

1

Prepared by and return to:  
Marshwinds Development Group, L.C.  
V. Hawley Smith, Jr., Managing Member  
One San Jose Place, Suite 7  
Jacksonville, FL 32257

Doc# 2001077051  
Book: 9939  
Pages: 439 - 460  
Filed & Recorded  
04/06/2001 08:37:09 AM  
JIM FULLER  
CLERK CIRCUIT COURT  
DUVAL COUNTY  
TRUST FUND \$ 11.50  
RECORDING \$ 89.00

DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS  
AND RESTRICTIONS FOR  
MARSHWINDS

THIS DECLARATION, is made on the date hereinafter set forth by Marshwinds Development Group, L. C., a Florida limited liability company, hereinafter referred to as "Declarant." There are or may be other persons who hold fee simple title or liens against the Properties (as hereinafter defined), who shall not be Declarants, but who shall join the execution of this instrument now or hereinafter to subordinate their rights in the Properties to the force and effect of the terms hereof.

WITNESSETH

WHEREAS, Declarant is the owner in fee simple of all of the Lots described on the Plat of Marshwinds, according to Plat thereof recorded in Plat Book 54, Pages 8, 8A through 8H, of the current public records of Duval County, Florida;

NOW, THEREFORE, Declarant hereby states and declares that all of the real Properties described on the Plat of Marshwinds, according to Plat thereof recorded in Plat Book 54, Pages 8, 8A through 8H, of the current public records of Duval County, Florida shall be held, sold, conveyed and occupied subject to the following covenants, restrictions, conditions, and easements which easements shall be perpetual in duration unless otherwise provided, all of which are for the purpose of protecting the value and desirability of, and which shall run with the title to, said Lots and shall be binding upon all parties having any right, title or interest in said Properties or any part thereof, their heirs, personal representatives, successors and assigns, and which shall inure to the benefit of the Association and each Owner as those terms are hereinafter defined.

ARTICLE 1 - DEFINITIONS

Unless the context otherwise requires, the use herein of the singular shall include the plural and vice versa; the use of gender shall include all genders. This Declaration shall be liberally construed in favor of the parties seeking to enforce the provisions hereof to effectuate the purpose of protecting and enhancing the marketability and desirability of the Properties by providing a plan for the development, use and enjoyment thereof. The headings used herein are for indexing purposes only, and shall not be used as a means of interpreting or construing the substantive provisions hereof.

- Section 1. Architectural Review Committee. "Architectural Review Committee" is more particularly described in Article IV, Section 1 hereof.
- Section 2. Articles. "Articles" shall mean and refer to the Articles of Incorporation of the Association.
- Section 3. Association. "Association" shall mean and refer to Marshwinds Homeowners Association, Inc., a corporation not for profit, organized under the laws of the State of Florida, and its successors and assigns.
- Section 4. Board of Directors. "Board of Directors" shall mean and refer to the Association's Board of Directors.
- Section 5. Buffer Tract. "Buffer Tract" shall mean Tracts "A", "B", "C" and "D" along Alta Drive so designated on the Plat.
- Section 6. Builder. "Builder" shall mean and refer to any person or building contractor or construction company engaged in the business of constructing single family residential dwellings on the Properties.
- Section 7. Conservation Buffer. "Conservation Buffer" shall mean a permanent vegetative buffer twenty-five feet wide as shown on the Plat across Lots 8 through 17 and Lots 21 through 58 and uplands along the south of Tract "E" designated on the Plat as Conservation Buffer.
- Section 8. Declarant. "Declarant" shall mean and refer to Marshwinds Development Group, L. C., a Florida corporation, and its successors and assigns.

- Section 9. Declaration. "Declaration" shall mean and refer to this Declaration of Covenants, Conditions, Easements and Restrictions.
- Section 10. Drainage Berm. "Drainage Berm" shall mean any drainage berm constructed upon any of the Lots and located in the Conservation Buffer.
- Section 11. Drainage Swale. "Drainage Swale " shall mean any Drainage Swale constructed upon any of the Lots and located on the Plat in a drainage easement which Drainage Swale is for the purpose of directing and containing the flow of excess surface water, if any, upon such Lot.
- Section 12. Lake. "Lake" shall mean the stormwater detention areas labeled Lake/Stormwater Management Facilities Drainage Easement located on the Plat.
- Section 13. Landscaped Area. "Landscaped Area" shall mean and refer to those areas designated as Sign Easement on the Plat and those islands located within the right-of-way of Marshwinds Way, Donato Drive North, and Marsh Elder Drive South.
- Section 14. Lot. "Lot" shall mean and refer to any Lot shown upon the Plat and all other Lots shown on any future recorded re-plat of the Properties or any other lot created upon any real Property annexed to this Declaration or any part of this Declaration and brought within the jurisdiction of the Association; but not those lot areas lying north of Donato Drive North which will be subject solely to the Architectural Control Provisions in Article IV and the use restrictions of Article V of this Declaration.
- Section 15. Occupant. "Occupant" shall mean and refer to the person or persons other than the Owner in possession of a Lot and the residential dwelling thereon.
- Section 16. Owner. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.
- Section 17. Park. "Park" shall mean and refer to Lot 34 shown upon the Plat and designated as a park.
- Section 18. Passive Recreation Area. "Passive Recreation Area" shall mean and refer to Tract "E" shown upon the Plat.
- Section 19. Plat. "Plat" shall mean and refer to the Plat of Marshwinds, according to the Plat thereof recorded in Plat Book 54, Pages 8, 8A through 8H, of the current public records of Duval County, Florida, and any future recorded Plat of the Properties, as hereinafter defined.
- Section 20. Properties. "Properties" shall mean and refer to the Properties described on the Plat and such additional Properties that may hereafter be annexed to this Declaration or any part of this Declaration and brought within the jurisdiction of the Association.
- Section 21. Stormwater Management System. "Stormwater Management System" means a system which is designed and constructed or implemented to control discharges which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent flooding, overdrainage, environmental degradation, and water pollution or otherwise affect the quantity and quality or discharges from the system, as permitted pursuant to Chapters 40C-4, 40C-40, or 40C-42, F.A.C.
- Section 22. Perimeter Fence. "Perimeter Fence" shall mean and refer to fencing installed at the Declarant's direction along portions of the perimeter of the Properties (whether or not actually located on the Properties).

## ARTICLE II - MEMBERSHIP AND VOTING RIGHTS

- Section 1. Members. The Declarant, so long as it shall hold title to one Lot, and every other Owner of

a Lot shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership from any Lot.

- Section 2. Voting Rights. The Association shall have two classes of voting membership.
- Class A. Class A members shall be all Owners of Lots (with the exception of the Declarant until the Class B membership shall cease to exist at which time Declarant shall convert to Class A membership), and such Owners shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.
- Class B. The Class B members shall be the Declarant who shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:
- (a) When the total votes outstanding in the Class A membership equals or exceeds the total votes outstanding in the Class B membership or
  - (b) On December, 31, 2021.

- Section 3. Amplification. The performance of this Declaration may be amplified with the Articles and the Bylaws of the Association: provided, however, no such amplification shall substantially alter or amend any of the rights or obligations of the Owners set forth herein. In the event of a conflict among this Declaration, the Articles or the Bylaws of the Association, this Declaration shall control.

ARTICLE III  
COVENANT FOR MAINTENANCE  
ASSESSMENTS AND CAPITAL CONTRIBUTIONS

- Section 1. Creation of the Lien; Personal Obligation of Assessments and Capital Contributions. 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
- (2) charges for capital contributions
- (3) special assessments

Such annual and special assessments and capital contributions shall be established and collected as hereinafter provided. The annual and special assessments and capital contributions, together with interest, costs and reasonable attorneys' fees, shall be a charge on the Lot and shall be a continuing lien upon the Lot against which each assessment and charge for capital contribution is made. Each such assessment and charge for capital contribution, together with interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the party who is the Owner of such Properties at the time when the assessment or the charge for capital contribution falls due. In the event there is more than one Owner of any given Lot, all owners of such Lot shall be jointly and severally liable for the entire amount of such assessment and capital contribution. The personal obligation for delinquent assessments and charge for capital contributions shall not pass to a successor in title to the Lot unless expressly assumed by them; however, the continuing lien against any portion of the Properties shall not be extinguished or affected by a conveyance thereof, unless otherwise provided herein.

- Section 2. Purpose of Annual Assessments and Charge for Capital Contributions. The annual assessments levied by the Association and charge for capital contributions shall be used to enable the Association.

- (1) to provide for maintenance of the Stormwater Management System including maintenance and operation of all stormwater discharge facilities, stormwater retention and detention storage per plans, specifications and performance criteria as approved by permit from the St. Johns River Water Management District;

(2) To provide for all expenses of operating the Association, including without limitation, insurance expense, legal and accounting fees, payroll and general office operating expenses and to pay any and all other things necessary or desirable in the judgement of the Board of Directors.

(3) to own and maintain tracts, parks or parcels dedicated by the Plat;

(4) to maintain the Landscaped Area, signage, the Perimeter Fence, if any, and associated planting and irrigation thereof; to maintain the landscaping at the medians in Marsh Elder Drive, Marshwinds Way and Donato Drive, and to maintain any other common landscaped areas designated by the Board of Directors.

(6) to repay funds, together with the interest thereon, borrowed by the Association and used for the purposes referred to herein;

(7) to accumulate reasonable reserves for the foregoing purposes.

It shall not be necessary for the Board of Directors of the Association to allocate or apportion in a line-item budget the funds collected pursuant hereto or expenditures therefrom among the various purposes specified herein and the judgement of the Board of Directors and expenditure of the funds shall be final. The Board of Directors, in its discretion, may hold the funds invested or un-invested and may reserve such portion of the funds as the Board deems advisable for expenditures in the years following the year for which the assessment was made.

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 shall be \$275.00 per Lot.

(a) from and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than fifteen percent (15%) above the maximum assessment for the previous year without a vote of the membership as hereinafter provided.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above fifteen (15%) by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

(c) The Board of Directors may fix the annual assessment as of January annually at an amount not in excess of the maximum amount set forth herein without a vote of the membership.

(a) In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only. Special assessments may be levied for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of any part of the Stormwater Management System, together with any and all improvements located thereon maintained by the Association or for any other purposes proposed by the Board of Directors and assented to by the required two-thirds of the vote of the members, provided that any such assessment shall have the assent of two-thirds (2/3) of the vote of each class of members who are voting in person or by proxy at a meeting duly called for this purpose

(b) Special assessments may also be levied against any Owner of a Lot for expenses incurred as a result of enforcing any of the provisions of this Declaration. Such special assessments may be levied at any special or annual meeting of the Board of Directors of the Association.

(c) The due dates for any special assessments under this section shall be established by the Board of Directors.

Section 4. Notice and Quorum for Any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 and 4 shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cash sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the subsequent meeting shall be one-half (1/2)

of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

- Section 5. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for each Lot, and may be collected on a monthly, quarterly, semiannually, or annual basis as determined by the Board of Directors of the Association; provided, however, that special assessments may be levied non-uniformly against one or more Owners as provided in Section 3, subparagraph (b) hereof. Notwithstanding any provision that may be contained to the contrary in this instrument, for so long as Declarant is the Owner of any Lot, the Declarant shall not be liable for assessments against such Lot, provided that Declarant fund any deficit in the annual operating expenses of the Association. Declarant may, at any time, commence paying such assessments as to all Lots that it owns and thereby terminate its obligation to fund deficits in the annual operating expenses of the Association.
- Section 6. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the first Lot. Initial annual assessments shall be paid in advance and shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid.
- Section 7. Initial Capital Contributions - Due Date. The charge for initial capital contribution shall be One Hundred Fifty and no/100 (\$150.00) for the first conveyance of title to any Lot to any person other than Declarant or a Builder. The charge for such capital contributions shall be due and payable to the Association by the Owner of such Lot at the time of conveyance of title to a Lot to such Owner and such payment shall be accompanied by a copy of the deed evidencing such conveyance. Notwithstanding anything that may be contained to the contrary herein, this provision for capital contribution shall not apply to any person or entity that acquires title to a Lot as a result of foreclosure of a mortgage or any proceedings in lieu thereof, but upon the subsequent initial conveyance of such Lot by such builder or lender the capital contribution shall be due and payable as aforesaid.
- Section 8. Effect of Non-Payment of Assessments and Capital Contributions: Remedies of the Association. Any assessments or capital contributions not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of eighteen percent (18%) per annum or at the maximum legal rate, whichever is higher, but in no event to exceed the maximum rate of interest allowed by law from time to time in effect. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the Properties. No Owner may waive or otherwise escape personal liability for the assessments or capital contributions provided for herein by abandonment or conveyance of his Lot.
- Section 9. Subordination of the Lien to Mortgages. The lien of the assessments and charge for capital contributions provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any lot pursuant to foreclosure or any proceeding in lieu thereof related to any first mortgage, shall extinguish the lien of such assessments and lien for capital contributions as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments or charge for capital contributions thereafter becoming due (including costs related to the enforcement thereof) or from the lien thereof.
- Section 10. Exempt Properties. All properties dedicated to and accepted by a local public authority or private utility provider and all properties owned by a charitable or nonprofit organization exempt from taxation by the laws of the State of Florida shall be exempt from the assessments and charge for capital contributions created herein, except however that no land or improvements devoted to dwelling use shall be exempt from the assessments and charge

for capital contributions created herein (except as described in Section 6 of this Article.)

**ARTICLE IV - ARCHITECTURAL CONTROL**

Section 1. **Architectural Review Committee.** The Declarant shall initially appoint, and thereafter the Association shall maintain, a standing committee identified, as the Architectural Review Committee, (The "A.R.C.") composed of three (3) or more persons who need not be Owners. In the absence of specific action appointing members of the A.R.C., the Board of Directors shall be the committee members. The Declarant shall retain the right to appoint the A.R.C. members until the first to occur of (a) 60 days from the sale by Declarant of all the Lots in the Properties or (b) ten (10) years from the date of this Declaration. Any references herein to architectural approval by the Association shall be deemed to require the approval of the A.R.C. No member of the committee shall be entitled to compensation for services performed.

Section 2. **A.R.C. Authority.** Unless the Declarant is designated by this Declaration to regulate a particular item, the A.R.C. has full authority to regulate the use and appearance of the exterior of the Properties (including without limitation any fencing) to:

- (a) assure harmony of external designs and location in relation to surrounding buildings and topography;
- (b) protect and conserve the value and desirability of the Properties as a single family residential community;
- (c) maintain, to the extent reasonably practical, the exterior design, appearance, and landscaping of the improvements located on the Properties in substantially the same appearance and condition as existed at the completion of construction of the improvements, subject to normal wear and tear that cannot be avoided by normal maintenance; and
- (d) maintain compatibility of external appearance among the improvements located on the Properties. The power to regulate includes the power to prohibit, and require the removal of (when constructed without the A.R.C. approval) those exterior appearances, uses, or activities inconsistent with the provisions of this Declaration, or contrary to the best interest of other Owners in maintaining the value and desirability of the Properties as a single family residential community. The A.R.C. may adopt, rescind and amend reasonable rules and regulations in connection with the foregoing; provided, however, such rules and regulation:
  - (i) shall be consistent with the provisions of this Declaration; and
  - (ii) if the Board of Directors has not constituted itself as the A.R.C., shall have been approved by the Board of Directors before taking this effect.

Architectural Policies and Procedures have been adopted, a copy of which has been attached. Policies and Procedures are necessarily flexible to allow for changing conditions, unforeseen circumstances, or consensus among Owners, and therefore may be amended from time to time by the A.R.C., so long as requirements and responsibilities established by the Policies and Procedures are consistently applied in a nondiscriminatory manner to all Owners. Violations of the committee's rules and regulations shall be enforced by the Board of Directors in the name of the Association.

Section 3. **A.R.C. Approval.** Except for all construction relating to the initial development of the Properties by Declarant and items installed by Declarant as part of such development, the A.R.C.'s prior approval is required for any and all construction, changes (including color changes), alterations, additions, reconstruction, or improvements of any nature whatsoever on any Lot or to the exterior of any improvements within the Properties unless any structure, use or activity is expressly permitted by the A.R.C.'s promulgated rules and regulations, from time to time in effect.

Section 4. **Construction of Improvements.** No building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties; nor shall any exterior addition, change or alteration of any structure be made; nor shall any radio, television aerial or antenna, satellite dish, or other exterior electronic or electrical equipment or device be installed on the Properties; nor shall any mailbox, newspaper box or other receptacle of any kind for use in the delivery of mail, newspapers, magazines or similar materials be installed

or located on the Properties until the plans and specifications showing the nature, kind, shape, height and materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association or by the A.R.C.

Section 5. Land Use and Building Type. Unless approval in writing is given by Declarant prior to the cessation of Declarant's Class B membership in the Association, except the Lot dedicated on the Plat for use by the Association and Owners as a park, and except as authorized by this Declaration,

(a) no Lot shall be used except for residential purposes and for associated purposes such as for easements and for storm drainage;

(b) no building shall be erected, altered, placed or permitted to remain on any Lot other than one detached single-family dwelling not to exceed thirty-five (35) feet in height and a private garage for not less than two cars; and

(c) no building situate on any Lot shall be rented or leased separately from the rental of the entire Lot; No sheds, carports, or auxiliary structures shall be permitted to exist on any Lot except as approved by the A.R.C.

The provisions hereof shall not be construed to prohibit the Declarant or any Builder authorized by Declarant from utilizing any residential dwelling for a model home or sales office.

Section 6. Motorist's Vision to Remain Unobstructed. No fence, wall, hedge, shrub, bush, tree or other things, natural or artificial, may be placed or located or maintained on any Lot if the location of same will, in the sole judgement and opinion of the A.R.C., unreasonably obstruct the vision of the motorist upon roadways.

Section 7. Minimum Square Footage for Any Principal Residence. No residence which is the principal residence on a Lot shall be erected or allowed to remain on any Lot unless the square footage of heated living area thereof, exclusive of porches, garages and storage rooms, shall equal or exceed 1,200 square feet for lots that are 60 feet wide at the building restriction line or 1,500 square feet for all other lots.

Section 8. Set Back for All Structures. Unless otherwise approved by the A.R.C. in writing or herein provided for, no residential dwelling or other structures shall be located on any Lot nearer than twenty (20) feet to the front Lot line (except in the case of a corner lot where a front set back of twenty (20) feet shall be provided on the roadway faced by the residence and a setback of at least ten (10) feet on the roadway not faced by the residence), nor nearer than ten (10) feet to the rear Lot line, nor nearer than five (5) feet to any side Lot line, and in the case of a Lot on a cul-de-sac, a front setback of twenty (20) shall be applicable (measured at right angles to a straight line joining the foremost points of the side Lot lines), a setback of ten (10) feet to the rear Lot line and five (5) feet to the side Lot line. The Board of Directors shall have the right to approve a modification of front and rear yard setbacks in order to save protected or notable, non-protected trees, provided said modification shall be in accordance with an approved administrative deviation under the PUD zoning.

Section 9. Other Structures. Any equipment, including without limitation any air conditioning equipment, water softener, or similar equipment, located outside the rear yard of any residence on a Lot shall be enclosed so that such equipment shall not be visible from any contiguous street or Lot. The material and design of such enclosure shall be subject to the written approval of the A.R.C. No other improvements or structure, whether attached or detached, shall be erected or placed on any Lot without the prior written consent of the A.R.C.

Section 10. Landscaping. In connection with the construction of improvements on any Lot, complete landscaping plans must be approved in advance in writing by the A.R.C., together with the plans and specifications for construction of improvements as described in Section 3 of this Article. No living trees greater than six (6) inches in diameter measured four (4) feet above the natural surface of the ground may be removed without the written approval of the A.R.C. Any person removing trees in violation of this covenant shall pay to the Association a stipulated liquidated damage sum of \$2,000.00 per tree. The A.R.C. shall give 14 days notice in advance of collecting the liquidated damage fee. Any person so noticed shall have the

right to a hearing before a committee of at least three members appointed by the Board of Directors who are not officers, directors, or employees of the Association, or the spouse, parent, child, brother or sister of an officer, director or employee. If the committee, by majority vote, does not approve the proposed liquidated damages, they shall not be imposed. In the event that an Owner deems it necessary to remove a tree because it is dead, damaged, or the failure to remove it could result in significant injury or damage to person or Properties, such Owner shall obtain written permission from the A.R.C. If the A.R.C. should fail to agree with the Owner's request, then such Owner shall obtain from a qualified landscape architect; tree surgeon, or removal specialist, a statement that the tree is in fact dead, damaged, or has the potential to cause injury, which statement must be accepted and approved by the A.R.C. prior to the tree's removal. No hedges or hedge-like grouping of plants exceeding six feet in height shall be permitted without the written approval of the A.R.C.. No artificial vegetation shall be placed or maintained on any Lot. No weeds, underbrush, or other unsightly vegetation shall be permitted to grow or remain on any Lot. Natural areas as part of an overall landscaping plan must be approved by the A.R.C.. No grading, filling, or other alteration of any Lot shall be undertaken at any time without the prior written approval of the ARC. ( The provisions of this Section 10 shall not be binding upon the Declarant).

- Section 11. No Overhead Wires. All telephone, electric and other utility lines and connections between the main utilities lines and the residence and other buildings located on each Lot shall be concealed and located underground so as not to be visible. Electric service is provided by the Jacksonville Electric Authority, through underground primary service lines running to transformers. The Declarant has provided underground conduits to serve each Lot extending from the applicable transformer to a point at or near a Lot line, and such conduit from the transformer to each Lot shall be become and remain the Properties of the Owner of the Lot. Each Lot Owner requiring original or additional electric service shall be responsible to complete at his expense the secondary electric service conduits, wires (including those wires in the conduit provided by the Declarant), conductors and other electric facilities from the point of the applicable transformer to the residence or other building on the Lot, and all of the same shall be and remain the Properties of the Owner of each Lot. The Owner, from time to time, of each Lot shall be responsible for all maintenance, operation, safety, repair and replacement of the entire secondary electrical system extending from the applicable transferor to the residence, building, or other improvements on his Lot.
- Section 12. Completion of Commenced Construction. When the construction of any approved building is once begun, work thereon shall be prosecuted diligently and continuously until the full completion Thereof. The main residence and all related structures shown on the plans and specifications approved under Article IV hereof must be completed within fourteen (14) months after the start unless such completion is rendered impossible as the direct result of strikes, fires, national emergencies or natural calamities. At the commencement of construction on any Lot, all vehicles involved in such construction, including those delivering materials and supplies (except those trucks large or heavy enough to damage said driveways) shall enter upon such Lot from the street only at the driveway. Such vehicles shall not be parked at any time on the street or upon Properties other that the Lot on which the construction is proceeding. The owner of any Lot during construction shall be personally liable to repair any and all damage to curbs, gutters, driveways, sidewalks, and pavement within the subdivision caused or occasioned by such construction and all such damage shall be repaired as soon as practicable but no later than within ten (10) days after such damage. Upon the failure of such Owner to timely repair such damage the A.R.C.. may cause such repairs to be made under and resort to the remedies provided by Article VII hereof.
- Section 13. Fences and Outbuildings. No hedges, fences, walls, outbuildings, storage sheds, or similar structures may be erected on a Lot, unless and until the location, quality, style, color, and design have been first approved in writing by the A.R.C.. In general, fences, walls, and hedges shall be permitted only from the edge of the front wall of the dwelling to the rear Properties line of such Lot, except that A.R.C. approval shall not be required for reconstruction, maintenance, and repair of any wall lying within the Landscaped Area or the Perimeter Fence, if any. The A.R.C. shall grant approval for fences, walls, and hedges only when necessary or practical in the opinion of the A.R.C., or to provide privacy from streets,

parking lots, driveways, and other areas. No fence, wall, or hedge may exceed six (6) feet in height above the natural grade of a Lot except by written approval of the A.R.C. No chain link, barbed wire, or other forms of wire fences will be permitted on Lots or Landscaped Areas. All fences must be constructed of materials and in a manner consistent with designs established by the A.R.C., and all fences must be maintained to preserve an attractive appearance from the exterior of each Lot as determined in the sole discretion of the A.R.C. The Perimeter Fence, if any, shall be deemed approved by the A.R.C.

Section 14. Driveways.

(a) Each owner of a single family residence upon a Lot shall construct, or cause to be constructed at his expense prior to occupancy of any such residence, a driveway extending from the paved portion of the abutting street to the garage entrance accompanying such residence. No ribbon or strip driveways shall be constructed out of concrete unless the written approval of the A.R.C. is first obtained. Driveways shall be wide enough to accommodate two automobiles parked side-by-side.

Section 15. Drainage Swale, Drainage Berm, Drainage Easements and Storm/Surface Water Management.

Developer has constructed upon some of the Lots located within the platted portion of the Properties a Drainage Swale or a Drainage Berm for the purpose of managing and containing the flow of excess surface water, if any, found upon a Lot from time to time. Each Owner of a Lot, encumbered by a drainage easement, including any builder, agrees to maintain such Drainage Swale or Drainage Berm. No alteration to such Drainage Swale or Drainage Berm shall be permitted and any damage to any Drainage Swale or Drainage Berm, whether caused by natural or manmade phenomenon, shall be repaired and the Drainage Swale or Drainage Berm returned to its former condition as soon as possible by the Owner(s) of the Lot(s) upon which the Drainage Swale or Drainage Berm is located. Developer has granted drainage easements upon portions of Lots located within the platted portion of the Properties, for the purpose of draining the flow of excess surface water, if any, found upon a Lot from time to time. Each Owner of a Lot encumbered with a drainage easement, including any builder, agrees not to disturb areas encumbered by drainage easements and to maintain said encumbered areas in accordance with the Neighborhood Grading and Drainage Plan approved by City of Jacksonville, a copy of which is on file with the Association. Any damage to the drainage easements, whether caused by natural or manmade phenomena, shall be repaired and the drainage easements returned to their former condition as soon as possible by the Owner(s) of the Lot(s) upon which the drainage easements are located. The St. Johns River Water Management District has jurisdiction over this subdivision and has issued Stormwater Discharge Permit # 40-031-65267-1 authorizing construction and operation of a storm and/or surface water management system to serve the subdivision. No alteration to any part of the aforementioned system, including but not limited to, lakes, swales and pipes, will be allowed without the written consent of Declarant and the St. Johns River Water Management District. All clearing, grading and other construction activities must comply with the terms and conditions of the said permit.

Section 16. Lakes. It shall be the responsibility of the Marshwinds Homeowners Association, Inc., to maintain the Lakes as part of the Stormwater Management System permitted by the St. Johns River Water Management District under Permit Number 40-031-65267-1

Section 17. Applications. All applications to the A.R.C. must be in writing and accompanied by detailed and complete plans and specifications. If the A.R.C. does not approve or disapprove any application in writing within forty-five (45) days after receipt thereof, the A.R.C.'s approval will be deemed given as to all applications not prima facie in violation of the terms of this Declaration. In all other events, the A.R.C.'s approval must be in writing.

Section 18. Inspection. The A.R.C. or its designate shall inspect the construction after completion to assure a compliance with approved plans and specifications and shall issue a certificate of compliance, then it shall report to the board of Directors of the A.R.C. specifying the matters of noncompliance. The Board of Directors shall consider the matters of noncompliance and shall afford the affected Owner or his representative an opportunity to be heard regarding such matters following reasonable notice of the meeting at which these matters will

considered. The Board of Directors shall thereafter issue a directive excusing the noncompliance or requiring the Owner to correct the noncompliance items.

- Section 19. Limited Liability. In connection with all reviews, acceptances, inspections, permissions, consents, or required approvals by or from the Declarant or the Association, neither the Declarant, the A.R.C. members, the Board of Directors of the A.R.C., nor the Association shall be liable to an Owner or to any other person on account of any claim, liability, damage, or expense suffered or incurred by or threatened against an Owner or such other person and arising out of or in any way related to the subject matter of any such reviews, inspections, consents, or required approval whether given, granted, or withheld.

ARTICLE V - USE RESTRICTIONS

- Section 1. Parking of Wheeled Vehicles, Boats, Etc. Wheeled vehicles (excluding automobiles and vans bearing no commercial signs) of any kind, including but not limited to, camper trailers, recreational vehicles, motor homes, mobile homes, boat trailers, boats, motorcycles, or any other objects shall be kept or parked only in the rear yards of any Lot. However, any such vehicle or objects may be kept on the side yards

(i) if the vehicle is completely inside a garage attached to the main residential dwelling, provided the garage door is closed except for entry and exit or

(ii) if the vehicle is totally screened by a privacy fence approved by the A.R.C.

No vehicle of any kind may be parked or permitted to remain on the grassed area of any Lot. Repairs of wheeled vehicles of any kind, boats and boat trailers, etc., outside of a closed garage or fenced rear yard, is prohibited. Nothing contained herein shall be construed to prevent any Builder, subcontractor or supplier to park trucks or other commercial vehicles of any kind on any Lot or street during the course of development of the Properties or construction or reconstruction of a residential dwelling.

- Section 2. Residing only in Residence. No basement, garage or any outbuilding of any kind, even if otherwise permitted hereunder to be or remain on a Lot, shall be at any time used as a residence either temporarily or permanently, except that a construction trailer may be used for office purposes during the period of construction of the residences.

- Section 4. Pets. No animals except common domestic household pets within the normal meaning and interpretation of such words may be kept, maintained or cared for on any Lot. In no event may more than two dogs or two cats or four birds or four rabbits be kept on a single Lot for the pleasure and use of the occupants. No animals shall be kept for any commercial or breeding use of purpose. If any animal becomes dangerous or an annoyance or nuisance in the neighborhood or to nearby Properties or destructive of wildlife, such animal may not thereafter be kept on the Lot. In no event shall any pet be allowed to make an unreasonable amount of noise or to run at large. Birds and rabbits shall be kept caged at all times.

- Section 5. Upkeep and Maintenance of Dwelling and Lots. No Lot Owner shall allow any unclean, unsightly or unkempt conditions of buildings or grounds of any Lot which shall tend to decrease or adversely affect the aesthetic appearance of the development.

- Section 6. No Offensive Activities. No illegal, noxious or offensive activity shall be permitted or carried on any part of any Lot, nor shall anything be permitted or done thereon which is or may become a nuisance or annoyance to the neighborhood. No trash, garbage, rubbish, debris, waste material or other refuse shall be permitted to be on any part of any Lot or road right-of-ways. All garbage shall be kept in covered receptacles in places on the Lots as determined and approved by the A.R.C.. No garbage receptacle shall be placed on the roadsides of the Properties for collection earlier than the morning of collection and all garbage receptacles must be promptly removed from public view after garbage collection but in no event later than sundown on the day of collection. No clothing or any other household fabrics shall be hung in the open on any portion of any Lot.

- Section 7. Windows, Air-Conditioning Units and Fans. No window air-conditioning units, water to air heat pumps, or other air conditioning devices resulting in water discharge (except condensate water), window fans, or exhaust fans shall be installed or permitted to remain on any residential dwelling constructed on any Lot.
- Section 8. Window Coverings. No plastic, foil or similar material shall be permitted on any window of a residential dwelling constructed on any Lot.
- Section 9. Well Limitation, Water Service and Sewer Disposal. The Jacksonville Electric Authority ("JEA"), or its successors has the sole and exclusive right to provide all water and sewage facilities and service to the Properties described herein. Irrigation wells may be dug or drilled on any of the Lots to provide water for use upon the Lot; however, no piped in water shall be used within any structure built upon a Lot except potable water which is obtained from JEA, or its successors or assigns. All sewage from any building must be disposed of through the sewage lines owned or controlled by JEA, or its successors or assigns. No water from air-conditioning systems, ice machines, swimming pools, or any other forms of condensate water shall be disposed of through the lines of the sewer system.
- Section 10. Water and Sewage Regulations. All Lots and the dwellings thereon are subject to all rules and regulations relative to water and sewage rates, usage, rights, privileges and obligations regarding such service as may be adopted from time to time by JEA, it sucesors and assigns, and the City of Jacksonville.
- Section 11. Vegetative Natural Buffer. There shall be set aside a permanent vegetative buffer ("Conservation Buffer") twenty-five feet wide, over that portion of the Properties shown on the Plat as Conservation Buffer. This Conservation Buffer extends across Lots 8 – 17, and across Lots 21 – 58. The Conservation Buffer is part of the surface water management system permitted by the St. Johns River Water Management District. The purpose of this Conservation Buffer is to detain and treat stormwater prior to drainage offsite; therefore, the area must be maintained with a dense vegetative cover. Filling and placement of impervious surface (other than fenceposts) are prohibited within the Conservation Buffer.
- Section 12. Park. Subject to the provisions of this Declaration, rules and regulations of the Association adopted by the Board of Directors from time to time, and any fees or charges established by the Association, every Owner, their families and every guest or invitee of such Owner shall have a right and easement of enjoyment in and to the Park. The Board of Directors shall have the right to deny use of the Park to any person who, in the opinion of the Board of Directors, may create or participate in a disturbance or nuisance. No Owner, without the express written consent of the Board of Directors, shall be permitted to construct any improvement permanently or temporarily on, over or through the Park. No activity shall be permitted in the Park that may become an annoyance or nuisance, as determined by the Association, to the adjacent property Owners. The Board of Directors shall be entitled to establish, amend or modify rules and regulations governing the use of the Park.

**ARTICLE VI - EASEMENTS**

- Section 1. (a) The Declarant hereby reserves for itself, its successors and assigns, including without limitation the Association, a nonexclusive, perpetual and alienable easement privilege and right on, over and under the easements, if any shown on the Plat of Marshwinds to erect, maintain and use electric and telephone wires, cables, conduits, water mains, drainage lines or drainage and sewage disposal purposes or for the installation, maintenance, transmission and use of electricity, gas, telephone, lighting, water, drainage, sewage and other conveniences or utilities (whether such easements are shown on said Plat to be for drainage, utilities or other purposes). No Owner shall have the right to diminish, remove, augment, or enhance any decorative planting within any easement areas without the consent of the A.R.C. having been first obtained. Such decorative plantings shall be maintained by the A.R.C. Declarant may at any time transfer its easement right and all the rights and obligations under this paragraph to the A.R.C. then upon such transfer Declarant shall be released from all maintenance obligations, if any, which may exist hereunder. The Owners of the Lots subject to the privileges, rights and easement referred to in this paragraph shall acquire no right, title

or interest in or to any wires, cables, conduits, pipes, mains lines, landscaping lighting, or other equipment or facilities placed on, over or under the Properties which is subject to said privileges, rights and easements.

(b) Within the aforesaid mentioned easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities or which may change, obstruct or retard the direction or flow of water through drainage channels in the easements. The easement area of each Lot and all improvements in it shall be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority, the utility company or the Association is responsible.

- Section 2. Easements for vehicular and pedestrian ingress and egress and for the installation, operation and maintenance of utilities and drainage facilities are reserved in, under, over and through all streets, roads, drives, courts, lanes, ways and rights-of-way on the aforesaid recorded Plat. These easements shall be terminable in whole or in part by a local public authority or utility of the applicable easement area.

#### ARTICLE VII - MAINTENANCE BY ASSOCIATION

- Section 1. In the event any Owner shall fail to or refuse to perform any maintenance required hereunder, the board of Directors of the Association may serve written notice upon such Owner demanding that such Owner perform the maintenance required hereunder within fifteen (15) days after date of notice thereof by certified mail, postage prepaid to such Owner's address as shown by the records of the Properties Appraiser of Duval County, Florida. If, after the expiration of such fifteen (15) day period, such Owner has failed or refused to comply with the demands stated in the written notice, then the Association may cause such maintenance to be made, and the Association shall be entitled to levy a special assessment against the Owner of such Lot for the cost of such maintenance. Such assessment shall in every respect constitute a lien as any other assessment levied by the Association and shall also be the personal obligation of the Owner of such Lot.
- Section 2. The Association shall have the duty and obligation to provide for maintenance and operation of all stormwater discharge facilities, stormwater retention and detention storage per plans, specifications and performance criteria as approved by permit from the St. Johns River Water Management District. The Association shall be responsible for the maintenance operation and repair of the stormwater management system(s). Maintenance of the stormwater management system(s) shall mean the exercise of practices that allow the systems to provide drainage water storage, conveyance or other stormwater management capabilities as permitted by the Duval River Management District. The Association shall be responsible for such maintenance and operation. Any repair or reconstruction of the stormwater management system shall be as permitted, or if modified as approved by the St. Johns River Water Management District.
- Section 3. The Association shall have the duty and obligation to provide for maintenance of the Landscaped Area, the Park, the Perimeter Fence, if any, the medians on Marsh Elder Drive, Marshwinds Way and Donato Drive, and associated planting and irrigation therefor.
- Section 4. Access for Maintenance. Declarant, Association, their authorized agents and assigns are hereby granted a perpetual easement for ingress and egress over the park and over any Lot located in Marshwinds for the purpose of inspecting and performing maintenance in accordance with the terms of this Declaration or performing any maintenance as required under Section 1 hereof, in the event the Owner of such Lot shall fail or refuse to perform such maintenance.

#### ARTICLE VIII - GENERAL PROVISIONS

- Section 1. Association May Correct Violations. Wherever there shall have been built or there shall exist on any Lot any structures, building, thing or condition which is in violation of any provision of this Declaration, the Association shall have the right, but no obligation after ten (10) days written notice has been given to the Lot Owner of such violation, to enter upon the Properties

where such violation exists summarily to abate, correct or remove the same, all at the expense of the Owner of such Properties, which expense shall be payable by such Owner to the Association, on demand and such entry and abatement correction or removal shall not be deemed a trespass or make the Association liable in any way for any damages or account thereof.

- Section 2. Approval of Declarant. Wherever in this Declaration the consent or Approval of the Declarant is required to be obtained, no action requiring such consent or approval shall be commenced or undertaken until after a request in writing seeking the same has been submitted to and approved in writing by the Declarant. Such request shall be sent to the Declarant by Registered Mail with return receipt requested. In the event that the Declarant fails to act on any such written request within thirty (30) days after the same has been submitted as required above, the consent or approval of the Declarant to the particular action sought in such written request shall be presumed- however, no action shall be taken by or on behalf of the person or persons submitting such written request if the request violates any of the provisions in this Declaration.
- Section 3. Declarant May Designate A Substitute. The Declarant shall have the sole and exclusive right at any time, from time to time, to transfer and assign to, and to withdraw from, such person, firm or corporation as it shall elect, any or all rights, powers, privileges, authorities and reservations given to or reserved by the Declarants by any part or paragraph of this Declaration or under the provisions of said Plat. If at any time hereafter there shall be no person, firm or corporation entitled to exercise the rights, powers, privileges authorities the reservations given to or reserved by the Declarant under the provisions hereof, the same shall be vested in and be exercised by the A.R.C.. Nothing herein contained, however, shall be construed as conferring any right powers, privileges, authorities or reservations in the A.R.C.. except in the event aforesaid.
- Section 4. Amendments - Releases by Declarant. The Declarant reserves and shall have the sole right
- (a) to amend this Declaration, providing any amendment that alters any provision relating to the surface water or stormwater management system, beyond maintenance in its original condition, including the water management portions of the common areas, must have the prior approval of the St. Johns River Water Management District;
  - (b) to include in any contract or deed or other instrument hereafter made any additional covenants, restrictions, and easements applicable to a particular Lot, provided, however, that any amendments or additions to this Declaration shall conform to the general purposes and standards of the provisions herein contained, and
  - (c) to release any Lot from any of the provisions of this Declaration which have been violated (including without limiting the foregoing, violations of building restriction lines, setback lines and provisions hereof relating thereto) if the Declarant, in its sole judgement determines such violations to be minor and insubstantial.
- Section 5. Amendment with Consent of Owner and Effective Period. In addition to the rights of Declarant as set forth in Section 4 above, this Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the Lot Owners and by Declarant until the Class B membership of the Declarant in the Association shall cease, and thereafter by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners. Any amendment must be recorded. Any amendment that alters any provision relating to the surface water or stormwater management system, beyond maintenance in its original condition, including the water management portions of the common areas, must have the prior approval of the St. Johns River Water Management district.
- Section 6. Legal Action on Violation. If any person, corporation or other entity shall violate or attempt to violate any of the provisions of this Declaration, it shall be lawful for the Declarant, the Association or Owner to

(a) prosecute proceedings at law for the recovery of damages against those so violating or attempting to violate the provisions of this Declaration; and

(b) prosecute proceedings in equity for the purpose of preventing or enjoining all or any such violations or attempted violations.

The remedies contained in this paragraph shall be construed as cumulative of all other remedies now or hereafter provided by law. The failure of Declarant, the Association or any Owner to enforce any covenant or restrictions or any obligation right, power, privilege, authority or reservation herein contained - however long continued, shall in no event be deemed as a waiver of the right to enforce the same thereafter as to the same breach or violation thereof occurring prior or subsequent thereto. Declarant and Association shall not have any liability to any Owner, mortgagee, or tenant for failure to enforce any of the provisions of this Declaration. Any Owner found in violation of any of the provisions of this Declaration shall be obliged to pay a reasonable attorneys' fee to the successful plaintiff in all actions seeking to prevent, correct, or enjoin such violations or in damage suits thereon. All provisions of this Declaration shall be deemed several and independent. The invalidity of any of the provisions of this Declaration shall in no way impair the validity of the remaining provisions or any part hereof.

The St. Johns River Water Management District shall have the right to enforce, by a proceeding at law or in equity, the provisions contained in the Covenants and Restrictions which relate to the maintenance, operation and repair of the surface water or stormwater management system.

IN WITNESS WHEREOF, this Declaration has been executed on this 2<sup>ND</sup> day of April 2001, by Declarant, acting by and through its undersigned officer who is thereunto duly authorized.

Signed, sealed and delivered in the presence of:

MARSHWINDS DEVELOPMENT GROUP, L. C.  
a Florida Limited Liability Company.

Donna Passmore  
Print Name DONNA PASSMORE

By: Mary Louise Dungey  
Mary Louise Dungey  
Vice President

KL Breidenstein  
Print Name KL BREIDENSTEIN

State of Florida  
County of Duval

The foregoing instrument was acknowledged before me this 2<sup>ND</sup> day of April 2001, by Mary Louise Dungey, Vice President of Marshwinds Development Group, L. C., on behalf of the Limited Liability Company. She is personally known to me and did not take an oath.

KL Breidenstein  
Notary Public, State of Florida  
My Commission Expires:  
(Seal)

THE UNDERSIGNED, SunTrust Bank, a Georgia banking corporation, as successor by merger to SunTrust Bank, North Florida, N.A., a national banking association (Mortgagee), the owner and holder of that certain Mortgage Modification and Notice of Additional Advance and Consolidation and Spreading Agreement recorded in Official Records Book 9706, page 2350-2357 of the current Public Records of Duval County, Florida, (the "Mortgage"), does hereby join in the execution of the foregoing Declaration of Covenants, Conditions, Easements and Restrictions for Marshwinds and does hereby agree that the lien of the above described-Mortgage is now and shall hereafter be subject to the provisions of said Declaration of Covenants, Conditions, Easements and Restrictions for Marshwinds.

Nothing herein contained shall be construed to release, exonerate or discharge Properties encumbered by the Mortgage from the lien, operation, force and effect of the Mortgage nor from any right, remedy or privilege of the owners thereof except to the extent herein specifically set forth.

IN WITNESS WHEREOF, the undersigned has caused this instrument to be executed in the manner and form required by law as follows:

At Jacksonville, Duval County, Florida, this 30<sup>th</sup> day of March 2001.

SUNTRUST BANK, a Georgia Corporation

Attest: Mare C Hall

By: [Signature]  
Larry W. Nordmann  
First Vice President

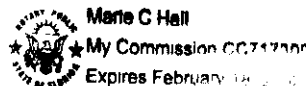
Attest: Dominique Angemo

STATE OF FLORIDA  
COUNTY OF DUVAL

The foregoing instrument was acknowledged before me this 30 day of March 2001 by Larry W. Nordmann, First Vice President of SUNTRUST BANK, a Georgia banking corporation organized under the laws of the United States of America, on behalf of the corporation. He is personally known to me or has produced (Florida Driver's License) as identification.

Mare C Hall

Print Name  
Notary Public, State of Florida CC717309  
My Commission Expires: 02/18/02



CONSENT AND JOINDER

THE UNDERSIGNED, JAMES D. THOMPSON AND SANDRA THOMPSON, the owners of Lot 52 of Marshwinds as per plat recorded in Plat Book 54, Pages 8, 8A through 8H, do hereby join in the execution and do hereby agree that said Lot 52 is now and shall hereafter be subject to the provisions of the foregoing Declaration of Covenants, Conditions, Easements and Restrictions for Marshwinds.

IN WITNESS WHEREOF, the undersigned has caused this instrument to be executed in the manner and form required by law as follows:

At Jacksonville, Duval County, Florida, this 26<sup>th</sup> day of March 2001.

WITNESSETH:

Mary Louise Dungey  
Print Name MARY LOUISE DUNGEY

James D. Thompson  
James D. Thompson

Donna Passmore  
Print Name DONNA PASSMORE

Mary Louise Dungey  
Print Name MARY LOUISE DUNGEY

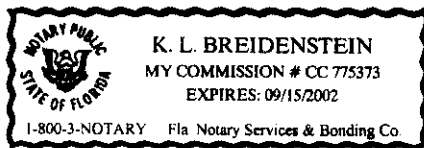
Sandra Thompson  
Sandra Thompson

Donna Passmore  
Print Name DONNA PASSMORE

STATE OF FLORIDA  
COUNTY OF DUVAL

The foregoing instrument was acknowledged before me this 26<sup>th</sup> day of March 2001 by James D. Thompson. He is personally known to me or has produced (Florida Driver's License) \_\_\_\_\_ as identification.

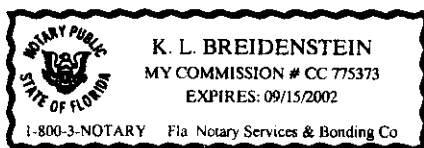
K.L. Breidenstein  
Notary Public, State of Florida  
My Commission Expires:  
(Seal)



STATE OF FLORIDA  
COUNTY OF DUVAL

The foregoing instrument was acknowledged before me this 26<sup>th</sup> day of March 2001 by Sandra Thompson. She is personally known to me or has produced (Florida Driver's License) \_\_\_\_\_ as identification.

K.L. Breidenstein  
Notary Public, State of Florida  
My Commission Expires:  
(Seal)



CONSENT AND JOINDER

THE UNDERSIGNED, COPPENBARGER HOMES, INC., MERCEDES HOMES, INC., and PROVIDENCE CONSTRUCTION COMPANY, the owners of Lots 131, 132 and 133 of Marshwinds, as per plat recorded in Plat Book 54, Pages 8, 8A through 8H, respectively, do hereby join in the execution and do hereby agree that said Lots 131, 132 and 133 are now and shall hereafter be subject to the provisions of the foregoing Declaration of Covenants, Conditions, Easements and Restrictions for Marshwinds.

IN WITNESS WHEREOF, the undersigned has caused this instrument to be executed in the manner and form required by law as follows:

At Jacksonville, Duval County, Florida, this 27<sup>th</sup> day of March 2001.

WITNESSETH:

Mary Louise Dungey  
Print Name MARY LOUISE DUNGEY

Donna Passmore  
Print Name DONNA PASSMORE

Mary Louise Dungey  
Print Name MARY LOUISE DUNGEY

Donna Passmore  
Print Name DONNA PASSMORE

COPPENBARGER HOMES, INC.

By: Ronnie D. Coppenbarger  
Ronnie D. Coppenbarger  
President

MERCEDES HOMES, INC.

By: Cora M. Johnston  
Cora M. Johnston  
President, Jacksonville Division

PROVIDENCE CONSTRUCTION COMPANY

Mary Louise Dungey  
Print Name MARY LOUISE DUNGEY

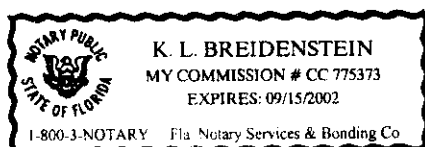
Donna Passmore  
Print Name DONNA PASSMORE

By: William J. Cellar  
William J. Cellar  
President

STATE OF FLORIDA  
COUNTY OF DUVAL

The foregoing instrument was acknowledged before me this 27<sup>th</sup> day of March 2001 by Ronnie D. Coppenbarger, President of COPPENBARGER HOMES, INC. He is personally known to me or has produced (Florida Driver's License) \_\_\_\_\_ as identification.

K. L. Breidenstein  
Notary Public, State of Florida  
My Commission Expires:  
(Seal)



STATE OF FLORIDA  
COUNTY OF DUVAL

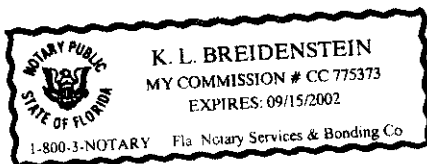
The foregoing instrument was acknowledged before me this 27<sup>th</sup> day of March  
2001 by Cora M. Johnston, President, Jacksonville Division of MERCEDES HOMES, INC.  
She is personally known to me or has produced (Florida Driver's License)  
\_\_\_\_\_ as identification.

K.L. Breidenstein

Notary Public, State of Florida

My Commission Expires:

(Seal)



STATE OF FLORIDA  
COUNTY OF DUVAL

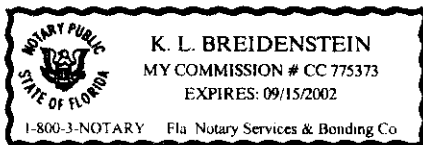
The foregoing instrument was acknowledged before me this 27<sup>th</sup> day of March  
2001 by William J. Cellar, President of PROVIDENCE CONSTRUCTION COMPANY. He is  
personally known to me or has produced (Florida Driver's License) \_\_\_\_\_  
as identification.

K.L. Breidenstein

Notary Public, State of Florida

My Commission Expires:

(Seal)



**MARSHWINDS  
ARCHITECTURAL REVIEW COMMITTEE POLICIES AND PROCEDURES**

In accordance with the Marshwinds Declaration of Covenants, Conditions, Easements and Restrictions, an Architectural Review Committee has been established to review and approve all plans for residences built in Marshwinds and to review and approve any and all other improvements or structures to be built on the lots.

The Committee's purpose is to insure the individual residences built in Marshwinds reflect a consistent overall quality level while allowing for an owner's individual taste in design, colors and materials.

The evaluation of each submittal to the Committee relates to matters of taste and judgement, which cannot be reduced to a simple list of measurable criteria, therefore, the Committee has the authority to decide whether the overall aesthetic impact of a residence or improvement is acceptable.

The Committee has adopted certain architectural standards to be used as a guideline, and will, unless individual circumstances warrant, adhere to these guidelines in deciding whether to approve or disapprove any submittal.

This statement of the current policies and procedures will outline the process for submission of a residence or other improvement to the Committee and will list any architectural guidelines currently adopted.

**SUBMITTAL FOR APPROVAL OF A RESIDENCE BY A BUILDER**

A builder may submit a package of multiple plans for simultaneous approval (hereinafter referred to as "Approved Builder Plans".) Included in the package should be (1) two complete sets of building plans to include all elevations; (2) color samples for all exterior finishes, (including stucco, if applicable, roof shingles, exterior trim); (3) brick sample, if applicable.

Color samples should be a minimum of 8 ½ X 11 inches for stucco, unless colors are clearly neutral, in which case smaller samples or color charts may be submitted. The A.R.C. reserves the right to request larger color samples when necessary for good decision.

The A.R.C. will return one set of approved plans to the builder and keep one set on file until the homes are completed. While the A.R.C. will make every effort to review plans in a timely manner, builders should be prepared for a 14-day turn-around.

If a builder wishes to have approval for a plan that is not one of the Approved Builder Plans, the builder should submit individually for that plan.

No Lot shall be cleared until the builder has received a site plan and clearing approval from the A.R.C. Prior to clearing, the builder should submit a site plan showing (1) the footprint of the house on the Lot, (2) all setbacks, (3) the location of all hardwood trees larger than 6 inches in diameter which are within any area to be cleared by the builder, (4) any easements or restriction lines on the Lot, (5) drives, walks, or other horizontal elements such as patios or pools, and (6) mechanical equipment outside the house. The A.R.C. will make every effort to review site plans and make a timely response.

Prior to the installation of landscaping, the builder should submit a landscape plan showing plant materials with sizes and the location and design of any fencing, walls, landscape statuary and the like.

All Submittals to the A.R.C. should be made to:

MARSHWINDS ARCHITECTURAL REVIEW COMMITTEE  
C/O Marshwinds Development Group, L.C.  
One San Jose Place, Suite 7  
Jacksonville, FL 32257

**UNDER NO CIRCUMSTANCES SHOULD CLEARING OR CONSTRUCTION BEGIN WITHOUT THE REQUISITE COMMITTEE APPROVAL(S).**

**SUBMITTAL FOR APPROVAL OF AN IMPROVEMENT OR STRUCTURE,  
OTHER THAN A RESIDENCE:**

Any fence, pool, garden statuary, or the like must first be approved by the A.R.C. When a structure or improvement has not been part of the submittal for a residence, a separate submittal is required. A submission, which makes it possible for the Committee to make a good decision, can include drawings, photographs, vendors' promotional materials, or construction plans and specifications.

A site plan is required which will place the improvement in relationship to the residence, the property lines, and any setback or restriction lines. Applicants should allow 14 days for turnaround. Submittals should be made to the A.R.C., in care of:

Marshwinds Development Group, L.C.  
One San Jose Place, Suite 7  
Jacksonville, Florida 32257.

**ARCHITECTURAL GUIDELINES**

Portions of the following guidelines reflect the requirements set forth in the Declaration of Covenants, Conditions, Easements and Restrictions.

1. **SIZE:** All single family residences located on lots which are 60 feet wide at the Building Restriction Line shall have a minimum square footage of 1,200 square feet of heated and cooled living space. This space shall not include garages, terraces, decks, open porches and like areas. All other lots shall have a minimum square footage of 1,500 square feet of heated and cooled living space.
  
2. **BUILDING SETBACKS FROM PROPERTY LINES**  
 Interior Lots -
 

Front yard	20 feet
Side yard	5 feet
Rear yard	10 feet

 Double Frontage Lots
 

Front yard	20 feet
Roadway not faced by residence	10 feet
Side yard	5 feet
Rear yard	10 feet
  
3. **EXTERIOR WALL FINISHES**  
 Recommended exterior finishes include stucco, brick, composite masonry, vinyl or wood lap siding. Sheet siding will not be allowed. Accents of wood, rock, limestone, or other elements may be approved provided there is architectural and aesthetic integrity in the judgement of the A.R.C
  
4. **ROOF**  
 Minimum roof pitch or major roof elements will be 6/12. No flat roof except as a subordinate element in conjunction with a pitched roof design. It is recommended the roof overhang be 16 inches. Approved roof materials are:
  - \* Cement tiles manufactured for maximum density and resistance to moisture.
  - \* Cedar shingles, sawed or hand split.
  - \* Asphalt shingles – 3 tab or better.
 If sheet metal for roof valleys, flashings, drips, downspouts, gutters, etc., is other than copper material, it shall be painted to blend with the shingles. All roof accessories, such as vent stacks and roof vents, shall be painted to match roof color. The use of solar energy providing devices (active and/or passive) are subject to Board approval.
  
5. **GARAGES AND DRIVEWAYS**  
 All homes must have a minimum two-car garage. All driveways are to be

constructed of concrete unless otherwise approved by A.R.C. and must be wide enough for two passenger cars to park side by side. Driveways shall be constructed in a way as to not restrict or impede the designed flow of drainage water to the curb and gutter along each street.

All garage doors must be electrically operated. 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 A.R.C. and a new garage in compliance with these restrictions is built.

6. LANDSCAPING AND IRRIGATION

Adequate landscaping of each house is a vital aspect in assuring the overall quality of the community. Each lot must meet the minimum standards as outlined by the A.R.C. from time to time.

A successfully landscaped home will greatly add to the value of itself as well as to the value of the entire community.

7. FENCING

Fencing, walls, screens, screened enclosures, privacy hedges must be submitted for approval before installation. The drawing must show the site (Lot survey) location of existing facilities, location of proposed fencing, type or design of fence, dimensions and necessary detail. The fencing must consider the location and design of any adjacent existing fence. The minimum standard for fencing is "board-on-board". Fencing at the rear of Lots backing up to the Lakes shall not be opaque. Fencing which is visible from Alta Drive will be of a consistent design established by the A.R.C.

8. FREESTANDING STRUCTURE

Any freestanding structure contemplated for a property such as a pavilion, gazebo, platform, playhouse, storage room, cabana, detached garages, etc., must be submitted for approval with the required drawings and information. Approval will be granted only upon the merit of the structure and determination that it will not materially adversely affect the neighborhood.

9. AIR CONDITIONERS, GARBAGE CONTAINERS, ELECTRICAL METER BOXES.

All outside air conditioning compressors and garbage containers shall be shielded and hidden so that they are not visible from the street or adjacent property. Screening may include approved fencing or landscaping.

All electric meter boxes shall be shown on the final submittal. Meter boxes shall be located on the side of each house and shall be built into the wall system or enclosed in a boxed design acceptable to the A.R.C.

10. MAIL BOXES

Mailboxes will be uniform pursuant to the design determined by the A.R.C.

11. ANTENNAS.

No radio or television aerial or antenna shall be installed or maintained on the exterior of any residence or any portion of any Lot unless screened from view from all other Lots and the streets. No other exterior electronic or electric equipment or device of any kind may be installed or maintained on any Lot without the express written consent of the Board of the Association.

12. TREE REMOVAL

In reviewing building plans, the A.R.C. shall take into account the natural landscaping such as trees, shrubs and palmettos, and encourage the Owner to incorporate them into his landscaping plan. No hardwood tree of twelve (12) inches in diameter at four (4) feet above the natural grade shall be cut or removed without the approval of the A.R.C., which approval may be given when such removal is necessary for the construction of a dwelling or other improvement.

12. SWIMMING POOLS

Any swimming pool to be constructed on any Lot shall be subject to the requirements of the A.R.C., which include, but are not limited to the following:

- a. Composition to be of material thoroughly tested and accepted by the industry for such construction.
- b. 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 a dwelling unless approved by the A.R.C.
- c. No screening of pool areas may extend beyond a line extended and aligned with the sidewalls of the dwelling unless approved by the A.R.C.
- d. Pool screening may not be visible from the street in front of the dwelling unless approved by the A.R.C.

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 A.R.C.

**BUILDER'S REQUIREMENTS**

Each Builder shall comply with the following prior to construction.

- A. All job sites shall be kept in a neat and orderly condition.  
Each house under construction shall have access to one "Port-O-Let" bathroom facility and one dumpster type receptacle for trash.
- B. All Builders and Owners are required to post on the job site and keep on record with the developer a 24-hour emergency phone number.