

THIS DECLARATION OF EASEMENT AND RESTRICTIVE COVENANTS, made and entered into this the 2nd day of December, 1976, by the BRANDYWINE BAY DEVELOPMENT CORPORATION, a North Carolina corporation maintaining its registered office in Wake County, North Carolina (herein as "DECLARANT");

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

WHEREAS, DECLARANT is the owner of certain real estate located in Carteret County, North Carolina, adjoining N. C. Highway 24, which property is described on Exhibit "1" annexed and attached hereto, made a part hereof and incorporated herein by reference as fully and to the same extent as if said description were set forth herein verbatim in words and figures; and

WHEREAS, a portion of said property is being developed for residential purposes and for sale to condominium unit owners under a Declaration of Unit Ownership to be recorded, which property is hereinafter referred to as the "Condominium Property" and is described on Exhibit "2" annexed and attached hereto, made a part hereof and incorporated herein by reference as fully and to the same extent as if said description were set forth herein verbatim in words and figures; and

WHEREAS, a portion of the Condominium Property described on Exhibit "2" forms a natural bluff running to the high water line of Bogue Sound, which portion of the Condominium Property is hereinafter referred to as the Bluff Area and is described on Exhibit "3" annexed and attached hereto and made a part hereof and incorporated herein by reference as fully and to the same extent as if said description were set forth herein verbatim in words and figures; and

WHEREAS, DECLARANT herein desires to make the following declaration of easement and declarations as to the limitations, restrictions and uses to which the property described on Exhibit "3" may be put, for the purpose of limiting the use of the property described on Exhibit "3" to use as a "Bluff Area".

WHEREAS, THE BRANDYWINE BAY ASSOCIATION, INC., a North Carolina non-profit corporation maintaining its registered office in Wake County, North Carolina, is charged with the maintenance and repair of certain streets, roadways, gates, recreational facilities and grounds adjacent to the Condominium Property; and

WHEREAS, THE BRANDYWINE BAY ASSOCIATION, INC. consents to the limitations, restrictions and uses to which the Bluff Area may be put, and further agrees to maintain and repair said Bluff Area.

NOW, THEREFORE, FOR AND IN CONSIDERATION of the premises and the sum and amount of ONE DOLLAR (\$1.00), and other good and valuable consideration, the receipt and sufficiency of all of which consideration is hereby acknowledged, DECLARANT herein, for itself, its successors and assigns, declares that the property described on Exhibit "3" hereof shall be subject to the following easement, covenants and restrictions, which are to run with the land and are and shall be binding upon the DECLARANT, its successors and assigns, until December 31, 1983, PROVIDED, HOWEVER, that the easement, covenants and restrictions shall remain in effect and continue to be binding thereafter for so long as the property described on Exhibit "2" attached hereto shall be and remain subject to that certain Declaration of Unit Ownership dated the 2nd day December, 1976, to be recorded among the public records of Carteret County, North Carolina:

1. The DECLARANT does hereby for itself, its successors and assigns, prohibit the use of the property described on Exhibit "3" hereof for any development, building or improvement, save and except utility or service lines and walkways, and for soil erosion control.
2. Neither the DECLARANT, nor its successors or assigns shall permit removal of any natural vegetation, including trees and shrubbery, except such debris or other substances which, as a matter of common experience, tend to create a nuisance or are harmful to the health or safety of the Unit Owners of the property described in Exhibit "2" hereof.
3. Neither the DECLARANT, nor its successors or assigns, shall permit any excavation or grading for any purpose, except as may be necessary for installation, maintenance or repair of walkways or utility lines or as may be necessary for the installation of storm drainage facilities or other means of soil erosion control.
4. THE BRANDYWINE BAY ASSOCIATION, INC. shall have a non-exclusive easement of ingress, egress and regress across the property described on Exhibit "3" for maintenance and repair and for use by its members for recreational purposes.
5. DECLARANT reserves, for itself, its successors and assigns, the right of ingress, egress and regress across the property described on Exhibit "3".
6. THE BRANDYWINE BAY ASSOCIATION, INC., by acceptance of this instrument and recording of same, hereby covenants and agrees to maintain and repair the property described on Exhibit "3" in accordance with the provisions of this instrument.
7. Invalidation of any one of these covenants or restrictions by judgment, judicial decree or court order, or otherwise, shall not affect in any manner any of the other provisions contained in this declaration and the remaining provisions shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned DECLARANT hereof, the Brandywine Bay Development Corporation, has caused this Declaration of Easement and Restrictive Covenants to be executed by its \_\_\_\_\_ President, attested by its \_\_\_\_\_ Secretary, and its common seal to be hereunto affixed, all by authority of all of its Board of Directors duly given, this the day and year first above written.

(SEAL)

BRANDYWINE BAY DEVELOPMENT CORPORATION,  
DECLARANT

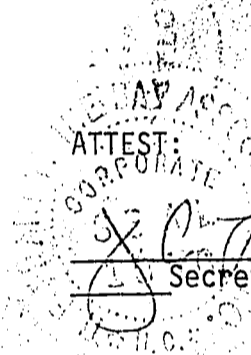


J. C. Livingston  
Secretary

By: [Signature]  
President

The benefits and burdens granted to and imposed upon the Brandywine Bay Association, Inc. are hereby agreed to and accepted by The Brandywine Bay Association, Inc., this the 2nd day of December, 1976.

THE BRANDYWINE BAY ASSOCIATION, INC.



J. C. Livingston  
Secretary

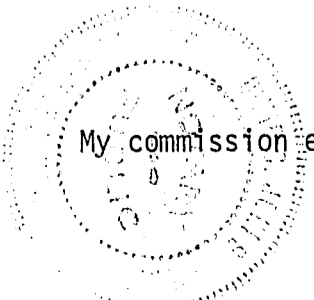
By: [Signature]  
President

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

This is to certify that on this day before me personally appeared J. C. Livingston, with whom I am personally acquainted, who, being by me first duly sworn, says that W. J. Smith, Jr. is the \_\_\_\_\_ President and that he, the said J. C. Livingston is the \_\_\_\_\_ Secretary of the BRANDYWINE BAY DEVELOPMENT CORPORATION, the corporation described in and which executed the foregoing DECLARATION; that he knows the common seal of said corporation; that the seal affixed to the foregoing instrument is said common seal and the name of the corporation was subscribed thereto by the said \_\_\_\_\_ President and the said \_\_\_\_\_ President and \_\_\_\_\_ Secretary subscribed their names thereto and said common seal was affixed thereto all by order of the Board of Directors of said corporation, and that the said instrument is the act and deed of said corporation.

Witness my hand and notarial seal this the 2nd day of December, 19 76.

[Signature]  
Notary Public



My commission expires: 4-15-81

This is to certify that on this day before me personally appeared J.C. Quinlan, with whom I am personally acquainted, who being by me first duly sworn, says that W.J. Smith, Jr. is the \_\_\_\_\_ President and that he, the said J.C. Quinlan is the \_\_\_\_\_ Secretary of the THE BRANDYWINE BAY ASSOCIATION, INC., the corporation described in and which accepted the foregoing DECLARATION OF EASEMENT AND RESTRICTIVE COVENANTS; that he knows the common seal of said corporation; that the seal affixed to the foregoing acceptance is said common seal and the name of the corporation was subscribed thereto by the said \_\_\_\_\_ President and the said \_\_\_\_\_ President and \_\_\_\_\_ Secretary subscribed their names thereto and said common seal was affixed thereto all by order of the Board of Directors of said corporation, and that the said acceptance is the act and deed of said corporation.

Witness my hand and notarial seal this the 2nd day of December, 19 76.

Debbie C. Jones  
Notary Public



My commission expires: 4-15-81

NORTH CAROLINA, CARTERET COUNTY

The foregoing certificate(s) of Debbie C. Jones is (are) certified to be correct. This instrument was presented for registration and recorded in this office in Book 391 Page 393.

This 2 day of Dec., 1976 at 3:08 O'clock P.M.  
Walter Satter  
Register of Deeds (B.M.)

3:08

## EXHIBIT "1"

TO DECLARATION OF EASEMENT AND RESTRICTIVE COVENANTS BY THE BRANDYWINE BAY DEVELOPMENT CORPORATION DATED THE 2<sup>nd</sup> DAY OF December, 1976

## THE ENTIRE PREMISES

BEGINNING at a stake in the southerly property line of N. C. Highway No. 24, as shown on the plat of survey hereinafter referred to, said BEGINNING POINT being reached by commencing at a point in the southerly property line of N. C. Highway No. 24, which point is coincident with the center line of McCabe Road if said center line were extended from its present terminus to the southerly property line of said N. C. Highway No. 24, and RUNNING THENCE from said point along and with the southerly property line of the said N. C. Highway No. 24 in an easterly direction a distance of 1,388.29 feet to a stake in the southerly property of N. C. Highway No. 24, the PLACE AND POINT OF BEGINNING; and RUNNING THENCE from said BEGINNING POINT along and with the southerly property line of the said N. C. Highway No. 24, crossing the northern terminus of Bay Drive (a private street) South  $71^{\circ} 23' 31''$  East a distance of 140.47 feet to a stake in the southerly property line of N. C. Highway No. 24, the northwest corner of property belonging to the J. W. Murphree Company; thence along and with the westerly property line of the said J. W. Murphree Company South  $18^{\circ} 35' 29''$  West a distance of 53.39 feet to a stake in the westerly property line of the said J. W. Murphree Company; thence, North  $71^{\circ} 24' 31''$  West a distance of 17.0 feet to a stake in the easterly property line of the said Bay Drive; thence along and with easterly property line of the said Bay Drive along the arc of a curve to the southwest, said curve having a radius of 394.0 feet and a chord bearing of South  $13^{\circ} 35' 29''$  West, an arc length distance of 68.77 feet to a point in the easterly property line of the said Bay Drive; thence continuing with the easterly property line of the said Bay Drive South  $8^{\circ} 35' 29''$  West a distance of 368.26 feet to a stake in the easterly property line of the said Bay Drive; thence along the arc of a curve to the southeast, said curve connecting the easterly property line of Bay Drive with the northerly property line of Bogue Drive (a private street), said curve having a radius of 17 feet and a chord bearing of South  $36^{\circ} 24' 31''$  East, an arc length distance of 26.7 feet to a stake in the northerly property line of Bogue Drive, the southwestern corner of the J. W. Murphree Company property; thence along and with the northerly property line of the said Bogue Drive (said property line being coincident with the southerly property line of the said J. W. Murphree Company) South  $81^{\circ} 24' 31''$  East a distance of 400.97 feet to a stake in the southerly property line of the said J. W. Murphree Company; thence crossing the easternmost terminus of Bogue Drive South  $9^{\circ} 39' 59''$  West a distance of 30.0 feet to a point, the northeastern corner of the OAK BLUFF AT BRANDYWINE BAY, a Condominium, property, the same also being a point in the westerly property line of the Brandywine Bay Development Corporation; thence along and with the westerly property line of the Brandywine Bay Development Corporation property (a new line) the following courses and distances: South  $9^{\circ} 39' 59''$  West a distance of 100.87 feet to a stake; thence South  $5^{\circ} 27' 19''$  West a distance of 133.1 feet to a stake; thence South  $00^{\circ} 29' 12''$  West a distance of 191.44 feet to a stake; thence South  $41^{\circ} 09' 16''$  West a distance of 100.0 feet to a stake; thence South  $28^{\circ} 09' 36''$  West a distance of 126.09 feet to a stake at the mean high water line of Bogue Sound; thence along and with the mean high water line of Bogue Sound the following courses and distances: North  $83^{\circ} 35' 41''$  West a distance of 197.41 feet to a stake; thence South  $59^{\circ} 03' 59''$  West a distance of 101.0 feet to a stake; thence North  $73^{\circ} 36' 41''$  West a distance of 176.05 feet to a stake and corner with property owned by the Brandywine Bay Development Corporation; thence continuing along and with the mean high water line of Bogue Sound the following courses and distances: North  $82^{\circ} 32' 21''$  West a distance of 140.24 feet to a stake; thence South  $74^{\circ} 08' 59''$  West a distance of 48.91 feet to a stake; thence South  $26^{\circ} 34' 09''$  West a distance of 251.37 feet to a stake; thence North  $79^{\circ} 16' 21''$  West a distance of 104.34 feet to a stake; thence North  $3^{\circ} 23' 39''$  East a distance of 165.28 feet to a stake; thence North  $57^{\circ} 16' 31''$  West a distance of 197.96 feet to a stake; thence North  $62^{\circ} 00' 11''$  West a

distance of 139.57 feet to a stake; thence North 69° 55' 01" West a distance of 222.38 feet to a stake; thence leaving the mean high water line of Bogue Sound a new line North 18° 07' 59" East a distance of 1,293.1 feet to a stake in the southerly property line of N. C. Highway No. 24; thence along and with the southerly property line of N.C. Highway No. 24 South 71° 23' 31" East a distance of 695.86 feet to a stake in the southerly property line of N. C. Highway No. 24, the PLACE AND POINT OF BEGINNING; the same being a tract or parcel of land containing approximately 34 acres and being labelled Parcels A, B and C plus the areas for Bogue and Bay Drive as shown on Sheet 3 of the "Drawings" for OAK BLUFF AT BRANDYWINE BAY, a Condominium, said "Drawings" being recorded among the Public Records of Carteret County, North Carolina. In addition, the BEGINNING POINT for this parcel or tract of land is locatable by reference to Sheet 2 of said "Drawings"; said Sheets 2 and 3 having been prepared by C. C. King, Registered Land Surveyor of Beaufort, North Carolina, dated the 14th day of October, 1976; Sheet 2 being labelled "Boundary and Final Map, Parcels A and B, OAK BLUFF AT BRANDYWINE BAY, a Condominium" and Sheet 3 being labelled "Boundary Map, Parcels A, B and C, OAK BLUFF AT BRANDYWINE BAY, a Condominium," each of said sheets being herein referred to more particular description of said property.

## EXHIBIT "2"

TO DECLARATION OF EASEMENT AND RESTRICTIVE COVENANTS BY THE BRANDYWINE BAY DEVELOPMENT CORPORATION DATED THE 2nd DAY OF December 1976.

## THE CONDOMINIUM PROPERTY

BEGINNING at a stake in the easterly property line of Bay Drive (a private street) as shown on the plat of survey hereinafter referred to, said BEGINNING point being reached by commencing at a point in the southerly property line of N. C. Highway No. 24, which point is coincident with the center line of McCabe Road if said center line were extended from its present terminus to the southerly property line of said N. C. Highway No. 24, AND RUNNING THENCE from said point along and with the southerly property line of the said N. C. Highway No. 24 in an easterly direction a distance of 1,388.29 feet to a stake in the southerly property line of N. C. Highway No. 24; thence a new line South  $00^{\circ} 21'$  East a distance of 40.04 feet to a stake; thence South  $48^{\circ} 25'$  East a distance of 40.0 feet to a stake; thence South  $71^{\circ} 23' 11''$  East a distance of 17.0 feet to a stake in the westerly property line of Bay Drive; thence along and with the westerly property line of said Bay Drive along the arc of a curve to the southwest, said curve having a radius of 450.66 feet, said curve also having a chord bearing of South  $13^{\circ} 35' 29''$  West and a chord length distance of 78.55 feet, an arc length distance of 78.66 feet to a point in the westerly property line of said Bay Drive; thence continuing with the westerly property line of said Bay Drive South  $8^{\circ} 35' 29''$  West a distance of 503.3 feet to a stake in the westerly property line of Bay Drive; thence crossing said Bay Drive South  $81^{\circ} 24' 31''$  East a distance of 56.66 feet to a stake in the easterly property line of the said Bay Drive, the place and point of BEGINNING; AND RUNNING THENCE from said BEGINNING point along and with the easterly property line of said Bay Drive North  $8^{\circ} 35' 29''$  East a distance of 71.04 feet to a stake in the easterly property line of said Bay Drive; thence along the arc of a curve joining the easterly property line of Bay Drive with the southerly property line of Bogue Drive, said curve also being to the northeast and having a radius of 17 feet, said curve also having a chord bearing of North  $53^{\circ} 35' 29''$  East and a chord length distance of 24.04 feet, an arc length distance of 26.7 feet to a stake in the southerly property line of Bogue Drive (a private street); thence along and with the southerly property line of the said Bogue Drive South  $81^{\circ} 24' 31''$  East a distance of 400.41 feet to a point in the line of property owned by the Brandywine Bay Development Corporation, a new corner; thence along and with a westerly property line of the Brandywine Bay Development Corporation (a new line) the following courses and distances: South  $9^{\circ} 39' 59''$  West a distance of 100.87 feet to a stake; thence South  $5^{\circ} 27' 19''$  West a distance of 133.1 feet to a stake; thence South  $00^{\circ} 29' 12''$  West a distance of 191.44 feet to a stake; thence South  $41^{\circ} 09' 16''$  West a distance of 100.0 feet to a stake; thence South  $28^{\circ} 09' 36''$  West a distance of 126.09 feet to a stake at the mean high water line of Bogue Sound; thence along and with the mean high water line of Bogue Sound the following courses and distances: North  $83^{\circ} 35' 41''$  West a distance of 197.41 feet to a stake; thence South  $59^{\circ} 03' 59''$  West a distance of 101.0 feet to a stake; thence North  $73^{\circ} 36' 41''$  West a distance of 176.05 feet to a stake and new corner with property owned by the Brandywine Bay Development Corporation; thence along and with an easterly property line of the said the Brandywine Bay Development Corporation North  $27^{\circ} 18' 35''$  West a distance of 89.79 feet to a stake; thence continuing with an easterly property line of the said the Brandywine Bay Development Corporation North  $18^{\circ} 14' 31''$  West a distance of 123.1 feet to a stake in the southeasterly property line of the said Bay Drive, a new corner with the property owned by the said the Brandywine Bay Development Corporation; thence along and with the southeasterly property line of the said Bay Drive North  $60^{\circ} 14' 49''$  East a distance of 187.56 feet to a stake in the southeasterly property line of the said Bay Drive; thence continuing along and with the southeasterly property line of the said Bay Drive along the arc of a curve to the northeast, said curve having a radius of 148.032 feet, and arc length distance of 133.46 feet to a point in the easterly property line of the said Bay Drive; thence continuing along and with the easterly property line of the said Bay Drive North  $8^{\circ} 35' 29''$  East a distance of 171.0 feet to a stake, the place and point of BEGINNING; the same being a tract or parcel of land containing 7.25 acres, more or less, and being labelled Parcel A on Sheet 2 and Sheet 3 of the "Drawings" for OAK BLUFF AT

BRANDYWINE BAY, a Condominium, said "Drawings" being recorded among the public records of Carteret County, North Carolina; said Sheets 2 and 3 having been prepared by C. C. King, Registered Land Surveyor of Beaufort, North Carolina, and dated the 14th day of October, 1976; Sheet 2 being labelled "Boundary and Final Map, Parcels A and B, OAK BLUFF AT BRANDYWINE BAY, a Condominium" and Sheet 3 being labelled "Boundary Map, Parcels A, B and C, OAK BLUFF AT BRANDYWINE BAY, a Condominium," each of said Sheets being herein referred to for more particular description of said property.

The foregoing property is subject to and/or benefited by the following Declarations of Easement:

- (i) That certain Declaration of Easement wherein Brandywine Bay Development Corporation is named as Declarant, dated the 2nd day of December, 1976 and recorded in Book 391, Page 391 in the Public Registry of Carteret County, North Carolina.
- (ii) That certain Declaration of Easement wherein Brandywine Bay Development Corporation is named as Declarant, dated the 2nd day of December, 1976 and recorded in Book 391, Page 392 in the Public Registry of Carteret County, North Carolina.
- (iii) That certain Declaration of Easement wherein Brandywine Bay Development Corporation is named as Declarant, dated the 2nd day of December, 1976 and recorded in Book 391, Page 393 in the Public Registry of Carteret County, North Carolina.
- (iv) That certain Declaration of Easement wherein Brandywine Bay Development Corporation is named as Declarant, dated the 2nd day of December, 1976 and recorded in Book 391, Page 394 in the Public Registry of Carteret County, North Carolina.



## EXHIBIT "3"

TO DECLARATION OF EASEMENT AND RESTRICTIVE COVENANTS BY THE BRANDYWINE BAY DEVELOPMENT CORPORATION DATED THE 2<sup>nd</sup> DAY OF December, 1976.

## THE BLUFF AREA

BEGINNING at a stake in the mean high water line of Bogue Sound, as shown on the plat of survey hereinafter referred to, said BEGINNING point being reached by commencing at a point in the southerly property line of N. C. Highway No. 24, which point is coincident with the center line of McCabe Road if said center line were extended from its present terminus to the southerly property line of the said N. C. Highway No. 24; AND RUNNING THENCE from said point along and with the southerly property line of the said N. C. Highway No. 24 in an easterly direction a distance of 1,388.29 feet to a stake in the southerly property line of N. C. Highway No. 24; thence a new line South  $00^{\circ} 21'$  East a distance of 40.04 feet to a stake; thence South  $48^{\circ} 25'$  East a distance of 40.0 feet to a stake; thence South  $71^{\circ} 23' 11''$  East a distance of 17.0 feet to a stake in the westerly property line of Bay Drive (a private street); thence along and with the westerly property line of the said Bay Drive along the arc of a curve to the southwest, said curve having a radius of 450.66 feet, said curve also having a chord bearing of South  $13^{\circ} 35' 29''$  West and a chord length distance of 78.55 feet, an arc length distance of 78.66 feet to a point in the westerly property line of the said Bay Drive; thence continuing with the westerly property line of the said Bay Drive South  $8^{\circ} 35' 29''$  West a distance of 503.3 feet to a stake in the westerly property line of Bay Drive; thence crossing said Bay Drive South  $81^{\circ} 24' 31''$  East a distance of 56.66 feet to a stake in the easterly property line of the said Bay Drive; thence along and with the easterly property line of the said Bay Drive North  $8^{\circ} 35' 29''$  East a distance of 71.04 feet to a stake in the easterly property line of the said Bay Drive; thence along the arc of a curve joining the easterly property line of Bay Drive with the southerly property line of Bogue Drive (a private street), said curve being to the northeast and having a radius of 17 feet, said curve also having a chord bearing of North  $53^{\circ} 35' 29''$  East and a chord length distance of 24.04 feet, an arc length distance of 26.7 feet to a stake in the southerly property line of Bogue Drive; thence along and with the southerly property line of the said Bogue Drive South  $81^{\circ} 24' 31''$  East a distance of 400.41 feet to a point in the line of property owned by Brandywine Bay Development Corporation, the northeastern corner of the OAK BLUFF AT BRANDYWINE BAY property; thence along and with a westerly property line of the said Brandywine Bay Development Corporation and the easterly property line of the OAK BLUFF AT BRANDYWINE BAY property (a new line) the following courses and distances: South  $9^{\circ} 39' 59''$  West a distance of 100.87 feet to a stake; thence South  $5^{\circ} 27' 19''$  West a distance of 133.1 feet to a stake; thence South  $00^{\circ} 29' 12''$  West a distance of 191.44 feet to a stake; thence South  $41^{\circ} 09' 16''$  West a distance of 100.0 feet to a stake; thence South  $28^{\circ} 09' 36''$  West a distance of 126.09 feet to a stake in the mean high water line of Bogue Sound, the place and point of BEGINNING; AND RUNNING THENCE from said BEGINNING point along and with the mean high water line of Bogue Sound the following courses and distances: North  $83^{\circ} 35' 41''$  West a distance of 197.41 feet to a stake; thence South  $59^{\circ} 03' 59''$  West a distance of 101.0 feet to a stake; thence North  $73^{\circ} 36' 41''$  West a distance of 176.05 feet to a stake in the mean high water line of Bogue Sound; thence leaving the mean high water line of Bogue Sound North  $27^{\circ} 18' 35''$  West a distance of 64.91 feet to a point; thence South  $88^{\circ} 13' 11''$  East a distance of 158.6 feet to a point; thence North  $86^{\circ} 11' 49''$  East a distance of 105.5 feet to a point; thence South  $79^{\circ} 34' 11''$  East a distance of 76.06 feet to a point; thence South  $65^{\circ} 00' 31''$  East a distance of 43.43 feet to a point; thence South  $89^{\circ} 38' 11''$  East a distance of 128.91 feet to a point; thence South  $28^{\circ} 09' 36''$  West a distance of 52.86 feet to a stake in the mean high water line of Bogue Sound, the place and point of BEGINNING; the same being a tract or parcel of land labelled "Easement Area 1" on Sheet 2 of the "Drawings" for OAK BLUFF AT BRANDYWINE BAY, a Condominium, said "Drawings" being recorded among the public records of Carteret County, North Carolina; said Sheet 2 having been prepared by C. C. King, Registered Land Surveyor of Beaufort, North Carolina, and dated the 14th day of October, 1976; said Sheet 2 being labelled "Boundary and Final Map, Parcels A and B,

OAK BLUFF AT BRANDYWINE BAY, a Condominium" and said Sheet being herein referred to for a more particular description of said property.