

**RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS  
OF ST. JOHNS COUNTY, STATE OF FLORIDA  
APPROVING A FINAL DEVELOPMENT PLAN  
FOR MARSH CREEK UNIT 9**

WHEREAS, the Final Development Plan for Marsh Creek Unit Nine has been fully considered after public hearing pursuant to Section 8-3-2 of the St. Johns County Zoning Ordinance; and

WHEREAS, the request is consistent with the requirements of Section 8-3-2 of the Zoning Ordinance and with the requirements of PUD Ordinance R-PUD-86-060.

WHEREAS, it is found that:

- A. The request received favorable review and recommendation by the Planning and Zoning Agency at its meeting on 6/16, 1994, and
- B. The request is both consistent with the Comprehensive Plan and compatible with development patterns in the surrounding area;

THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, as follows;

Section 1. Pursuant to a request for approval of Marsh Creek Unit Nine, made by Gregory J. Barbour of Marsh Creek Development Corporation, in accordance with Section 8-3 of St. Johns County Ordinance, and subsequent review and approval by the St. Johns County Planning and Zoning Agency, the Final Development Plan attached hereto as Exhibit "A" relating to that portion of the PUD, the legal description of which is set forth on Exhibit "A" attached hereto, and which is known as Exhibit "A" is hereby approved in reliance upon, and in accordance with the representation and statements made therein and in the Final Development Plan Narrative attached hereto as Exhibit "B", and in accordance with Exhibits "C" and "D" (applicable sections of the covenants and restrictions).

Section 2. All building code, zoning ordinance, and other land use and development regulations of St. Johns County as may be amended from time to time shall be applicable to this development except those permitting variances and special exceptions and except to the extent that they conflict with specific provisions of the approved development plan or PUD Ordinance R-PUD-86-060. Modification to approved development plans by variance or special exception shall be prohibited. All such modifications shall follow the PUD amendment procedures provided for in the St. Johns County Zoning Ordinance.

- a. Except to the extent that they conflict with specific provisions of the approved development plan or PUD (PSD) Ordinance, all building code, zoning ordinance, and other land use and development regulations of St. Johns County, including, without

limitation, any Concurrency Management Ordinances and the St. Johns County Comprehensive Plan, as may be amended from time to time shall be applicable to this development, except modification to approved development plans by variance or exception shall be prohibited.

- b. Unless the Board of County Commissioners demonstrates that compliance with the land development regulations is essential to the public health, safety or welfare, nothing in this section shall be deemed to: (a) supersede any applicable "grandfathering" or "vested rights" provisions contained in Florida law or that may be provided in any such future building code, zoning ordinance or other land use and development regulations; or (b) supersede any concurrency certificate or concurrency exemption determination made by the Concurrency Review Committee or the Board as such may be limited at the time of issuance. Furthermore, nothing in this section shall be deemed to constitute a waiver of the applicant's right to contest application of any such building code, zoning ordinance or other land development regulations as applied to this development under the Florida or United States Constitutions.

Section 3. The developer may not commence land clearing, site preparation or construction of any improvements shown on the Final Development Plan attached as Exhibit A until:

- a. Submission to the Engineering Department of satisfactory evidence that all required state and federal permits have been obtained, including, but not limited to United States Army Corps of Engineers Dredge and Fill Permit, St. Johns River Water Management District Wetlands Resource Permit, St. Johns River Water Management District Management and Storage of Surface Waters Permit and Florida Department of Environmental Protection Water and Sewer Connection Permits;
- b. Issuance of a land clearing permit pursuant to St. Johns County Ordinance No. 90-11;
- c. Review and approval of signed and sealed construction plans by the St. Johns County Engineering Department in compliance with Ordinance 86-4; and
- d. Compliance with all other applicable land use and development regulations of St. Johns County.

Section 4. No lots shall be conveyed within the subdivision depicted on the Final Development Plan attached as Exhibit A until a final plat has been approved by the Board of County Commissioners of St. Johns County and recorded in the Public Records of St. Johns County, and the Declaration of Covenants and Restrictions for Marsh Creek Unit Nine is recorded in the Public Records of St. Johns County, Florida.

Section 5. All attachments included herein are incorporated herein and made a part of Resolution 94-149.

**P. U. D.** OFF. REG.  
BOOK G PAGE 160

Adopted: August 23, 1994

BOARD OF COUNTY COMMISSIONERS  
OF ST. JOHNS COUNTY, FLORIDA

By: Alan Roberts  
Chair

ATTEST: CARL "BUD" MARKEL, CLERK

By: Juanne Carter  
Deputy Clerk



**P. U. D.** OFF. REC.  
BOOK 7 PAGE 161

**EXHIBIT "B" TO THE RESOLUTION  
FINAL DEVELOPMENT PLAN FOR  
MARSH CREEK UNIT NINE  
WITHIN PUD (R-PUD-86-060)**

APPLICANT: MARSH CREEK DEVELOPMENT  
CORPORATION  
C/O GREGORY J. BARBOUR

SUBMITTED: 02/28/94

**EXHIBIT "B" TO THE RESOLUTION**

**P. U. D. OFF. REC.**

BOOK G PAGE 162

Marsh Creek Development Corporation (Developer) hereby submits, for approval by the St. Johns County Planning and Zoning Agency and the St. Johns County Board of County Commissioners, a final development plan (the "Final Development Plan") for a single-family subdivision to be known as Marsh Creek Unit Nine (the "Property" or "Subdivision"). The Final Development Plan consists of a 1-page map identified as Exhibit "A" to the Resolution (the "Map"), the legal description located on Exhibit "A", this text identified as Exhibit "B" to the Resolution (the "Text"), copies of the applicable sections of the covenants and restrictions identified as Exhibit "C" and a list of those sections of the covenants specifically incorporated into the Final Development Plan, which list is identified as Exhibit "D" to the Resolution. The Property is located wholly within that parcel of land zoned Planned Unit Development (PUD) pursuant to Ordinance R-PUD-86-060. The area encompassed by this Final Development Plan is located to the west of Marsh Creek Unit Seven and North of Unit Five. Marsh Creek Unit 9 will contain 41 single-family lots on approximately 26.6 acres.

Prior to commencement of land clearing, site preparation, or construction of any improvements depicted on the Map, the developer shall submit to the Engineering Department satisfactory evidence that all required state and federal permits have been obtained, including, but not limited to: (a) United States Army Corps of Engineers Dredge and Fill Permit, St. Johns River Water Management District and Management Storage of Surface Water Permit and Florida Department of Environmental Protection Water and Sewer Connection Permits; (b) Obtain a land clearing permit pursuant to St. Johns County Ordinance No. 90-11; (c) Obtain approval of signed and sealed construction plans by the St. Johns County Engineering Department in compliance with Ordinance 86-4; and (d) Comply with all other applicable land use and development regulations of St. Johns County. Once the foregoing conditions to construction have been met the developer may proceed with construction of horizontal improvements prior to approval and recording of a final plat.

No lot within the Subdivision shall be conveyed until a final plat has been approved by the Board of County Commissioners of St. Johns County, Florida, and recorded in the Public Records of St. Johns County, and the Declaration of Covenants and Restrictions for Marsh Creek Unit Nine have been recorded in the Public Records of St. Johns County.

Nothing contained in the covenants shall be interpreted to limit or restrict in any way the regulatory powers of St. Johns County (including its powers to review and approve plats and replats under Section 177.071 of the Florida Statutes). Those sections of the covenants which are specifically referenced herein and listed on Exhibit "C" are incorporated by reference in the Final Development Plan, shall be made a part of the Final Development Plan and shall not be amended without approval of the Board of County Commissioners of St. Johns County. A list of the sections of the covenants made a part of the Final Development Plan is provided with this submission and is identified as Exhibit "D" to the Resolution. The developer reserves the right to alter, amend, or allow to be amended all other sections of the covenants.

8-4-1 Density of Development

The total ground area occupied by residential building and structures in the Subdivision shall not exceed 35 percent of the total ground area committed to residential use. There will be 1.54 residential units per acre.

8-4-2 Open Space

Several areas of jurisdictional wetlands to be preserved are designated on the Map. These areas will not be disturbed, with the exception of several small isolated wetland impacts. The exact boundaries of these areas have been established by survey and shall be depicted on the signed and sealed construction plans and final plat. The entry sign, the roads and the common landscape features within the Subdivision will be maintained by a homeowners' association whose membership is a requirement of all lot owners within the Subdivision.

8-4-3 Waiver of Yard, Dwelling Unit, Frontage Criteria, and Use Restriction

All development which is to occur within the Subdivision will comply with the spirit and intent of the Zoning Ordinance. There will be no more than 41 residences in this Subdivision. A residence may be located wholly within a single platted lot or upon a portion of a platted lot or a combination of platted lots. Nevertheless, in accordance with the covenants, every parcel upon which a residence is constructed will have a total area equal to or greater than 95% of the total area of the smallest Lot (in area) in the Subdivision. Minimum lot size shall be 6,000 s.f. Furthermore, the covenants will establish a minimum 25 foot front setback line, combined 10 foot side separation between exterior structural walls and a minimum of 6 feet between roof overhangs, allowing zero lot line capability, and a minimum 20 foot rear setback line for each building parcel, subject to the Developer's right to release Lots from minor violations as set forth in covenants. All setbacks shall be measured from the exterior wall of the dwelling to the applicable parcel boundary. Typical sections of the covenants that will address minimum building parcel size and minimum front and side setbacks are attached as Section 4 (b), respectively of Exhibit "C". The actual recorded covenants for the Subdivisions shall contain these provisions but may identify them by different section number and may include greater setbacks. Setbacks for accessory uses, such as pools, spas and outside buildings will be reviewed and approved by the ARB. Pursuant to County requirements, all pools will be either fenced or screened, subject to ARB approval.

There will be community entry signage to the Subdivision (which will be lighted and will be incorporated within a landscape feature) that will lie on both sides of the road right-of-way as shown on the Map. Each entry sign will be no larger than 120 SF and will be constructed of masonry and wood and will be no higher than seven feet off grade. Each sign will be setback from the intersection to avoid obstructing visibility.

A temporary construction trailer may be used within the Subdivision during the construction period (which shall be up to 24 months from the date of approval of this final development plan).

This trailer will be removed prior to the issuance of the first certificate of occupancy for a residence within Unit Nine. This trailer shall be placed in an area whereas to not adversely impact the aesthetic view for adjacent property owners.

The maximum height of the structures within the Subdivision shall be 35 feet.

As specified in Section 4 of Exhibit "C", titled "Architectural Planning Criteria", the Marsh Creek Architectural Review Board must review and approve all buildings and improvements within the community. No building permits or certificates of occupancy shall be issued by St. Johns County without approval from the Marsh Creek Architectural Review Board.

8-4-4 Project Size

The PUD consists of 745 acres. This Final Development Plan consists of 26.7 acres (total).

8-4-5 Support Legal Documents for Open Spaces

The covenants and By-Laws shall assure adequate management and maintenance of all common areas encompassed by this Final Development Plan.

- a. The covenants shall provide for conveyance of title of the Common Property to, and ownership by, the appropriate homeowner's association as described above, which shall be a duly constituted and legally responsible community association.
- b. The covenants shall appropriately limit use of the Common Property by inclusion of a provision substantially similar to Article VI, Section 13 of Exhibit "C".
- c. The By-Laws shall assign responsibility for the management and maintenance of the Common Property to the appropriate homeowner's association by inclusion of a provision substantially similar to Article VI, paragraph C, pages 22 and 23 of Exhibit "C".
- d. The By-Laws shall place responsibility for enforcement of the covenants therein upon the appropriate homeowner's association and its board of directors by inclusion of a provision substantially similar to Article XII, Section 1, page 21 of Exhibit "C".
- e. The covenants shall permit the subjection of each lot to assessment for its proportionate share of maintenance costs by inclusion of a provision substantially similar to Article IV, Section 1 of Exhibit "C".

8-4-6 Access

As graphically depicted on the map, each lot is provided vehicular access within the Property via private roads to be owned and maintained by the Homeowners Association.

8-4-7 Privacy

Each dwelling will be provided visual and acoustical privacy by virtue of lot sizes and architectural control of the Subdivision by the Existing Architectural Review Board.

8-4-8 Community Facilities

- a. None of the utility facilities serving the Property are proposed for dedication to St. Johns County; therefore, the provisions of subparagraph "a" are inapplicable.
- b. All requirements for off-street parking and loading set forth in Article 9 of the St. Johns County Zoning Ordinance are addressed specifically in Sections 9-1-1 through 9-4-1 of this text.
- c. The Map illustrates the anticipated traffic flow pattern. Sufficient space has been allowed to permit access for fire fighting equipment, furniture moving vans, fuel trucks, refuse collection, deliveries and debris removal. Locations of the fire hydrants serving the Property shall be depicted on the signed and sealed construction plans. The fire hydrants to be installed pursuant to this Final Development Plan shall meet county standards and must be approved by the county fire coordinator prior to issuance of certificates of occupancy for any structure to be served by such hydrants.
- d. All utilities serving the Property including telephone, power, cable television, and sewer and water lines will be installed underground. The signed and sealed construction plans shall show the location and design of the storm sewer facilities serving the Property and the grading and topography of the site. The storm sewer facilities shall comply with all applicable requirements of law including, but not limited to the requirements of Ordinance 86-4 and shall facilitate the proper drainage of storm waters and prevent erosion and the formation of dust.
- e. Specifications for all streets and roadways depicted on the Map shall conform to the rules and regulations adopted by the St. Johns County Board of County Commissioners in Ordinance Number 86-4, as amended.
- f. The future recreation parcel identified as Tract (A) will be submitted and approved at a later date in a separate Final Development Plan.

9-1-1 Drainage

A preliminary drainage plan for the Property so as to prevent damage to abutting parcels and public streets and alleys is graphically depicted on the Map. Detailed drainage plans demonstrating compliance with all requirements of Ordinance 86-4 and the St. Johns County Comprehensive Plan shall be included within the signed and sealed construction plans. The construction plans must be

reviewed and approved by the St. Johns County Engineering Department prior to commencement of land clearing, site preparation or construction. All necessary easements for drainage shall comply with the requirements of Ordinance 86-4, and shall be depicted on the Final Plat.

The wetland located east of lots 28 through 39, designated as Tract "B" on Exhibit "A" will be owned and maintained by the Homeowners Association. The two lakes referenced as Tracts "C" and "D" will encompass the lake top of bank and will also be owned and maintained by the Homeowners Association.

9-1-2 Separation from Walkway and Street

No combined off-street parking or loading facilities will be constructed on the Property.

9-1-3 Entrances and Exits

The location and design of the entrances and/or exits to all streets will be in accordance with County specifications.

9-1-4 Interior Drives

As shown on the Map, there will be no interior drives on the Property.

9-1-5 Marking of Parking Spaces

As shown on the Map, there will be no street parking spaces other than private driveways and garages.

9-1-6 Lighting

Lighting within the Property will meet or exceed minimum lumens of 100 watt high pressure sodium fixture lights affixed 16 feet above the roadway and 300 feet on center.

9-1-7 Screening

Section 9-1-7 does not apply because there will be no parking spaces for ten or more vehicles in any one location on the property.

9-2 Location

The required off-street parking facilities will be located upon the same parcel of land they are intended to serve.

9-3-1 Off-Street Parking: Number Required

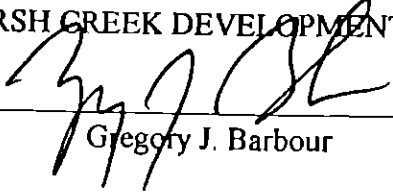
The Property will be used for single-family residential lots. Therefore, in accordance with Subsection a of 9-3-1, at least one off-street parking space will be provided per dwelling. Also, each unit will have a garage.

9-4-1 Off-Street Loading Requirements

This section does not apply to residential developments.

APPLICANT: MARSH CREEK DEVELOPMENT CORPORATION

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

  
Gregory J. Barbour

ingress and egress to a Lot. The Common Roads shall be considered Common Property of the Association and unless specifically set forth herein to the contrary all rules and regulations and provisions relating to the Common Property shall include the Common Roads.

Section 7. "Common Property" shall mean and refer to those tracts of land which are deeded to the Association and designated in the deed as "Common Property" and such improvements thereon as are specifically conveyed to the Association. The term "Common Property" shall also include any personal property acquired by the Association, if the personal property is designated as "Common Property," as well as certain easements conveyed to the Association. All Common Property is to be devoted to and intended for the common use and enjoyment of the Owners and their guests, lessees or invitees and the visiting general public (to the extent permitted by the Board of Directors of the Association) subject to any operating rules adopted by the Association and subject to any use rights made or reserved by Declarant prior to conveyance of such Common Property or the granting of the easements. Common Property shall not include those facilities which are designated a part of the Marsh Creek Country Club, including without limitation, the golf course, tennis courts and swimming pool and related facilities.

Section 8. "Declarant" shall mean and refer to Marsh Creek Partnership, a Florida general partnership, its successors and assigns, if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development and provided that such rights as Declarant are specifically assigned to the successor or assign and such successor or assign shall specifically assume the obligations of Declarant under the Declaration, Articles and Bylaws.

Section 9. "Declaration" shall mean and refer to this Marsh Creek Declaration of Covenants, Conditions, Restrictions and Easements applicable to the Property.

Section 10. "Lot" shall mean and refer to any plot of land together with the improvements thereon shown upon any recorded subdivision plat of the Property or on any preliminary plan for Additional Property which the Declarant intends to plat as a part of the Property.

Section 11. "Member" shall mean and refer to those persons entitled to Class "A" or "B" Membership in the Association as provided in the Declaration and Articles.

Section 12. "Mortgagee" shall mean and refer to any institutional holder of a first mortgage encumbering a portion of the Property as security for the performance of an obligation; an insurer or guarantor of such mortgage, including without limitation, the Veterans Administration ("VA") or Federal Housing Administration ("FHA") and/or a purchaser of such mortgages in the secondary market including without limitation, Federal National Mortgage Association ("FNMA") and Governmental National Mortgage Association ("GNMA"); and the Declarant, if it is holding a first mortgage on any portion of the Property.

Section 13. "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.

Section 14. "Property" or "Properties" shall mean and refer to that certain real property described in Exhibit A

together with improvements thereon, (except such improvements the title of which are reserved by the Declarant or its assignees), and such portions of the Additional Property as may hereafter be brought within the jurisdiction of the Association by annexation.

ARTICLE II

PROPERTY RIGHTS

P. U. D. OFF. REC.  
BOOK G PAGE 169

Section 1. Owners' Common Property Easements.  
Subject to the provisions of the Declaration, the rules and regulations of the Association, and any prior use rights granted in the Common Property, every Owner(s), their successors and assigns and their families and every guest, tenant, and invitee of such Owner(s) is hereby granted a right and easement of ingress and egress and enjoyment in and to Common Property which 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 charge reasonable admission and other fees for the use and security of any recreational facility situated upon the Common Property.

(b) The right of the Association to suspend the voting rights and right to use of the recreational facilities located on the Common Property by an Owner for any period during which any Assessment against his Lot remains unpaid; and for a period, not to exceed 60 days, for any infraction of its published rules and regulations. In no event may the Association deny an Owner the use of the entrance areas or private roads or cul-de-sacs, if any, so as to prohibit ingress and egress to his Lot.

(c) The right of the Board of Directors, without further consent from Owners or their Mortgagees, to dedicate, transfer or grant an easement over all or any part of the Common Property to any public agency, authority or utility company for the purpose of providing utility or cable television service to the Property and the right of the Board to acquire, extend, terminate or abandon such easement.

(d) The right of the Association to sell, convey or transfer the Common Property or any portion thereof to any third party other than those described in Subsection (c) for such purposes and subject to such conditions as may be approved by a majority vote of the Association. (See Section 3, Article III).

(e) The right of the Board of Directors to adopt reasonable rules and regulations pertaining to the use of the Common Property.

(f) The right of the Declarant or the Association to authorize other persons to enter upon or use of the Common Property for uses not inconsistent with the Owners' rights therein.

(g) The right of the Board to mortgage any or all of the Common Property for the purpose of improvement or repair of the Common Property with the approval of a majority vote of the Association.

Section 2. Delegation of Use. Any Owner may delegate his right of enjoyment to the Common Property to the members of his family, his tenants, or contract purchasers who occupy the Lot within the Property.

Section 3. Owner's Common Road Easements. It is specifically acknowledged that the Common Roads will be

conveyed by the Declarant to the Association free and clear of all liens and encumbrances, except taxes and except Declarant's reserved right to install, repair, restore and maintain all utilities, street lighting and signage, including without limitation, cable television in the road right of way and right to grant further easements over the Common Roads. Each Owner of a Lot, his successors and assigns, domestic help, delivery, pickup and fire protection services, police and other authorities of the law, United States mail carriers, representatives of utilities serving the Property, holders of mortgage liens on the Property and such other persons as the Declarant and/or the Association shall designate, are hereby granted a perpetual non-exclusive easement for ingress and egress over the Common Roads. It is hereby acknowledged that the owner of the Marsh Creek Country Club shall have an easement over the Common Roads for the purpose of ingress and egress, as well as, the Club Members, their guests and invitees and any mortgagee of the land constituting a part of the Marsh Creek Country Club.

P. U. D. OFF. REC.  
BOOK 7 PAGE 170

The Declarant and the Association shall have the unrestricted and absolute right to deny ingress to any person who, in the opinion of the Declarant or the Association, may create or participate in a disturbance or nuisance on any part of the Property; provided that, the Declarant or Association shall not deny an Owner or Mortgagee the right of ingress and egress to any portion of the Property owned by such Owner or mortgaged in favor of such Mortgagee. The Declarant and the Association shall have (a) the right to adopt reasonable rules and regulations pertaining to the use of the Common Roads, (b) the right, but no obligation, from time to time, to control and regulate all types of traffic on the Common Roads, including the installation of gatehouses and gate systems, if the Declarant or Association so elects. The Declarant and the Association shall have the right but no obligation to control speeding and impose speeding fines to be collected by the Association in the manner provided for assessments and to prohibit use of the Common Roads by traffic or vehicles (including without limitation, motorcycles, "go-carts", three wheeled vehicles), which in the opinion of Declarant or the Association would or might result in damage to the Common Roads or create a nuisance for the residents, (c) the right, but no obligation, to control and prohibit parking on all or any part of the Common Roads, and (d) the right, but no obligation, to remove or require the removal of any fence, wall, hedge, shrub, bush, tree or other thing, natural or artificial placed or located on the Property, if the location of the same will in the opinion of the Declarant or the Association obstruct the vision of a motorist.

The Declarant reserves the sole and absolute right at any time to redesignate, relocate, or close any part of the Common Roads without the consent or joinder of any Owner or Mortgagee so long as no Owner or his Mortgagee is not denied reasonable access from his Lot to a public roadway by such redesignation, relocation or closure. In such event, the foregoing easement over the Common Road shall be terminated and the Association shall reconvey the Common Road at the request of the Declarant.

Section 4. Conveyance of Common Property. The Declarant may convey the Common Property (other than the Common Roads) to the Association at such time as all the planned improvements, if any, are complete and in the event the Common Property is unimproved at such time as the Declarant determines, but in all events prior to the termination of the Class B membership. Such conveyance shall be subject to easements and restrictions of record and free and clear of all liens and financial encumbrances other than taxes for the year of conveyance. The Declarant may reserve certain rights to itself for use of the Common Property and/or Common Roads which are not adverse to the Owners.

ARTICLE III

## MEMBERSHIP AND VOTING RIGHTS

P. U. D. OFF. REC.  
BOOK G PAGE 171

Section 1. Qualification for Membership: Every Owner of a Lot which is subject to this Declaration shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to this Declaration.

Section 2. Classes of Membership: The Association shall have two classes of voting membership:

(a) Class A. Class A Members shall be all Owners of Lots, with the exception of the Declarant, and there shall be one vote for each Lot.

(b) Class B. Class B Member shall be the Declarant who shall be entitled to the number of votes equal to the number of Lots from time to time, subject to the Declaration or which are depicted on a preliminary plat for Additional Property which the Declarant intends to plat as a part of the Property plus one. The total number of votes of the Class B member shall be increased at the time of submission of the preliminary plat to include the number of Lots contained within the Additional Property plus one. The Class B membership shall cease upon the happening of the first of the following events do occur:

- (i) when the Declarant has conveyed one hundred percent (100%) of the Property or Additional Property which it owns;
- (ii) fifteen (15) years from the date of recording this Declaration;
- (iii) when Declarant, in its sole discretion, elects to transfer control to the Class A Members.

(c) For the purposes of this Section, a Lot shall be deemed to be a part of the Property at the time at which the Declarant submits a preliminary plat thereof for the approval of St. Johns County, Florida.

Section 3. Approval by Voting. Whenever in this Declaration a proposed action or issue must be approved by a specified percentage of the vote of the Association such approval may be obtained by:

(a) the specified percentage of Members casting their respective votes to approve such action or issue in person or by proxy at duly noticed and constituted meeting of the Members at which a quorum is present, or

(b) the specified percentage of Members holding all votes giving the approval by written consent to approve the action or issue.

ARTICLE IVCOVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments as set forth in Section 4 of this Article, in Section 13 of this Article and Section 15 of

and special assessments, (sometimes jointly referred to herein as "Assessments") together with interest, costs, and reasonable attorney's fees, shall be a charge on the Lot and shall be a continuing lien upon the Lot against which each such Assessment is made. Each such Assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the Assessment fell due. The personal obligation for delinquent Assessments shall be the joint obligation of the grantor and grantee under a deed, without affecting the grantee's right to recover the grantor's share from the grantor.

Section 2. Purpose of Assessments. The Assessments levied by the Association shall be used to promote the recreation, health, safety, and welfare of the Owners and residents of the Property, for the improvement and maintenance of the Common Property, including without limitation the Common Roads, for the operation and administration of the Association, for the establishment of a maintenance, repair and reserve account for the installing and maintaining of street lighting and signage, for payment of taxes and insurance in all Common Property and for such other purposes as are set forth or permitted in this Declaration, the Articles or Bylaws.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum Annual Assessment per Lot shall be Six Hundred and Fifty Dollars (\$650.00) per year.

(a) From and after January 1 of the year immediately following the recording of this Declaration, the maximum Annual Assessment for a Lot may be increased each year not more than 10% above the maximum Assessment for the previous year without approval of the majority vote of each class of membership.

(b) From and after January 1 of the year immediately following the recording of this Declaration, the maximum annual assessment to be levied against each class of Members may be increased by more than ten percent (10%) by a vote of a two-thirds majority of the Association.

(c) The Board of Directors may fix the Annual Assessment at an amount not in excess of the maximum.

(d) The Association in determining the Common Expenses shall establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of improvements to the Common Property.

Section 4. Special Assessments. In addition to the Annual Assessments authorized above, the Association may levy, in any assessment year, a Special Assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Property, including fixtures and personal property related thereto, provided that any such assessment shall have the approval of two-thirds (2/3) majority vote of the Association unless the Special Assessment is required due to the inadequacy of the insurance proceeds to cover the cost of a repair to Common Property (See Article IX, Section 1) wherein no approval shall be required.

Section 5. Uniform Rate of Assessment. Both Annual Assessments and Special Assessments, for the purposes set forth in Section 4 above, must be fixed at a uniform rate for all Lots in a class and any increase must be applied uniformly for all classes. In the event that an Owner or his family, guest or invitees specifically damage the Common Property as

P. U. D. OFF. REG.  
BOOK 7 PAGE 122

(iv) sketch of improvement showing elevations from all sides of house;

(b) Upon approval of the preliminary application, a final application shall be filed in duplicate and shall include everything shown on preliminary application and actual samples of exterior material with specified paint colors applied to those materials.

#### Section 4. Architectural Planning Criteria.

(a) Building Type. No building shall be erected, altered, placed or permitted to remain on any lot other than one detached single-family residence containing not less than seventeen hundred (1700) square feet of liveable, enclosed heated floor area (exclusive of open or screen porches, patios, terraces, garages and carports) for a single story dwelling and 2,000 square feet for a two story building not to exceed thirty-five (35) feet in height and having a private and enclosed garage (or carport if approved) for not less than two (2) nor more than four (4) cars. Unless approved by the ARB as to use, location and architectural design, no tool or storage room may be constructed separate and apart from the residential dwelling nor can any such structure(s) be constructed prior to construction of the main residential dwelling.

(b) Set Back Restrictions. No part of any structure shall be constructed within twenty-five (25) feet of the front property line, twenty (20) feet from rear property line and a combined 10-foot side separation between exterior structural walls and a minimum of 6 feet between roof overhangs, allowing zero lot line capability. A dwelling may be located upon a single platted lot or on a combination of platted lots and in such event the set back lines shall apply to the outermost lot lines. The ARB shall have the right to impose additional set back requirements for all lot lines to preserve line of sight of neighboring properties. The ARB may modify the set back restrictions for an individual lot where in its opinion and sole discretion, such modification is necessary for the preservation of trees or the maintenance of overall aesthetics in the area. A residence may be located wholly within a single lot or a combination of lots and in such event the set back restrictions shall apply to the most exterior boundary lines.

(c) Height Limitations. No structure shall exceed thirty-five feet in height.

(d) Exterior Color Plan. The ARB shall have final approval of all exterior colors plans and each Owner must submit to the ARB prior to initial construction and development upon any lot a color plan showing the color of the roof, exterior walls, shutters, trims, which shall be consistent with the homes in the surrounding areas.

(e) Roofs. Flat roofs shall not be permitted unless approved by the ARB. Minimum pitch of roof will be 5/12. Protrusions through roofs for power ventilators or other apparatus, including the color and location thereof, must be approved by the ARB.

(f) Elevations. Similar elevations shall not be built directly adjacent or across from each other.

(g) Garages and Automobile Storage. In addition to the requirements stated in Paragraph (a) above, all garages shall have a minimum width of twenty (20) feet and a minimum length of twenty (20) feet as measured from the inside walls of the garage. All garages must have either a single overhead door with a minimum door width of sixteen (16) feet for a two-car garage, or two (2) sixteen (16) foot doors for a four-car garage, or two (2), three (3), or four (4) individual overhead doors, each a minimum of ten (10) feet in width, and a

service door. All overhead doors shall be electrically operated and shall be kept closed when not in use. No carports will be permitted unless approved by the ARB. The ARB recommends side entry garages. However, where side entry is impractical, the ARB will consider for approval front entry garages. Automobiles shall be stored in garages when not in use. No garage shall be converted to living space unless a garage in compliance with these provisions is constructed in its stead and unless the facade of the enclosed garage is approved by the ARB and a new garage, in compliance with these restrictions, is built. The use of side entry garages is encouraged wherever possible.

(h) Driveway Construction. All dwellings shall have a paved driveway of stable and permanent construction of at least eighteen (18) feet in width at the entrance to the garage. All driveways must be constructed of an approved material.

(i) Games and Play Structures. All basketball backboards, tennis courts and play structures shall be located at the rear of the dwelling, or on the inside portion of a corner Lot within the setback lines. No platforms, doghouse, tennis court, playhouse or structure of a similar kind or nature shall be constructed on any part of a Lot located in front of the rear line of residence constructed thereon, and any such structure must have prior approval of the ARB.

(j) Fences and Walls. The composition, location and height of any fence or wall to be constructed on any Lot shall be subject to the approval of the ARB. The ARB shall require the composition of any fence or wall to be consistent with the material used in the surrounding homes and other fences, if any. Wire or chain link fences are prohibited. If an Owner owns a pet as permitted hereunder, such Owner shall be required either to erect and maintain a fenced enclosure or to construct and maintain another ARB-approved method for keeping and maintaining such permitted pets. Such enclosure shall be of a reasonable design and construction to adequately contain such pets in accordance with the provisions hereof and shall be screened so that the pets are not visible from neighboring property. Any fence, wall, hedge or other similar struction or improvement must be included in the development plan with respect to location, height, and type of material and must be approved by the ARB.

(k) Landscaping. A basic landscaping plan shall be prepared for each Lot and must be submitted to and approved by the ARB prior to initial construction and development therein. The plan shall call for landscaping improvements, exclusive of sodding and sprinkling systems, requiring a minimum expenditure of \$500.00 by Owner. No artificial grass, plants or other artificial vegetation or sculptural landscape decor shall be placed or maintained on any Lot unless approved by the ARB.

(l) Swimming Pools and Tennis Courts. Any swimming pool or tennis court to be constructed on any Lot shall be subject to the requirements of the ARB, which include, but are not limited to the following:

(i) Composition to be of material thoroughly tested and accepted by the industry for such construction;

(ii) The outside edge of any pool wall may not be closer than four (4) feet to a line extended and aligned with the side walls of dwelling unless approved by the ARB;

(iii) No screening of pool areas may stand beyond a line extended and aligned with the side walls of the dwelling unless approved by the ARB;

(iv) Pool screening may not be visible from the street in front of the dwelling unless approved by the ARB;

(v) Location and construction of tennis or badminton courts must be approved by the ARB;

(vi) Any lighting of a pool or other recreation area shall be designed so as to buffer the surrounding residences from the lighting;

(vii) Tennis court lighting shall not be permitted.

If one Owner elects to purchase two (2) adjoining Lots and use one for recreation purposes, the Lot used for recreation purposes must be adequately screened by landscaping and/or walls or fences on both the front and side as required by the ARB.

(m) Garbage and Trash Containers. No Lot shall be used or maintained as a dumping ground for rubbish, trash or other waste. All trash, garbage and other waste shall be kept in sanitary containers which shall be kept within an enclosure constructed with each dwelling in a location approved by the ARB. All Lots shall be maintained during construction in a neat nuisance-free condition. Owner agrees that the ARB or the Association shall have the discretion to rectify any violation of this subsection, with or without notice, and that Owner shall be responsible for all expenses incurred by the ARB thereby, which expenses shall constitute a lien against the Lot enforceable in appropriate court of equity or law.

(n) Temporary Structures. No structures of a temporary character, trailer, basement, tent, shack, garage, barn, or other out building shall be used on any Lot at any time as a residence either temporarily or permanently.

(o) Removal of Trees. In reviewing building plans, the ARB shall take into account the natural landscaping such as trees, shrubs and palmettos, and encourage the Owner to incorporate them in his landscaping plan. No tree of six (6) inches in diameter at two (2) feet above natural grade shall be cut or removed without approval of the ARB, which approval may be given when such removal is necessary for the construction of a dwelling or other improvement.

(p) Window Air Conditioning Units. No window or wall air conditioning units will be permitted. All air conditioner compressors shall be screened from view and insulated by a fence, wall or shrubbery so as to minimize noise.

(q) Utility Connections. Building connections for all utilities, including, but not limited to, water, electricity, telephone and television shall be run underground from the proper connecting points to the building structure in such a manner to be acceptable to the governing utility authority. Approval of water to air heat pumps will not be considered unless excess water can be dispelled directly into a storm water drainage structure.

(r) Mailboxes. No mailbox, paperbox or other receptacle of any kind for use in the delivery of mail, newspapers, magazines or similar material shall be erected on any Lot without the approval of the ARB as to style and location. If and when the United States Postal Service or the newspapers involved shall indicate a willingness to make delivery to wall receptacles attached to dwellings, each Owner, on the request of the ARB, shall replace the boxes or receptacles previously employed for such purpose or purposes with wall receptacles attached to dwellings.

(s) Well Limitation. Any wells to be installed and constructed on any portion of the Property shall be approved by the ARB and shall be in strict compliance with any regulations of the applicable utility company, any and all wells that supply water to heating or cooling systems and utilize the Florida Aquifer as a supply source shall be fitted with a demand valve. All free flowing artesian wells developed within Marsh Creek shall have a drainage valve installed and shall be maintained in good working order. If at any time governmental regulations prohibit this type of well throughout the county, the provisions of this section shall be automatically modified to apply such prohibition to future construction.

(t) Lot Size. No Lot which has been improved by the construction of a single family dwelling shall be further subdivided or separated into small lots by any Owner; provided that this provision shall not prohibit corrective deeds or similar corrective instruments. The Declarant shall have the right to modify the subdivision plats of the Property provided that all Owners of the affected Lots consent to such modification, which consent shall not be unreasonably withheld. The Declarant, without the consent of any Owners, may modify a Lot(s) it owns for the purpose of creating a street or right of way and the restrictions as to use contained herein shall not be applicable to such Lot(s).

(u) Sight Distance at Intersections. No fence, wall, hedge or shrub planting which obstructs sightlines and deviations between two (2) and six (6) feet above the Common Roads shall be placed or permitted to remain on any corner lot within the triangular area formed by the street and property lines and a line connecting them at points twenty five (25) feet from the intersection of street lines. No trees shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent construction of such sightlines.

(v) Waiver of Architectural Planning Criteria. The Architectural Planning Criteria set forth herein are intended as guidelines to which adherence shall be required by each Owner in the Property; provided, however, the ARB shall have the express authority to waive any requirement set forth herein if, in its professional opinion, it deems such waiver in the best interest of the Property and the deviation requested is compatible with the character of the Property. A waiver shall be evidenced by an instrument signed and executed by the ARB upon approval by a majority of its members.

## ARTICLE VI

### USE RESTRICTIONS

In order to provide for congenial occupancy of the Property and for the protection of the value of the Lots, the use of the Property and Lots shall be in accordance with the following provisions so long as the Property and Lots are subject to this Declaration.

Section 1. Residential Uses. Lots shall be used for residential living units and for no other purpose, and no business or commercial building may be erected on any Lot and no business may be conducted on any part of any Lot.

Section 2. Antennae. No aerial, antenna, satellite receptor dish or similar device shall be placed or erected upon any Lot or affixed in any manner to the exterior of any building on such Lot without the written consent of the ARB and if approved, must be appropriately screened from view of the neighboring Owners and from the street, such screening to be approved by the ARB.

Section 3. Clothes Drying Area. No portion of any Lot shall be used as a drying or hanging area for laundry of any kind unless screened from the view of neighboring Owners and from the street.

Section 4. Nuisances. Nothing shall be done or maintained on any Lot which may be or become an annoyance or nuisance to the neighborhood. Any activity on a Lot which interferes with television, cable or radio reception on another Lot shall be deemed a nuisance and a prohibited activity. In the event of a dispute or question as to what may be or become a nuisance, such dispute or question shall be submitted to the Board of Directors of the Association and the written decision of the Board shall be dispositive of such dispute or question.

Section 5. Signs. No signs, greater than 3 square feet, may be placed on any Lot, and all signs must be approved by the ARB.

Section 6. Energy Conservation. Solar energy and other energy conservation devices are not prohibited or discouraged, but the design and appearances of such devices will be closely scrutinized and controlled to assure consistency with neighborhood aesthetics. Request for approval of installation of any type of solar equipment shall be included in the development plan and must be approved in accordance therewith.

Section 7. Window Coverings. No reflective window coverings or treatments shall be permitted on any building in the Property. The ARB, at its discretion, may control or prohibit window coverings and treatments not reasonably compatible with aesthetic standards set forth herein.

Section 8. Off-Street Motor Vehicles. No motorized vehicles including, without limitation, two and three wheel all terrain vehicles or "dirt bikes" may be operated off of paved roadways and drives except as specifically approved in writing by the ARB. Without limiting the Association's right to collect and assess fines in other instances, it is specially acknowledged that Owners may be fined for each violation of this provision by themselves, their families, guests, tenants and invitees. Violations will result in automatic fines of \$25.00 for the first offense, \$50.00 for the second offense and \$100.00 for each subsequent offense.

Section 9. Noise. Exterior noise, and noise emanating from within buildings or other improvements, including without limitation, talking, singing, television, radio, record or tape player or musical instruments, shall be maintained from 11:00 p.m. until 7:30 a.m. at such volume that the noise is not audible beyond the boundaries of the Lot from which it originates and at all times so as not to constitute a nuisance or unreasonable annoyance to neighbors.

Section 10. Pets and Animals. No animals except common domestic household pets, within the ordinary meaning and interpretation of such words, may be kept, maintained or cared for in any Lot or within the Property. No pets shall be allowed to make an unreasonable amount of noise or to become a nuisance; and no pets will be allowed on the Property other than on the Lot of the owner of such pets, unless confined to a leash or under voice control. No pet shall be allowed to run at large and all pets shall be kept within an enclosed area, which must be clean, sanitary and reasonably free of refuse and waste. Upon written request of any Owner the ARB may conclusively determine at its sole discretion, in accordance with its rules, whether an animal is a domestic household pet, whether such animal is making an unreasonable amount of noise, whether an animal is being allowed to run at large or whether an animal is a nuisance. The decision of the ARB in such

R. U. D. OFF. REC.  
BOOK G PAGE 177

matters is conclusive and shall be enforced as other restrictions contained herein. No pet may be maintained, kept, cared for or boarded for hire or remuneration on the Property and no kennels for boarding or operation shall be allowed.

Section 11. Oil and Mining Operation. No oil drilling, mining operations, oil refining, quarrying or oil development operations, or tanks, tunnels, mineral excavations or shafts shall be permitted upon, in, or under any Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot.

Section 12. Commercial Trucks, Trailers and Boats. No vehicles of any kind including, without limitation, commercial vans, trucks, trailers, boats, recreational vehicles or automobiles shall be permitted to park outside of an enclosed garage or unapproved screening; nor shall any of the above be permitted to be stored on blocks or maintained outside of an enclosed garage or approved screening in an unoperable condition. Approval of screening locations and material shall be at the sole discretion of the ARB and shall be determined on a case-by-case basis.

Section 13. Lawful Use. No immoral, improper, offensive or unlawful use shall be made of the Property or any part thereof and all valid laws, zoning ordinances, and regulations of all governmental bodies having jurisdiction thereof shall be observed.

Section 14. Additional Use Restrictions. The Board of Directors of the Association may adopt such additional use restrictions, rules or regulations, applicable to all or any portion or portions of the Property and to waive or modify application of the foregoing use restrictions with respect to any Lot(s) as the Board, in its sole discretion, deems appropriate.

Section 15. Maintenance Required and Failure to Maintain. No weeds, underbrush or other unsightly vegetation shall be permitted to grow or remain upon any Lot, and no refuse piles or unsightly objects shall be allowed to be placed or suffered to remain anywhere on any Lot. The Owner shall maintain the exterior of all buildings and improvements on his Lot in good and workmanlike manner, and shall present a neat and clean appearance upon the Lot including painting, repairing, replacing and caring for roofs, gutters, downspouts, exterior building surfaces, trees, shrubs, grass, walks, and other exterior improvements. In the event that any Owner fails or refuses to keep his Lot free of weeds, underbrush, refuse piles, debris or other unsightly growth or objects, or to keep the buildings or improvements on his Lot in a good and workmanlike manner, or in a neat and clean appearance, the ARB or the Board may authorize its agents to enter upon the Lot and perform any necessary maintenance at the expense of the Owner, and such entry will not be deemed a trespass. During construction of a dwelling or other improvement, each Owner will be required to maintain his Lot in a clean condition, providing for trash and rubbish receptacles and disposal. Construction debris shall not be permitted to remain upon any Lot.

## ARTICLE VII

### RIGHTS OF MORTGAGEES

Section 1. Mortgagee Notice Rights. Upon written request to the Association, identifying the name and address of a Mortgagee, such Mortgagee will be entitled to timely written notice of:

(b) No bottles, trash, cans or garbage of any kind or description shall be placed in any lake.

(c) No activity shall be permitted on any lake which may become an annoyance or nuisance to the adjacent property and the Owners thereof. The Association's determination whether any activity constitutes an annoyance or nuisance shall be dispositive.

(d) No person or entity, except Declarant or the Association, shall have the right to pump or otherwise remove any water from any lake for the purpose of irrigation or other use.

(e) The lake shall not be used in conjunction with any business enterprise or public use whatsoever.

(f) There shall be no fishing permitted from bridges, streets or right of ways. Only Owners shall be permitted to fish in the lakes and only in areas so designated.

(g) The Board shall be entitled to establish, amend, or modify rules and regulations governing the use of the lake as the Board deems necessary or convenient.

Section 6. Indemnification. In connection with the platting of the Property, the Declarant assumed certain obligations of the maintenance of the lakes. The Declarant hereby assigns to the Association and the Association hereby assumes all the obligations of the Declarant under the plat. The Association further agrees that subsequent to the recording of this Declaration, it shall indemnify and hold Declarant harmless from suits, actions, damages, liability and expense in connection with loss of life, bodily or personal injury or property damage or other damage arising from or out of occurrence, in, upon, at or from the maintenance of the lake, occasioned wholly or in part by any act or omission of the Association or its agents, contractors, employees, servants or licensees but not including any liability occasioned wholly or in part by the acts of the Declarant, its successors, assigns, agents or invitees.

ARTICLE XII

GENERAL PROVISIONS

Section 1. Enforcement. The Association, the Declarant for so long as it is a Class B member, or any Owner, shall have the right to enforce, by a proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Provided, however, the foregoing shall not be construed to limit the Declarant's rights under Article V to retain Architectural Control of Marsh Creek as provided therein. Failure by the Association, the Declarant or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 3. Term. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of forty (40) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years unless a termination thereof is approved by ninety-percent (90%) of the votes of the Association.

P. U. D. OFF. REC.  
BOOK 9 PAGE 179

ARTICLE VI. POWERS AND DUTIES OF THE  
BOARD OF DIRECTORS

**A. General.** All of the powers and duties of the Association shall be exercised by the Board, including those existing under the laws of Florida, the Articles, these Bylaws and the Declaration, except to the extent such powers are specifically reserved to the membership. Such powers and duties shall be exercised in accordance with the Articles, these Bylaws and the Declaration.

**B. Powers.** Without limiting the foregoing provision, the Board shall be deemed to have the following powers:

(1) Adopt, publish and amend rules and regulations governing the use of the Common Property and the personal conduct of the Members and their guests, provided that such regulations or amendments thereto shall not conflict with the restrictions and limitations which may be placed upon the use of the Common Property under the terms of the Articles and Declaration and to establish penalties for the infractions thereof.

(2) Contract for the management and maintenance of the Common Property and authorize a management agent to assist the Association in carrying out its powers and duties, including but not limited, to the performance of such functions as the submission of proposals, collection of Assessments, preparation of records, enforcement of rules and maintenance, repair and replacement as provided herein, with funds as shall be made available by the Association for such purposes. Any such contract shall be terminable for cause upon the giving of thirty (30) days prior written notice, and shall be for a term of from one (1) to three (3) years. Any such contract shall be renewable by consent of the Association and the management agent. The Association and its officers shall, however, retain at all times the powers and duties granted by the Declaration, including, but not limited to the making of Assessments, promulgation of rules and execution of contracts on behalf of the Association;

(3) Suspend the voting rights and right to use of the Common Property of a Member during any period in which such Member shall be in default in the payment of any Assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed 60 days, for infraction of published rules and regulations; provided, however, at no time may a Member be denied access to his or her Lot.

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

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

**C. Duties.** The Board shall be deemed to have the following duties:

(1) Make, levy and collect Assessments, including without limitation, Assessments for reserves and for betterments to Common Property against Members and their Lots to defray the costs of the operation and maintenance of the Common Property and use the proceeds of Assessments in the

P. U. D. OFF. REC.  
BOOK 9 PAGE 180

P. U. D. OFF. REG.  
BOOK 5 PAGE 181

exercise of the powers and duties of the Association. In such regard the Board shall fix the amount of the annual Assessment against each Lot at least thirty (30) days in advance of each annual Assessment period, send written notice of each Assessment to every Member subject thereto at least thirty (30) days in advance of each annual Assessment period and issue a cause to be issued, upon request, a certificate setting forth whether or not any Assessments have been paid;

(2) Foreclose the lien against any Lot for which Assessments are not paid as required or bring an action at law against the Member personally liable.

(3) Maintain, repair, replace, operate and manage the Common Property wherever the same is deemed to be prudent for the benefit of Members; provided however, in the event of destruction or damage to the improvements to the Common Property, including landscaping, which are not covered by warranty or insurance, the Board may elect in its sole discretion not to reconstruct or replant such improvements as it may deem necessary and convenient;

(4) Repair and reconstruct the Common Property or any improvement thereupon, if any, after casualty;

(5) Pay all taxes and assessments which are liens against any part of the Common Property and appurtenances thereto, and assess the same against the Members and their respective Lots;

(6) Procure and maintain adequate liability and hazard insurance on the Common Property for the protection of Members and the Association against casualty and liability, including Directors' liability insurance and fidelity bonds (provided however, such Director liability insurance shall not be required during the time that the Directors are appointed by the Class B Member;

(7) Pay all costs of power, water, sewer and other utility services rendered to the Association and Common Property and not billed to the Owners of the separate Lots;

(8) Supervise all officers, agents and employees of the Association;

(9) Cause to be kept a complete record of all the Association's acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Members, or at any special meeting when so requested; and

(10) Cause all officers or employees having fiscal responsibilities to be bonded as it may deem appropriate.

ARTICLE VII. OFFICERS AND THEIR DUTIES

A. Enumeration of Offices. The officers of this Association shall be a president, one or more vice-presidents, secretary, treasurer, or assistant secretaries or treasurers and such other officers as the Board may from time to time by resolution create.

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

C. Term. The officers of this Association shall be elected annually by the Board and each shall hold office for one (1) year unless he shall sooner resign, or shall be removed, or otherwise disqualified to serve.

**EXHIBIT "D" TO THE RESOLUTION**

**P. U. D.** OFF. REC.  
BOOK 7 PAGE 182

Sections of the Declaration of Covenants and Restrictions made part of the Final Development Plan.

Article V, Section 4(b)	Set Back Restrictions
Article V, Section 4(u)	Site Distance at Intersection
Article VI, Section 1	Residential Use
Article VI, Section 5	Signs
Article VI, Section 12	Commercial Trucks, Trailers and Boats

STATE OF FLORIDA  
COUNTY OF ST. JOHNS

P. U. D. OFF. REC.  
BOOK 7 PAGE 183

I, CARL "BUD" MARKEL, CLERK OF THE CIRCUIT COURT, Ex-officio, Clerk of the Board of County Commissioners of St. Johns County, Florida,

DO HEREBY CERTIFY that the foregoing is a true and correct copy of the following:

**RESOLUTION NO. 94-149**

adopted by the Board of County Commissioners of St. Johns County, Florida at a regular meeting of said Board held August 23, 1994

as the same appears of record in the office of the Clerk of the Circuit Court of St. Johns County, Florida, of the public records of St. Johns County, Florida.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office this 26th day of August, 1994.

CARL "BUD" MARKEL,  
CLERK OF THE CIRCUIT COURT  
Ex-officio Clerk of the Board of County Commissioners of St. Johns County, Florida

FILED AND RECORDED IN  
CLERK'S OFFICE

SEP -7 PM 2:29 By:

Yvonne Carter  
Yvonne Carter, Deputy Clerk



(seal)

CLERK OF CIRCUIT COURT