

RESOLUTION NO. 88-321

RESOLUTION OF THE COUNTY OF ST. JOHNS  
STATE OF FLORIDA  
APPROVING A FINAL DEVELOPMENT PLAN  
FOR UNIT TWO  
LOCATED WITHIN THE PARCEL OF LAND ZONED PUD  
KNOWN AS MARSH CREEK COUNTRY CLUB  
PURSUANT TO ORDINANCE 86-79  
FILE NO. (R-PUD-86-060)

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS  
COUNTY, FLORIDA:

Section 1: Pursuant to a letter request, dated July 18, 1988, submitted by Stokes-O'Steen Communities, Inc. in accordance with Section 8-3 of the St. Johns County Zoning Ordinance and subsequent review and approval by the St. Johns County Planning and Zoning Agency, the Final Development Plan attached hereto as Exhibit "A", as amended on November 10, 1988, is hereby approved in reliance upon, and in accordance with, the representations and statements made in the written submission statement attached hereto as Exhibit "B", as amended on November 10, 1988, and as referenced in Exhibit "C" also amended on November 10, 1988.

BOARD OF COUNTY COMMISSIONERS  
OF ST. JOHNS COUNTY, FLORIDA

BY: Ray Waldron  
Chairman

Attest: Carl "Bud" Markel, Clerk

Connie E. McDaniel

Deputy Clerk  
Adopted Regular Meeting

December 13, 1988

Effective:

December 13, 1988

# Clary & Associates, Inc.

Professional Land Surveyors

3830 Crown Point Rd., Suite A  
Jacksonville, Florida 32257  
(904) 260-2703

GREGORY B. CLARY, P.L.S.  
JOHN STEPHEN ADAMS, P.L.S.

## MARSH CREEK UNIT TWO

### LEGAL DESCRIPTION

A portion of Section 33, Township 7 South, Range 30 East and Section 4, Township 8 South, Range 30 East, both in St. Johns County, Florida, being more particularly described as follows: COMMENCE at the Northeast corner of Lot 244, Marsh Creek Unit One, according to plat recorded in Map Book 20, Pages 72 through 92, inclusive of the Current Public Records of said County; thence Northerly along and around the arc of a curve concave Westerly and having a radius of 399.19 feet, an arc distance of 130.58 feet to the Northwesterly corner of Marshside Drive according to said plat for the POINT OF BEGINNING, said arc being subtended by a chord bearing and distance of North  $19^{\circ}25'12''$  East, 193.80 feet. From the POINT OF BEGINNING thus described continue Northwesterly along the arc of last mentioned curve, an arc distance of 65.18 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of North  $28^{\circ}47'28''$  West, 65.11 feet; thence North  $33^{\circ}28'07''$  West, 92.45 feet to the point of curvature of a curve leading to the right; thence Northerly along and around the arc of a curve concave Easterly and having a radius of 477.57 feet, an arc distance of 230.18 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of North  $19^{\circ}39'39''$  West, 227.96 feet; thence North  $05^{\circ}51'10''$  West, 113.37 feet to the point of curvature of a curve leading to the left; thence Northwesterly along and around the arc of a curve concave Southwesterly and having a radius of 379.87 feet, an arc distance of 266.54 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of North  $25^{\circ}57'14''$  West, 261.11 feet; thence North  $46^{\circ}03'18''$  West, 180.47 feet to the point of curvature of a curve leading to the right; thence Northwesterly along and around the arc of a curve concave Northeasterly and having a radius of 180.00 feet, an arc distance of 75.53 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of North  $23^{\circ}17'34''$  West, 139.29 feet; thence North  $00^{\circ}31'49''$  West, 264.17 feet to the point of curvature of a curve leading to the left; thence Northwesterly along and around the arc of a curve concave Southwesterly and having a radius of 269.36 feet, an arc distance of 317.30 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of North  $34^{\circ}16'37''$  West, 299.27 feet; thence North  $68^{\circ}01'25''$  West, 120.73 feet to the point of curvature of a curve leading to the right; thence Northwesterly along and around the arc of a curve concave Northeasterly and having a radius of 675.53 feet, an arc distance of 214.78 feet, said arc being subtended by a chord bearing and distance of North  $58^{\circ}54'55''$  West, 213.88 feet; thence North  $67^{\circ}35'19''$  West, 581.68 feet; thence North  $83^{\circ}19'57''$  West, 363.42 feet; thence North  $71^{\circ}00'54''$  West, 132.65 feet; thence South  $82^{\circ}57'27''$  West, 101.69 feet; thence South  $54^{\circ}11'31''$  West, 68.64 feet; thence North  $85^{\circ}23'57''$  West, 316.44 feet; thence North  $86^{\circ}54'52''$  West, 85.23 feet; thence North  $56^{\circ}33'48''$  West, 283.04 feet; thence North  $03^{\circ}26'23''$  West, 1038.30 feet; thence

MEMBER OF:

AMERICAN CONGRESS OF SURVEYING AND MAPPING • NATIONAL ASSOCIATION OF HOME BUILDERS  
FLORIDA ENGINEERING SOCIETY • PROFESSIONAL SURVEYORS OF FLORIDA • FLORIDA SOCIETY OF PROFESSIONAL LAND SURVEYORS

North  $40^{\circ}02'30''$  East, 317.42 feet; thence South  $80^{\circ}53'58''$  East, 156.02 feet; thence Northeasterly along and around the arc of a curve concave Southeasterly and having a radius of 520.93 feet, an arc distance of 262.66 feet to a point of compound curvature, said arc being subtended by a chord bearing and distance of North  $51^{\circ}06'39''$  East, 259.89 feet; thence Easterly along and around the arc of a curve concave Southerly and having a radius of 397.91 feet, an arc distance of 164.19 feet to the point of tangency of said curve, said point hereinafter referred to as Reference Point "A", said arc being subtended by a chord bearing and distance of North  $77^{\circ}22'36''$  East, 163.03 feet; thence North  $89^{\circ}11'52''$  East, 320.16 feet to the point of curvature of a curve leading to the right; thence Easterly along and around the arc of a curve concave Southerly and having a radius of 314.69 feet, an arc distance of 191.70 feet, said arc being subtended by a chord bearing and distance of South  $73^{\circ}21'03''$  East, 188.75 feet; thence North  $77^{\circ}46'49''$  East, 171.73 feet; thence South  $24^{\circ}34'38''$  East, 194.31 feet; thence South  $04^{\circ}30'17''$  West, 440.95 feet; thence South  $08^{\circ}33'21''$  West, 450.89 feet; thence South  $26^{\circ}49'25''$  East, 446.48 feet; thence South  $20^{\circ}33'20''$  West, 28.83 feet; thence Southeasterly along and around the arc of a curve concave Southwesterly and having a radius of 607.94 feet, an arc distance of 192.22 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of South  $50^{\circ}55'07''$  East, 191.42 feet; thence South  $41^{\circ}51'39''$  East, 178.65 feet; thence North  $38^{\circ}28'24''$  East, 213.95 feet; thence North  $38^{\circ}26'29''$  West, 359.49 feet to the Southeast corner of the West 1/2 of the West 1/2 of the Southeast 1/4 of said Section 33; thence South  $89^{\circ}19'05''$  West along the Southerly line of said Section 33, a distance of 655.86 feet to the Southeast corner of the East 1/2 of the West 1/2 of the Southeast 1/4 of said Section 33; thence South  $00^{\circ}57'19''$  East along the Westerly line of Government Lot 1, said Section 4, a distance of 458.41 feet; thence North  $85^{\circ}33'39''$  West, 338.73 feet; thence North  $38^{\circ}26'29''$  West, 99.44 feet; thence South  $38^{\circ}28'24''$  West, 199.96 feet; thence Southeasterly along and around the arc of a curve concave Northeasterly and having a radius of 615.53 feet, an arc distance of 253.98 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of South  $56^{\circ}12'11''$  East, 252.18 feet; thence South  $68^{\circ}01'25''$  East, 120.73 feet to the point of curvature of a curve leading to the right; thence Southeasterly along and around the arc of a curve concave Southwesterly and having a radius of 329.36 feet, an arc distance of 387.98 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of South  $34^{\circ}16'37''$  East, 365.93 feet; thence South  $00^{\circ}31'49''$  East, 264.17 feet to the point of curvature of a curve leading to the left; thence Southeasterly along and around the arc of a curve concave Northeasterly and having a radius of 120.00 feet, an arc distance of 95.35 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of South  $23^{\circ}17'34''$  East, 92.86 feet; thence South  $46^{\circ}03'18''$  East, 180.47 feet to the point of curvature of a curve leading to the right; thence Southeasterly along and around the arc of a curve concave Southwesterly and having a radius of 439.87 feet, an arc distance of 308.64 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of South  $25^{\circ}57'14''$  East, 302.35 feet; thence South  $05^{\circ}51'10''$  East, 113.37 feet to the point of curvature of a curve leading to the left; thence Southerly along and around the arc of a curve concave Easterly and having a radius of 417.57 feet, an arc distance of 201.26 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of South  $19^{\circ}39'39''$  East, 199.32 feet; thence South  $33^{\circ}28'07''$  East, 92.45 feet to the point of curvature of a curve leading to the

right; thence Southeasterly along and around the arc of a curve concave Southwesterly and having a radius of 459.19 feet, an arc distance of 74.98 feet to the Northerly corner of said Marshside Drive, said arc being subtended by a chord bearing and distance of South  $28^{\circ}47'28''$  East, 74.89 feet; thence South  $65^{\circ}53'12''$  West along the Northerly line of last mentioned Marshside Drive, 60.00 feet to the POINT OF BEGINNING.

LESS AND EXCEPT the following described land: A portion of said Section 33, Township 7 South, Range 30 East, and said Section 4, Township 8 South, Range 30 East, both in St. Johns County, Florida, being more particularly described as follows: COMMENCE at aforementioned Reference Point "A"; thence South  $00^{\circ}48'08''$  East, 50.00 feet to the POINT OF BEGINNING; from the POINT OF BEGINNING thus described run North  $89^{\circ}11'52''$  East, 320.16 feet to the point of curvature of a curve leading to the right; thence Easterly along and around the arc of a curve concave Southerly and having a radius of 254.69 feet, an arc distance of 141.54 feet, said arc being subtended by a chord bearing and distance of South  $74^{\circ}52'53''$  East, 139.73 feet; thence South  $10^{\circ}14'44''$  West, 873.56 feet; thence South  $08^{\circ}21'04''$  West, 195.89 feet; thence South  $03^{\circ}48'54''$  West, 224.56 feet; thence Westerly along and around the arc of a curve concave Southerly and having a radius of 1269.24 feet, an arc distance of 280.59 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of South  $85^{\circ}05'13''$  West, 280.02 feet; thence South  $78^{\circ}45'13''$  West, 172.48 feet to the point of curvature of a curve leading to the right; thence Westerly along and around the arc of a curve concave Northerly and having a radius of 162.75 feet, an arc distance of 74.01 feet, said arc being subtended by a chord bearing and distance of North  $88^{\circ}13'04''$  West, 73.38 feet; thence North  $04^{\circ}56'05''$  East, 283.76 feet; thence North  $08^{\circ}52'53''$  West, 206.85 feet; thence North  $02^{\circ}42'16''$  East, 98.00 feet; thence North  $08^{\circ}39'40''$  West, 101.45 feet; thence North  $01^{\circ}33'16''$  West, 183.91 feet; thence North  $05^{\circ}50'42''$  East, 88.70 feet; thence North  $22^{\circ}11'21''$  East, 160.03 feet; thence North  $41^{\circ}22'26''$  East, 126.34 feet; thence North  $63^{\circ}27'26''$  West, 130.00 feet; thence Northeasterly along and around the arc of a curve concave Southeasterly and having a radius of 460.93 feet, an arc distance of 139.83 feet to a point of compound curvature, said arc being subtended by a chord bearing and distance of North  $56^{\circ}51'54''$  East, 139.29 feet; thence Easterly along and around the arc of a curve concave Southerly and having a radius of 337.91 feet, an arc distance of 139.43 feet to the POINT OF BEGINNING, said arc being subtended by a chord bearing and distance of North  $77^{\circ}22'36''$  East, 138.44 feet.

Containing 41.59 acres, more or less.

FINAL DEVELOPMENT PLAN  
MARSH CREEK COUNTRY CLUB  
PUD ORDINANCE R-PUD-86-060

UNIT TWO  
SINGLE-FAMILY & PATIO HOME LOTS  
EXHIBIT "B"  
TO THE RESOLUTION

STOKES-O'STEEN COMMUNITIES, INC.  
JULY 18, 1988

NOVEMBER 10, 1988

IN ACCORDANCE with the procedure established in Section 8-3, "Implementation of a PUD", the attached Final Development Plan prepared by HILL, BORING & ASSOCIATES, INC., the Covenants and Restrictions, and the following text regarding compliance with Section 8-4, are submitted for your consideration.

The Declaration of Covenants and Restrictions for Unit Two at Marsh Creek Country Club identified as Exhibit "C" to the Resolution, is provided with this submission in support of the request for Final Development Plan approval.

Nothing contained in the Declaration shall be interpreted to limit or restrict in any way the regulatory powers of St. Johns County (including its powers to review and approve plats and replats under Section 177.071 of the Florida Statutes). Those sections of the Declaration which are specifically referenced herein are incorporated by reference in the Final Development Plan, shall be made a part of the Final Development Plan and shall not be amended without approval of the Board of County Commissioners of St. Johns County. A list of the sections of the Declaration made a part of the Final Development Plan is provided with this submission and is identified as Exhibit "C" to the Resolution. The developer reserves the right to alter, amend, or allow to be amended all other sections of the Declaration. Provided, however, that if any alteration, amendment or series of alterations or amendments to the Declaration materially erodes the protection afforded by the Declaration so that the Board of County Commissioners of St. Johns County, in the exercise of its reasonable discretion, determines that there is substantial likelihood that the spirit and intent of Article 8 of the St. Johns County Zoning Ordinance will be undermined, then the Board may require that further alterations and amendments be submitted to it for approval prior to the recordation of such alterations or amendments.

8-4-1 Density of Development

The total ground area occupied by residential buildings and structures shall not exceed 35 percent of the total ground area of the Marsh Creek PUD devoted to residential use.

8-4-2 Open Space

The Final Development Plan depicts Lake area and/or Golf Course areas within the Property which are to be utilized as open space or "Common Areas". Every homeowner shall have a right of use and an easement of enjoyment in the Lake areas, except where its use is limited by the applicable sections of the Declaration of Covenants and Restrictions. The open space will be used for golf, lake, passive recreation and conservation areas. The Lakes and Golf Course will be owned and maintained by the developer.

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

All development which is to occur within the Property will comply with the spirit and intent of the Zoning Ordinance. There will be no more than 77 residences on the Property (41 single-family and 36 patio homes). Furthermore, Article V, Section 4(b), of the Covenants and Restrictions establishes specific setback lines as follows: Single-Family Lots - a 25-foot front setback line, an 8-foot side setback line, a 20-foot rear setback line and a 12-foot side setback line for corner lots on the road side; Patio Home Lots - a 25-foot front setback line, a 20-foot rear setback line and a combined 10-foot side separation between exterior structural walls and a minimum of 6 feet between roof overhangs, allowing zero lot line capability. The Architectural Review Board may modify the setback requirements for tree preservation or maintenance of overall aesthetics. A resident may be located wholly within a single plotted lot or combination of plotted lots.

8-4-4 Project Size

Marsh Creek Unit Two consists of more than 20 acres.

8-4-5 Support Legal Documents for Open Space

The Covenants and Restrictions of Marsh Creek Owners Association which apply to the road rights-of-way, gravity sewer lines, street lighting, and security system, assure adequate management and maintenance of the common property.

- a. The Covenants and Restrictions provide for the conveyance of title to the common property to, and ownership by, the homeowner's association, a duly constituted and legally responsible community association.

- b. The Covenants and Restrictions, appropriately limits the use of the common property.
- c. The Covenants and Restrictions assign responsibility for management and maintenance of the common property to the homeowner's association.
- d. The Covenants and Restrictions places responsibility for enforcement of the covenants contained therein upon the homeowner's association.
- e. The Covenants and Restrictions permit the subjection of each lot to assessment for its proportionate share of maintenance costs.

8-4-6 Access

As graphically depicted on the Final Development Plan, each lot is provided vehicular access within the subdivision via the private right-of-way owned by Marsh Creek Owner's Association, Inc.

8-4-7 Privacy

Under Article V, Section 4(k) landscaping will be required as stated in the Covenants and Restrictions for the protection and aesthetic enhancement of the property.

8-4-8 Community Facilities

- a. The water lines, sewer force mains, and lift/pump station will be dedicated to Anastasia Sanitary District (ASD) for ownership and maintenance and will be constructed to their specifications. The gravity sewer lines will also be dedicated to ASD at such time ASD grants acceptance.
- b. All requirements for off-street parking and loading set forth in Article 9 of the St. Johns County Zoning Ordinance are addressed specifically below:

9-1-1 Drainage

The general drainage plan for the Property so as to prevent damage to abutting parcels and streets is graphically depicted on the Plan. Specific drainage plans for each lot upon which a residence is to be constructed will be consistent with the general drainage plan.

9-1-2 Separation from Walkway and Street

Each unit will have an individual garage and driveway which will provide the required off-street parking. No combined off-street parking and loading facilities will be constructed on the Property.

9-1-3 Entrances and Exits

The location and design of the entrances and/or exits to all streets and will be in accordance with County specifications. In addition, Article V, Section 4(v), of the Covenants and Restrictions assures proper site distances at intersections.

9-1-4 Interior Drives

As shown on the Final Development Plan, there will be no interior drives on the Property.

9-1-5 Private Access Drives

Lot No. 1 shall be allowed to have a 35' wide private access drive as shown on the Final Development Plan.

9-1-6 Lighting

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

9-1-7 Screening

Section 9-1-7 is inapplicable since there will be no parking spaces for ten or more vehicles in any one location on the Property; however, landscaping will be required.

9-1-8 Height Limitations

No structure shall exceed thirty-five (35) feet in height.

9-2 Location

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

9-3-1 Off-Street Parking; Numbers Required

The Property will be used for single-family residential lots or one single-family per lot. Therefore, in accordance with Subsection d of 9-3, at least one off-street parking space will be provided per dwelling on the same parcel they intend to serve. This space, located within the driveway for the residence, is in



addition to the parking spaces allowed for in the garage. Nevertheless, owners shall be required to store automobiles in garages when not in use.

9-3-2 Garages & Automobile Storage

All garages shall have a minimum width of twenty (20) feet and a minimum length of twenty (20) feet as measured from the inside walls of the garage. All garages must have either a single overhead door with a minimum door width of sixteen (16) feet for a two-car garage, or two (2) sixteen foot doors for a four-car garage, or two (2), three (3), or four (4) individual overhead doors, each a minimum of ten (10) feet in width, and a service door. All overhead doors shall be electrically operated and shall be kept closed when not in use. No carports will be permitted unless approved by the ARB. The ARB recommends side entry garages. However, where side entry is impractical, the ARB will consider for approval front entry garages. Automobiles shall be stored in garages when not in use. No garage shall be converted to living space unless a garage in compliance with these provisions is constructed in its stead and unless the facade of the enclosed garage is approved by the ARB.

9-4-1 Off-Street Loading Requirements

This section does not apply to residential developments.

- c. The Final Development Plan illustrates the anticipated traffic flow pattern. Sufficient space has been allowed to permit access for fire fighting equipment, furniture moving vans, fuel trucks, refuse collection, deliveries, and debris removal. Location of the fire hydrants and water and sewer lines serving the Property are also depicted on the Final Development Plan.
- d. All utilities serving the Property, including telephone, power, cable television, sewer lines, and water lines, will be installed underground. Also shown on the Final Development Plan are general drainage arrows to the lake from the lots facilitating proper drainage of storm waters and preventing erosion and the formation of dust.
- e. Specifications for all streets and roadways depicted on the Final Development Plan shall conform to the rules and regulations adopted by the St. Johns County Board of County Commissioners.

HILL, BORING & ASSOCIATES, INC.

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EXHIBIT "C" TO THE RESOLUTION

NOVEMBER 10, 1988

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

Article V, Section 4(b)	Set Back Restrictions
Article V, Section 4(k)	Landscaping
Article V, Section 4(u)	Site Distance at Intersection
Article VI, Section 1	Residential Uses
Article VI, Section 5	Signs
Article VI, Section 10	Pets and Animals
Article VI, Section 13	Lawful Use

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

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

#### Section 4. Architectural Planning Criteria.

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

(b) Set Back Restrictions. No part of any structure shall be constructed within twenty-five (25) feet of the front property line, twenty (20) feet from rear line and seven and one-half (7 1/2) feet of any side line. A dwelling may be located upon a single platted lot or on a combination of platted lots and in such event the set back lines shall apply to the outermost lot lines. The ARB shall have the right to impose additional set back requirements for all lot lines to preserve line of sight of neighboring properties. The ARB may modify the set back restrictions for an individual lot where in its opinion and sole discretion, such modification is necessary for the preservation of trees or the maintenance of overall aesthetics in the area. A residence may be located wholly within a single Lot or a combination of Lots and in such event the set back restrictions shall apply to the most exterior boundary lines.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(vii) Tennis court lighting shall not be permitted.

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

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

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

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

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

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

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

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

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

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

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

## ARTICLE VI

### USE RESTRICTIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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