

DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS
FOR LOTS 1 THROUGH 8, AND 29 THROUGH 36, BLOCK 2
CEDAR BEND, PLAT BOOK 17, PAGES 7 THROUGH 12

THIS DECLARATION is made this 28th day of April, 1982,
by DEVELOPERS THREE, INC., a Florida corporation, and R. L.
JOHNSON CONSTRUCTION CO., a Florida corporation, which corporations
shall be collective referred to in this Declaration as the
"Developers", unless otherwise expressly designated to the contrary.

ARTICLE I

GENERAL PLAN OF DEVELOPMENT AND APPLICATION
OF THIS DECLARATION

1. GENERAL PLAN OF DEVELOPMENT.

On August 21, 1981, Developers agreed in writing to purchase certain lands in Clay County, Florida, which agreement was recorded in Official Records Book 635, page 310, of the public records of that county. Subsequently, the contract seller under that agreement and the Developers submitted a portion of the lands to the plat known as Cedar Bend, according to the plat thereof recorded in Plat Book 17, pages 7 through 12 of those public records. That plat contains two blocks, each of which is subdivided into individual lots. Block 2 of that plat is subdivided into thirty-six lots.

On February 23, 1982, by deed recorded in Official Records Book 658, page 640 of those public records, Developers acquired fee simple title to some of the lots contained within that plat including but not limited to Lots 1 through 8, and 29 through 36 of Block 2. It is the intention of the Developers to construct on each of the lots within Block 2 of the plat, including Lots 1 through 8, and 29 through 36, a multi-family building containing four single family living units.

In this Declaration, Lots 1 through 8, and 29 through 36 of Block 2 of the plat shall be referred to as "lot" or "lots", as the context may require, and the multi-family buildings to be constructed on those lots shall be referred to as "quadruplex" or "quadruplexes", at the context may require.

RETURN TO: BILL KLAN
c/o SCHNEIDER, DUNAY, RYAN & MARKS, P. A.
SUITE 20, 2105 PARK AVENUE,
ORANGE PARK, FLORIDA 32073

THIS INSTRUMENT WAS PREPARED BY:
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It is the general plan of development by the Developers to complete construction of quadruplexes on Lots 1 through 7, and 30 through 36 of Block 2, with Lots 8 and 29 being completed in the first phase as to the paved areas for ingress, egress and parking only, and at or about the time that the closing of the sales of the quadruplexes on Lots 1 through 7 and 30 through 36 are made to the public, to acquire a similar number of lots in Block 2, construct on Lots 8 and 29, and those additionally acquired lots similar quadruplexes, close the sale of those quadruplexes to the public, and a third time acquire the balance of the lots within Block 2, construct quadruplexes upon them, and close the sale of those to the public; so that the basic plan of development is to develop Block 2 in three phases as a quadruplex project of harmonious design character.

Ingress and egress for vehicles and pedestrians from the lands outside of the plat to each of the lots in Block 2 will be provided by public right-of-ways shown on the plat. From those public right-of-ways to the interior of each of the lots of Block 2, ingress and egress will be provided by private easements created and described in this Declaration. Also, parking for the owners or tenants or other invitees contemplated in this Declaration, will be provided within each of the lots. The lots will be improved for ingress and egress from the public right-of-ways and for parking by having curb cuts and paved areas that lie in part on certain adjoining lots and will be approximately divided by the common lot line dividing the adjoining lots. The parties designated in this Declaration will to some extent jointly utilize and maintain the easements for ingress and egress and parking areas and the pavement installed for those purposes.

It is the primary purpose of this Declaration to provide rules to protect the harmonious design character of the project, to create the easements for ingress, egress and parking, and to provide rules for use and maintenance of those easements.

2. APPLICATION OF THIS DECLARATION.

This Declaration shall apply as follows:

- (a) This Declaration shall be binding upon and inure to the benefit of the Developers, and all parties claiming title by, through and under the Developers, and, to the limited extent expressly provided below, shall also be binding upon tenants of those owners, for Lots 1 through 8, and 29 through 36 of Block 2, Cedar Bend, according to the plat thereof recorded in Plat Book 17, pages 7 through 12 of the public records of Clay County, Florida.
- (b) This Declaration shall be appurtenant to and run with the title to those lots.
- (c) This Declaration is also for the benefit of any mortgagee holding an unpaid mortgage encumbering any portion of any lot. However, no mortgagee shall be bound to perform any duties hereunder unless and until it should acquire a fee simple interest in any lot.
- (d) This Declaration shall not apply to any of the lots within Block 1 of the plat, as the Developers presently intend to improve those lots with patio homes.
- (e) This Declaration does not apply to the lands designated on the plat as Tract "A", as the Developers may utilize that tract for recreational facilities for owners of lots within the plat or others.
- (f) Although this Declaration does not presently apply to any lots within Block 2 except Lots 1 through 8 and 29 through 36, as each of the subsequent phases of the quadruplexes are developed and sold by Developers, a declaration substantially similar to this one will be imposed by Developers upon those lots and all parties claiming title to them, which later declarations will provide reciprocal rights and duties between the parties who are burdened and benefited by the future declarations so that when the entire development is completed all thirty-six lots within Block 2 will have reciprocal rights and duties substantially similar to those

established in this Declaration. It is expressly agreed that the Developers may create the reciprocal rights and duties by the later declarations without the consent or approval of any purchaser, mortgagee or other lien holder for Lots 1 through 8 and 29 through 36.

- (g) Fidelity Federal Savings and Loan Association of Jacksonville is the owner and holder of the development loan and the construction line of credit loan evidenced by and secured by the mortgage from Developers recorded in Official Records Book 658, page 644 of the public records of Clay County, Florida. That mortgage lender has joined in this Declaration in order to subordinate the lien of its mortgage to this Declaration so that in the event that any of the lots are sold to the public and a later foreclosure is instituted by that lender this Declaration shall survive that foreclosure. In consideration of that joinder Fidelity Federal Savings and Loan Association of Jacksonville is presently benefited by all of the rights created in this Declaration, but it is expressly agreed that Fidelity Federal Savings and Loan Association of Jacksonville shall not be construed to have assumed any of the duties imposed by this Declaration unless and until it should become a fee simple owner of any portion of Lots 1 through 8, and 29 through 36 of Block 2.

ARTICLE II

CLAY COUNTY MULTIFAMILY HOUSING REVENUE BOND

1. BOND ISSUE.

In 1981, the Housing Finance Authority of Clay County, Florida, issued its Collateralized Loans-to-Lenders Housing Revenue Bonds, 1981, Series A, Multifamily Rental Housing Program. In order to comply with applicable federal tax legislation and regulations, that bond program required any developers and all parties claiming title by, through and under them, to agree to and to assume certain duties as expressed in the Land Use Restriction Agreement, which Agreement

for Lots 1 through 7 and 30 through 36 of Block 2 of Cedar Bend is dated February 10, 1982, and recorded in Official Records Book 657, page 455 of the public records of Clay County, Florida. A similar agreement for Lots 8 and 29 will be executed and recorded by the Developers for the second phase of Block 2 of Cedar Bend.

2. COMPLIANCE WITH LAND USE RESTRICTION AGREEMENT AND CONFLICTS WITH THIS DECLARATION.

Developers and all parties acquiring a fee simple interest in any of Lots 1 through 8, and 29 through 36 of Block 2 of Cedar Bend, agree to assume and perform the duties imposed upon the developer by the Land Use Restriction Agreement recorded in Official Records Book 675, page 455 of those public records as to Lots 1 through 7, and 30 through 36, and the same agreement to be recorded in the future for Lots 8 and 29. As well, by agreeing to lease an improvement upon any of those lots, all tenants will be deemed to have agreed to perform their duties as tenants in conformity with the Land Use Restriction Agreement whether or not such duties are expressly provided for in any rental agreement, and for that purpose it is agreed that this covenant within this Declaration is a third party beneficiary contract for and enforceable by Developers, Fidelity Federal Savings and Loan Association of Jacksonville, the Housing Finance Authority of Clay County, Florida, any owner of any fee simple interest in Lots 1 through 8 and 29 through 36 of Block 2 of Cedar Bend, and the successors in interest and assigns of them all, against any tenant who is in violation of the requirements of the Land Use Restriction Agreement.

In the event of a conflict between the provisions of the Land Use Restriction Agreement recorded in Official Records Book 675, page 455 of those public records and this Declaration, the provisions of the Land Use Restriction Agreement shall prevail.

ARTICLE III

COVENANTS AND RESTRICTIONS

1. MULTIFAMILY AND SINGLE FAMILY RESIDENTIAL USE.

Lots 1 through 8, and 29 through 36 of Block 2 will be each improved by a quadruplex building. This is a multifamily resi-

dential building. "Mutlifamily" means that each quadruplex is designed to house four single family groups. "Single family" means a group of human beings, who may or may not be related by marriage or blood, who occupy a single family area within any of the quadruplexes for more than thirty consecutive days. A single family group shall not exceed six persons in number. As well, no guest, which shall mean persons staying less than thirty consecutive days, shall be permitted, if their number or their occupancy violates applicable public laws, regulations or codes, or constitutes a nuisance to other single family groups within the quadruplex or other quadruplexes.

2. IMPROVEMENTS.

The Developers will improve the lots with the quadruplexes and the paving for the ingress, egress and parking described in this Declaration. No other improvements of any nature whatsoever shall be permitted upon any lot, except furniture and related equipment not permanently attached to the lot used for customary outdoor eating and cooking such as a picnic table or moveable charcoal or gas grille, except storage sheds permitted in accordance with the next paragraph.

3. STORAGE SHEDS AND FENCES.

No storage sheds shall be permitted on any lots except those previously approved in writing by the Developers or the Architectural Control Committee contemplated in other provisions of this Declaration, as to size and aesthetic and value harmony with the quadruplexes. No fences shall be constructed upon any lots except those previously approved in writing in the same manner as specified for storage sheds, and in no event for the entire boundary of any lot, so that the only fences contemplated to be permissible and approved by the Developers or the Architectural Control Committee will be those enclosing permitted storage sheds or other restricted areas on a lot.

4. RESIDING ONLY IN QUADRUPLIX.

All persons shall reside in the quadruplexes, and no person shall reside on a lot in any other structure, as for example, mobile homes, campers, travel trailers and the like.

5. AERIALS AND ANTENNAS.

No external aerial or antenna shall be affixed to any quadruplex for the transmission or reception of radio, television or other means of communication.

6. MAIL BOXES.

As a part of the design of each quadruplex, the Developer will provide areas for mail boxes. No other mail box or receptacle for delivery of any mail or other documents shall be maintained on any lot except customary receptacles provided by the publishers of newspapers for receipt of newspapers to be delivered to the premises.

7. NO OFFENSIVE ACTIVITIES.

No illegal, noxious or offensive activity shall be permitted or carried on on any part of any lot. Nothing shall be permitted or done any any lot which is or may become a nuisance.

8. RUBBISH, MAINTENANCE AND DISPOSAL.

No trash, garbage, rubbish, debris, refuse or other waste material, whether natural or manmade, shall be deposited or allowed to accumulate or remain on any lot, and all such matter shall be deposited in dumpsters maintained at the back of the parking areas, and in no event shall curbside trash pick-up be permitted.

9. RESIDENTIAL USE.

The lots shall be used only for residential purposes. No lot shall be used for commercial purposes, as for example, a day care center for children, even if such commercial uses would be now or hereafter permitted by applicable zoning.

10. PETS.

Only customarily domesticated animals such as dogs, cats, or birds shall be maintained on any lot. These pets shall be housed within the quadruplexes. Such animals shall not be bred for commercial purposes. The number or type of pets shall be restricted so as to not constitute a nuisance.

11. EXTERIOR MAINTENANCE AND HARMONY OF DESIGN.

The exterior of all quadruplexes shall be maintained to a level of quality so as to not impair the monetary and aesthetic value of the other quadruplexes.

In order to maintain the harmony of design, there shall

be no exterior structural changes in any of the quadruplexes.

Further, in order to maintain the harmony of the design, the exterior colors of the walls and trim of the quadruplexes shall be kept in their original colors.

12. SIGNS.

No sign of any type shall be placed on any lot or the exterior of any quadruplex, except for tasteful signs customarily employed for advertising of sales or leases. Any beneficiary of this Declaration shall have the right to enter upon any lot and summarily remove any sign that is in violation of this covenant.

13. LAWNS.

(See Page 8A attached).

All lawns and vegetation shall be maintained in a condition sufficient to not materially impair the aesthetic or monetary value of the quadruplexes, and to avoid substantial changes in off-flow of surface waters. Violations of this covenant shall give the Developers and/or the Architectural Control Committee the right to summarily effect lawn maintenance in accordance with other provisions of this Declaration.

14. ADDITIONAL RESTRICTIONS BY OWNERS.

No owner of any fee simple interest in any of the lots shall be entitled to add additional restrictions to this Declaration, except as elsewhere provided for in any amendment to this Declaration.

Each owner of a fee simple interest in any of the lots shall require any tenant within any quadruplex to comply with all of the terms and conditions of this Declaration, applicable public laws, regulations, ordinances and codes, and duties imposed upon tenants by Florida Statutes Chapter 83, the Florida Landlord and Tenant Act, as amended from time to time. Any owner of a fee simple interest who fails to require a tenant to comply with any of the foregoing shall be liable to the other owners who are benefited by this Declaration, and, as well, those other owners shall have standing to bring an action against the tenants for compliance, but only after the aggrieved owner has made a demand upon the allegedly defaulting owner to correct the improper conduct of the tenant, except in the case of

12A. In addition to the provisions for signs contained in paragraph 12 on page 8, this covenant shall also apply. Developers may, at their election, establish a format whereby a sign will be provided in one part of Block 2 of Cedar Bend indicating the availability of rental spaces, and individual signs for each quadruplex or single family unit shall be restricted to the window of the particular building or unit so as to protect the appearance of the development.

an emergency with the burden of proof of the emergency character falling upon the aggrieved owner bringing the action.

15. PRESENT RENTAL CHARACTER AND FUTURE CONDOMINIUM OR COOPERATIVE CONVERSION.

At the time of the making of this Declaration, the quadruplexes are being constructed and sold to the public as rental, residential properties. However, nothing in this Declaration is intended to prohibit any fee simple owner of a quadruplex from converting the quadruplex to a condominium or cooperative apartment under then applicable laws, rules and regulations, but such conversions shall not operate to mitigate or discharge any of the rights and duties created and imposed by this Declaration.

ARTICLE IV

EASEMENTS

1. DRAINAGE AND UTILITIES. In order to provide for apparently sufficient drainage of surface waters and in order to provide for utility services to the quadruplexes, the Developers have or will in the future, by the plat or by separate instruments, grant drainage and utility easements to public or private suppliers of drainage or utility services. The full and exclusive powers to provide such easements are reserved to the Developers.

2. IDENTIFICATION OF ADJOINING LOTS SHARING RIGHTS AND DUTIES FOR INGRESS, EGRESS AND PARKING.

On Schedule "A", attached hereto and incorporated by this reference, is a list of lots 1 through 8 and 29 through 36 of Block 2 of Cedar Bend grouped in order to show for the public record and the purposes of this Declaration, the adjoining lots which will share mutual rights and duties in connection with ingress and egress from the public right-of-ways into those lots and parking on those lots, which rights and duties will be created in the following provisions of this Article IV.

3. DECLARATION OF EASEMENTS FOR INGRESS, EGRESS AND PARKING.

Developer hereby declares, creates and imposes the following easements for ingress, egress and parking. These easements shall be binding upon and inure to the benefit of Developers, all parties claiming title to the lots by, through and under Developers, and the tenants and invitees described below. These easements shall be perpetual and shall run with the title to the lots, and shall be automatically transferred upon transfer of any portion of the fee simple title to a lot. These easements shall also be for the benefit of any mortgagee having an unpaid mortgage indebtedness secured by any interest in any of the lots, but such mortgagee shall have no further duties under this article unless and until it should become a fee simple owner by foreclosure sale or by deed in lieu of foreclosure.

4. BENEFICIARIES OF EASEMENTS.

Except as expressly restricted by the terms of this article, the beneficiaries of the easements created in this article are the following: the Developers; any fee simple owner of any of Lots 1 through 8 and 29 through 36 of Block 2, Cedar Bend; any tenant of any such owner; any social or business invitee of any such owner or any such tenant; and any mortgagee having an unpaid mortgage indebtedness secured by a mortgage against any of those lots; any provider of public or private services such as fire, police, drainage and utilities.

5. INGRESS, EGRESS AND PARKING. (TO INCLUDE PARKING ON AND OFF A LOT).

The rights and duties in connection with these easements for ingress, egress and parking, including parking on and off any lot shall be as follows:

- (a) The design concept employed by the Developers for ingress and egress from the public right-of-way abutting the adjoining lots described in Schedule A, and for parking on the adjoining lots described in Schedule A, is to provide a paved area that is approximately divided by the common line creating the side lot lines for each of the adjoining

lots. This paved area begins at the curb cut at the public right-of-way, extends back into the adjoining lots and is widened in order to provide for the parking areas.

- (b) Ingress and egress for vehicles from the public right-of-way into each of the two adjoining lots described in Schedule "A" shall be over each of the two adjoining lots in reasonable conformity with the design concept explicitly created by the paved surface as actually installed upon the adjoining lots.
- (d) Although there may be maintenance or repairs in the future to the portion of the paved surface providing ingress and egress from the abutting public right-of-way that may cause minor relocations of the area, at no time shall any action be taken which would substantially relocate the area for ingress and egress as originally installed by the Developers.
- (e) No act nor failure to act shall be taken that would cause an obstruction or impairment of the easement rights of ingress and egress from the abutting public right-of-way over the portion of the paved area so designed for ingress and egress.
- (f) The portion of the paved surface to be used for parking will be designed by Developers to accommodate 8 vehicles per quadruplex. Although the fee simple owner of each quadruplex shall have the right to allocate the number of parking spaces between their tenants or occupants, in no event shall the area on each adjoining lot designated for parking be used for parking more than 8 vehicles.
- (g) No owner, their tenant, or the business or social invitees of any owner or tenant shall park any vehicle on the paved area of parking other than that on their particular lot, unless they obtain the prior written consent of the fee simple owner of the adjoining lot and all of their tenants, but then only for temporary purposes and only to the extent

expressly provided for in the writing.

- (h) No vehicle shall be parked on the paved portion designated for parking that is substantially larger than a passenger vehicle. It is not possible to contemplate all of the types of permitted or prohibited vehicles. Therefore, the guiding principle shall be that there shall be no vehicle parked on such paved portion whose length is such as to impair the ability of vehicles to enter and leave parking areas either to the side or rear of that vehicle. Therefore, some types of campers or vans may be permitted while others may not depending upon the particular facts.
- (i) In addition to the ingress and egress easement rights created for ingress and egress from the abutting public right-of-way, there shall also be easement rights of ingress and egress over the adjoining lot for the purposes of vehicles entering and leaving parking spaces on their particular lot.
- (j) No vehicle shall at any time be parked on any portion of a lot except the paved area designated for parking. As well, no inoperative and/or unregistered vehicle shall be parked on any portion of any lot, including the paved area designated for parking, at any time.
- (k) No vehicle shall be parked on the public right-of-way for a period in excess of 4 hours or at any time if to do so would constitute a violation of a public law or would constitute a nuisance to or obstruction of the use of the public right-of-way by others.
- (l) Nothing in the foregoing shall be construed to prohibit parking in any appropriate place by public or private vehicles that is necessitated by an emergency, as for example, fire trucks, police vehicles, or those vehicles used by suppliers of utilities.
- (m) All public or private suppliers of services such as fire, police and utilities shall have an easement for ingress and egress over any portion of any lot to pro-

vide such services, as for example reading of utility meters, repair of utility lines and equipment, fire control and the like.

6. MAINTENANCE AND REPAIRS OF PAVED AREAS.

Because it would be extremely difficult to determine the apportionment between the adjoining lots described in Schedule "A" of the percentage of common use for ingress and egress over the portion of the paved surface utilized for ingress and egress from the abutting public right-of-ways, the Developers deem it more reasonable to impose the following duties of repair and maintenance. Each fee simple owner of each particular adjoining lot shall maintain and repair the entire paved surface lying upon their particular lot, whether such surface is designated and used for ingress, egress or parking. Such maintenance and repair shall be continuously performed so that at all times the paved surface lying upon the particular lot complies with all public and private laws and regulations, and so that the paved surface is always in a condition to allow reasonable ingress, egress and parking, as the case may be. Any such maintenance and repair by an owner shall be performed in a manner so as to maintain the inherent structural and design character of the whole paved area lying upon both of the adjoining lots.

7. REMEDIES FOR FAILURE TO MAINTAIN AND REPAIR.

If the fee simple owner of a particular adjoining lot described in Schedule "A" fails to make such maintenance and repairs of the paved surface lying upon their particular lot as required by the foregoing paragraph, so that ingress and egress or parking to the other adjoining lot is impaired, the aggrieved, adjoining fee simple owner shall have the following rights and remedies:

- (a) Except in the case of an emergency, the aggrieved, adjoining fee simple owner shall give written notice to the defaulting, adjoining owner of the necessary maintenance or repairs that ought to be made upon the lot of the adjoining, defaulting owner, together with a good faith estimate for the cost of those repairs or

maintenance. That notice shall be given by certified mail, return receipt requested, postage prepaid, addressed to the defaulting owner at their present mailing address, if known, or, if not known, to the last address shown on the records of the tax collector for Clay County, Florida. The defaulting owner shall have 30 days from the date of the mailing of that notice to commence the maintenance or repairs, and 60 days from the date of the mailing of that notice to complete the repairs. If the defaulting owner should fail to commence or to complete the maintenance or repairs within the foregoing prescribed times, the aggrieved, adjoining fee simple owners shall have the right to contract for and have performed or completed the necessary maintenance or repairs. For this purpose, the aggrieved adjoining owner shall act as agent of the defaulting, adjoining owner so that the contract for such maintenance or repairs shall be binding only upon the defaulting, adjoining owner. In the event that the aggrieved, adjoining owner is required to pay the maintenance and repair permitted under this provision, the aggrieved, adjoining owner shall be entitled to indemnification from the defaulting, adjoining owner, which right shall include all cost and a reasonable attorney's fee, including all levels of appellate litigation, incurred by the aggrieved, adjoining owner in defending the claim for payment of the maintenance and repairs and/or for enforcement of this agreement of indemnification.

- (b) In the case of an emergency, the burden of proof which shall be upon the aggrieved, adjoining owner, an aggrieved adjoining owner may proceed to effect maintenance or repairs without necessity of the foregoing required notice. In that event, the aggrieved, adjoining owner shall be entitled to all rights and remedies provided in the foregoing subparagraph.

- (c) The obligations properly imposed upon a defaulting, adjoining owner shall be personal, shall be joint and several where there are two or more defaulting, adjoining owners, and shall be binding upon their heirs or devisees and personal representative. Except in the case of the creation and enforcement of a lien in accordance with the following subparagraph, they shall not be an obligation running with the title to the lot nor shall they be binding upon any party claiming title under the defaulting owner without actual knowledge of any indebtedness imposed upon their predecessor in interest in accordance with the foregoing subparagraphs. They shall be entitled to rely upon an affidavit from their predecessor in interest that no such indebtedness exists and shall not be required to attempt to contact the adjoining fee simple owners to determine if any such indebtedness exists.
- (d) The rights created in favor of an aggrieved, adjoining owner, in accordance with the foregoing subparagraphs, may be secured and enforced against the lot owned by the adjoining, defaulting owner in the following manner. The use of this lien by an aggrieved, adjoining owner shall not constitute an election of remedy so that before, in conjunction with, or after the use and enforcement of this lien, an aggrieved, adjoining owner may in the same or by separate actions seek a personal judgment against the defaulting, adjoining owner for any losses, including cost and attorney's fees, including all levels of appellate litigation, not compensated for by creation and/or enforcement of this lien. This lien is binding upon any successor to a defaulting, adjoining owner who has actual knowledge of the indebtedness even though the lien has not yet been recorded. It is also binding upon any successor in interest, including any mortgagee or lien holder, who acquires their

interest after the time of recordation of this lien, whether or not such successor in interest had actual knowledge of the indebtedness.

The lien provided for in this subparagraph shall be made by the aggrieved, adjoining owner in much the same form as provided for a mechanic's lien under the Florida Mechanic's Lien Law, Chapter 713, Part 1, Florida Statutes (1981), so that the defaulting, adjoining owner and all other persons affected by the lien are given reasonable notice of the identity of the lot, the indebtedness that remains unpaid, and the identification and mailing address of the aggrieved, adjoining owner making the claim of lien. The claim of lien shall be acknowledged by the aggrieved, adjoining owner in substantially the same manner as provided by Florida law for other instruments to be recorded in the public records of Clay County, and shall be recorded in those public records. The claim of lien must be made and recorded within 180 days after the maintenance or repairs are incurred by the aggrieved, adjoining owner in accordance with the foregoing subparagraphs. After recordation, the aggrieved, adjoining owner shall have a statute of limitations of 365 days after the date of recordation to file a foreclosure action. The claim of lien shall be served upon the defaulting, adjoining owner in the same manner provided in subparagraph (a) for notice of demand to effect maintenance or repairs. A defaulting, adjoining owner shall have the right to restrict the time for foreclosure to 60 days by the mailing of a notice of contest of the claim of lien, which mailing must be in the same manner provided in subparagraph (a) above, to the address of the lien claimant shown in the claim of lien. As well, a defaulting, adjoining owner shall have the right to relieve their lot of the lien by affecting a transfer of lien to security in the same manner as provided for mechanic's liens in Florida Statutes Section 713.24 (1981). The foreclosure of a

lien shall be conducted in accordance with applicable procedural and substantive laws then applicable to foreclosures of mechanic's liens, or in the absence of such a statute, then applicable to foreclosures of mortgages.

- (e) In addition to any of the foregoing rights and remedies provided to an aggrieved, adjoining owner, any indebtedness shall bear interest from date incurred until payment in full at the per annum rate of 18%, or any higher lawfully permitted rate that might be imposed by contract by the party providing the labor or materials for the maintenance or repairs.
- (f) There is no intention in providing the foregoing express rights and remedies to preclude any other rights or remedies that may now or hereafter be provided by Florida law to an aggrieved, adjoining owner against a defaulting adjoining owner.

ARTICLE V

ADDITIONAL REMEDIES FOR DEVELOPERS AND APPOINTMENT OF ARCHITECTURAL CONTROL COMMITTEE

1. RESERVATION OF EXCLUSIVE POWERS TO DEVELOPERS.

In Article III, there are various covenants concerning approval of fences and storage sheds, performance of exterior maintenance on quadruplexes, and maintenance of lawns, which appear in paragraphs respectively numbered 3, 11 and 13. Until such time as the Developers have conveyed fee simple title to all of the lots in Block 2 of Cedar Bend, the approvals under those provisions and/or the enforcement of violation of those provisions shall rest solely with the Developers. When the Developers have conveyed fee simple title to all of the lots in all of Block 2 of Cedar Bend, their exclusive powers of approval and enforcement shall devolve to the Architectural Control Committee in accordance with the following paragraph of this Article. In the enforcement of those particular provisions of Article III, the Developers shall

be entitled to all rights and remedies provided in the provision of this Declaration for any violation hereof, including but not limited to the right to utilize the remedies for enforcement of maintenance and repair of paved areas for ingress and egress and parking as set forth in paragraph 7 of the foregoing Article IV; provided, however, in the case of lawn maintenance, the Developers shall have the right to restrict the notice time to seven (7) days. Nothing in this provision shall be construed to excuse the Developers from complying with the covenants set forth in Article III, but the conditions customarily created by construction shall not be deemed to be an event of default. If any other owner should have good reason to believe that the Developers are not in compliance with the covenants that are by this paragraph reserved solely to them for approval and enforcement during the foregoing stated time, it is a condition precedent to any action by any such owner that such owner give the Developers not less than 30 days prior written notice, which notice must be actually received by the Developers (receipt by one Developer shall be deemed receipt by both). The consideration for this provision is the protection of the Developers' economic interest in being able to complete construction and sales of the entire of Block 2 of Cedar Bend without impairment caused by conditions existing upon lots already conveyed by the Developers to other owners.

2. ARCHITECTURAL CONTROL COMMITTEE.

When the Developers have conveyed fee simple title to all of the lots in all of Block 2 of Cedar Bend, the foregoing exclusive rights and powers of the Developers shall automatically expire. However, nothing in the foregoing sentence shall be construed to limit the rights of the Developers to the enforcement of this Declaration should the Developers at that time or any time thereafter be a fee simple owner of any of the lots or a mortgagee for any of the lots. When the foregoing time is reached for the expiration of the exclusive rights and powers of the Developers,

the owners of all of the lots in all of Block 2 of Cedar Bend shall be entitled to elect an Architectural Control Committee in accordance with the rules provided in this paragraph. When elected, the Architectural Control Committee shall inherit all of the rights and powers reserved to the Developers in the first paragraph of this Article. However, any owner of a fee simple interest in any of the lots in Block 2 of Cedar Bend shall be entitled to enforce the duties of exterior maintenance for the quadruplexes and lawn care for the lots, including the utilization of the remedies provided in paragraph 7 of the foregoing Article IV, but only upon thirty (30) days prior written notice in the manner set forth in paragraph 7 of the foregoing Article to the defaulting owner, in the absence of an Architectural Control Committee, or upon thirty (30) days prior written notice in the manner set forth in paragraph 7 of the foregoing Article to the Architectural Control Committee, if it is in existence. The Architectural Control Committee shall consist of three (3) persons, who may or may not be fee simple owners or mortgagees for any of the lots in Block 2 of Cedar Bend. The Architectural Control Committee shall be elected by a simple majority of all fee simple owners of record of all of the lots of all of Block 2 of Cedar Bend. The Architectural Control Committee shall exist for successive terms of 365 days each following the date of their election, with the first term beginning the day the first committee is elected, and with incumbents having the right, if so elected, to serve for a successive term. A simple majority vote of the Architectural Control Committee shall prevail. In the event of a vacancy occurring in the Architectural Control Committee during a term, the remaining members shall be entitled to elect a successor to fill the vacancy until the next annual election by the owners. In any legal actions to prohibit installation of fences or sheds in violation of this Declaration or to enforce the duties of exterior maintenance and lawn maintenance, the action may be filed by any one of the three members of the Architectural Control Committee, but the complaint shall affirma-

tively state that a decision has been reached by a majority of the Architectural Control Committee in accordance with this paragraph of this Article, and the complaint shall be verified. The Architectural Control Committee shall not be liable for any court cost or any attorney's fees in any action brought in good faith where the Architectural Control Committee does not prevail. The Architectural Control Committee shall not be entitled to any compensation for their services unless agreed to by the owners in the same manner as required for election of the Architectural Control Committee.

3. COORDINATION OF THIS ARTICLE WITH OTHER RIGHTS AND REMEDIES.

Except as expressly provided above, nothing in this Article shall be deemed to limit or discharge the remedies in favor of any owner or mortgagee under any provision of this Declaration.

ARTICLE VI

GENERAL PROVISIONS

1. INTERPRETATION OF THIS DECLARATION.

This Declaration is divided into six Articles for convenience in reading, but in interpreting this Declaration it shall be read as a whole. In the event that a court of competent jurisdiction should determine that a provision of this Declaration is unenforceable, the remainder shall survive.

2. DURATION OF THIS DECLARATION AND AMENDMENTS OR RESCISSION.

Unless amended or rescinded in accordance with this paragraph, this Declaration shall remain in full force and effect for a period of 30 years following the date of recordation, and it shall be automatically extended for successive periods of 10 years. Until Developers have conveyed fee simple title to all lots in Block 2, Cedar Bend, this Declaration shall not be amended nor rescinded without the prior consent of Developers, and until such time the Developers shall have the exclusive power to consent to conditions they deem to be minor violations of this Declaration. After Developers have conveyed fee simple title to all lots in Block 2 of

Cedar Bend, this Declaration shall not be amended nor rescinded except upon the prior written consent (which written consent shall be recorded in the public records of Clay County, Florida) by not less than 75% of all fee simple title owners and mortgagees of record for those lots.

3. DEFAULTS, WAIVERS, APPLICABLE LAW AND REMEDIES.

Except as otherwise provided herein, if any person, whether or not a fee simple owner of Lots 1 through 8, and 29 through 36 of Block 2 of Cedar Bend, should violate or attempt to violate any of the provisions of this Declaration, Developers or any person owning a fee simple interest in any of those lots shall be entitled to bring an action to prevent the violation, to require its cessation, or for damages. It is the express intention of Developers that the remedies available in the event of any violations shall not be deemed to be limited by the foregoing language and shall be any remedy provided by the laws of the State of Florida, including but not limited to prohibitive or mandatory injunctions.

This Declaration shall be construed and enforced according to the laws of the State of Florida.

In the event of any action for enforcement of this Declaration or for damages for its violation, the prevailing party shall be entitled to recover all cost and a reasonable attorney's fee, including all levels of appellate litigation.

A waiver of a right, duty or default, whether in writing, orally or by conduct, shall not act to waive such right, duty or default at another time or any other right, duty or default at any time.

4. GOOD FAITH.

Because it is not possible to foresee all of the actions which ought to be taken or refrained from being taken in order to comply with the letter and spirit of this Declaration, it is expressly agreed that all parties bound or benefited by this Declaration shall employ good faith in their performance. "Good faith" shall mean at least honesty in fact in the conduction of the parti-

cular circumstances, and employment of commercially reasonable standards in the particular transaction.

5. CAPTIONS.

The use of titles or captions for various provisions of this Declaration are for convenience only and shall not be construed to alter or limit the substance of any provision.

Executed the day and year first above written.

Signed, sealed and delivered in the presence of:

DEVELOPERS THREE, INC.



[Signature]

By: [Signature]
Gerald R. Agresti
its President

[Signature]

Witnesses as to Developers Three, Inc.,

R. L. JOHNSON CONSTRUCTION CO.,

[Signature]

By: [Signature]
R. L. Johnson
its President

[Signature]

Witnesses as to R. L. Johnson Construction Co.,

FIDELITY FEDERAL SAVINGS AND LOAN ASSOCIATION OF JACKSONVILLE

[Signature]

By: [Signature]
its EX.V. President

Witnesses for Fidelity Federal Savings and Loan Association of Jacksonville

STATE OF FLORIDA)
COUNTY OF CLAY)

28th day of April, 1982, The foregoing instrument was acknowledged before me this day of April, 1982, by Gerald R. Agresti, as president of Developers Three, Inc., a Florida corporation, on behalf of the corporation.

[Signature]
Notary Public, State of Florida

My commission expires: 3/14/84

STATE OF FLORIDA)
COUNTY OF CLAY)

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⁴⁶
28 day of April, 1982, by R. L. Johnson, as president of
R. L. Johnson Construction Co., a Florida corporation, on behalf
of the corporation.

William Benedict
Notary Public, State of Florida

My commission expires: 3/14/84

STATE OF FLORIDA)
COUNTY OF DUVAL)

The foregoing instrument was acknowledged before me this
16th day of April, 1982, by Robert A. York
as Exec. Vicepresident of Fidelity Federal Savings and Loan Association
of Jacksonville, a corporation organized and existing under the laws
of the United States of America, on behalf of the corporation.

Marie E. Ford
Notary Public, State of Florida

My commission expires 7/7/83

NOTARY PUBLIC, STATE OF FLORIDA AT LARGE
MY COMMISSION EXPIRES JULY 7, 1983

SCHEDULE "A" TO DECLARATION
LIST OF ADJOINING LOTS SHARING
COMMON INGRESS, EGRESS AND PARKING

Lots 1 and 2

Lots 3 and 4

Lots 5 and 6

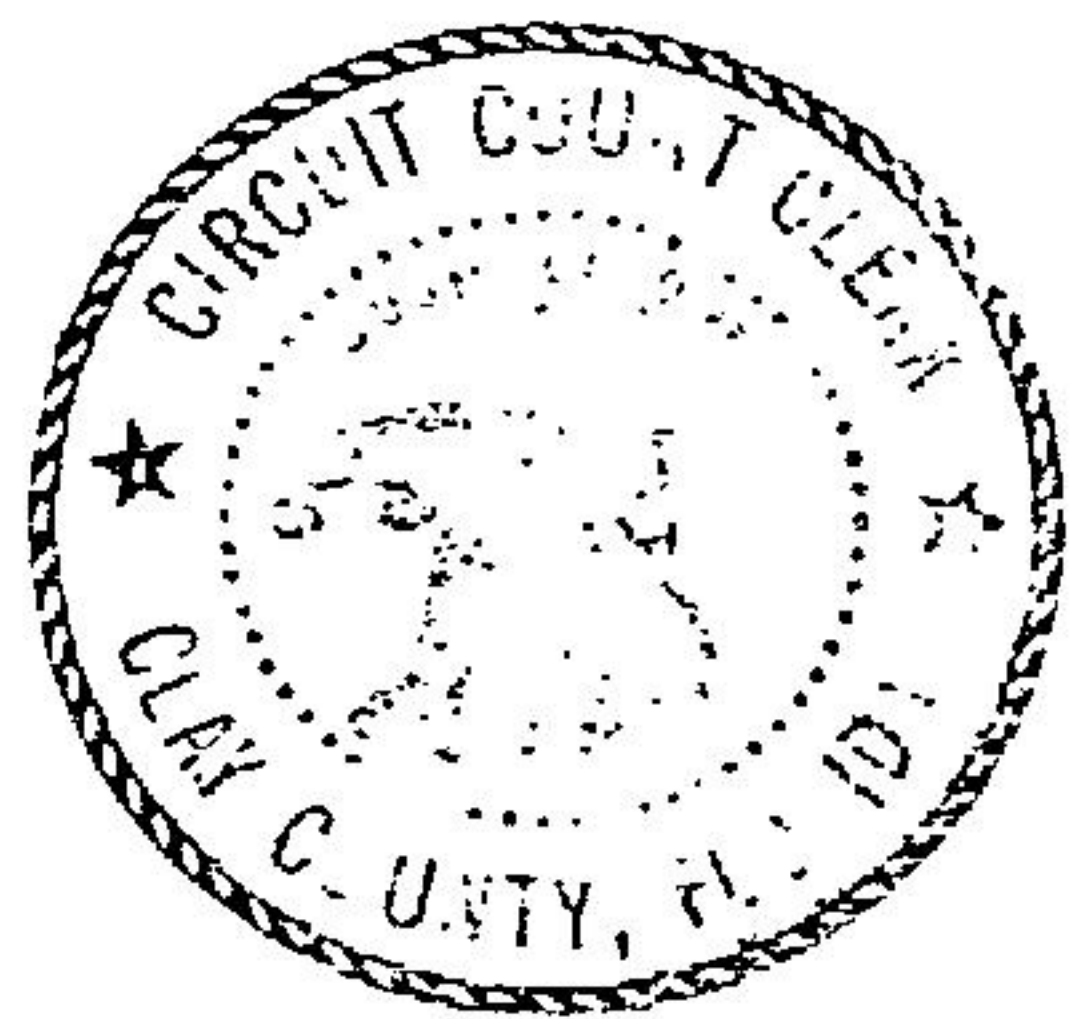
Lots 7 and 8

Lots 36 and 35

Lots 34 and 33

Lots 32 and 31

Lots 30 and 29



FILE NO. 82-04862
OFFICIAL RECORDS NO. 667
PAGE 182 RECEIVED

MAY 5 4 00 PM '82

FILED AND
RECORDED
Clay County Clerk
CLAY COUNTY CLERK