade on easements, or change of property grade be made until the plans and specifications showing the nature, kind, shape, elevations, heights, materials and color, location and grade, proposed landscaping design and proposed location on the lot of the sanitary disposal system, of the same shall have been submitted to and approved in writing by the Committee. No owner may request a building permit from the Village of Wayne without such written approvals, nor shall the Village be required to issue a building permit without written evidence of such approval.

Section 4. Procedure. Whenever approval is required of the Committee, appropriate plans and specifications shall be submitted to the Committee. The Committee shall either approve or disapprove such design and location and proposed construction and clearing activities within thirty days after said plans and specifications have been submitted to it; except that if such plans and specifications are disapproved in any respect, the applicant shall be notified wherein such plans and specifications are deficient. The Committee may withhold approval for any reason deemed by it to be appropriate, including aesthetic reasons, except that approval will not be withheld for capricious or unreasonable reasons. Enforcement of the anti-monotony provisions of this Declaration shall be a sufficient reason for withholding such approval. If such plans and specifications are not approved or disapproved within thirty days after submission, approval will not be required and this Article will be deemed fully complied with. At the discretion of the Committee a reasonable filing fee established by the Committee shall accompany the submission of such plans to defray expenses, except that so long as the Committee is under Developer's control such fee shall not exceed \$50.00. No additional fee shall be required for resubmission of plans revised

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