

RESOLUTION NO. 94-224

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS  
OF ST. JOHNS COUNTY, STATE OF FLORIDA  
APPROVING A FINAL DEVELOPMENT PLAN  
FOR JULINGTON CREEK PLANTATION DRI  
PARCEL 23

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WHEREAS, the Final Development Plan for Julington Creek Plantation DRI - Parcel 23 has been fully considered after public hearing pursuant to Section 8-3-2 of the St. Johns County Zoning Ordinance; and

WHEREAS, it is found that:

- A. The request received favorable review and recommendation by the Planning and Zoning Agency at its meeting on 12-1-94; and
- B. The request is both consistent with the Comprehensive Plan and approved Julington Creek Plantation PUD/DRI and is compatible with development patterns in the surrounding area.
- C. The request is consistent with the requirements of Section 8-3-2 of the Zoning Ordinance and with the requirements of PUD Ordinance 93-43.

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

Section 1. Pursuant to a request for approval of Julington Creek Plantation DRI - Parcel 23 made by Atlantic Gulf Communities Corporation, in accordance with Section 8-3 of 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 relating to that portion of the Julington Creek Plantation PUD, Ordinance 93-43, is hereby approved in reliance upon, and in accordance with the representation and statements made herein and in the Final Development Plan Written Text attached hereto as Exhibit B, the list of covenants and restrictions to be incorporated attached hereto as Exhibit C, and the executed indemnity agreement attached hereto as Exhibit D, and based on the above referenced findings which are hereby incorporated herein by reference.

Section 2.

- a. Except to the extent that they conflict with specific provisions of the approved development plan or PUD (PSD) Ordinance, all building code, zoning ordinance, and other land use and development regulations of St. Johns County, including, without limitation, any Concurrency Management Ordinances and the St. Johns County Comprehensive Plan, as may be amended from time to time shall be applicable to this development, except modification to approved development plans by variance or exception shall be prohibited.
- b. Unless the Board of County Commissioners demonstrates that compliance with the land development regulations is essential to the public health, safety or welfare, nothing in this section shall be deemed to: (a) supersede any applicable "grandfathering" or "vested rights" provisions contained in Florida law or that may be provided in any such future building code, zoning ordinance or other land use and development regulations; or (b) supersede any concurrency certificate or concurrency exemption determination made by the Concurrency Review Committee or the Board as such may be limited at the time of issuance. Furthermore, nothing in this section shall be deemed to constitute a waiver of the applicant's right to contest application of any such building code, zoning ordinance or other land development regulations as applied to this development under the Florida or United State Constitutions.

Section 3. The developer may not commence land clearing, site preparation or construction of any improvements within Parcel 23 until:

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

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

Section 5. All attachments included herein are incorporated herein and made a part of Resolution 94-224

BOARD OF COUNTY COMMISSIONERS  
OF ST. JOHNS COUNTY, FLORIDA

By: *Barbara Ward*  
Chair

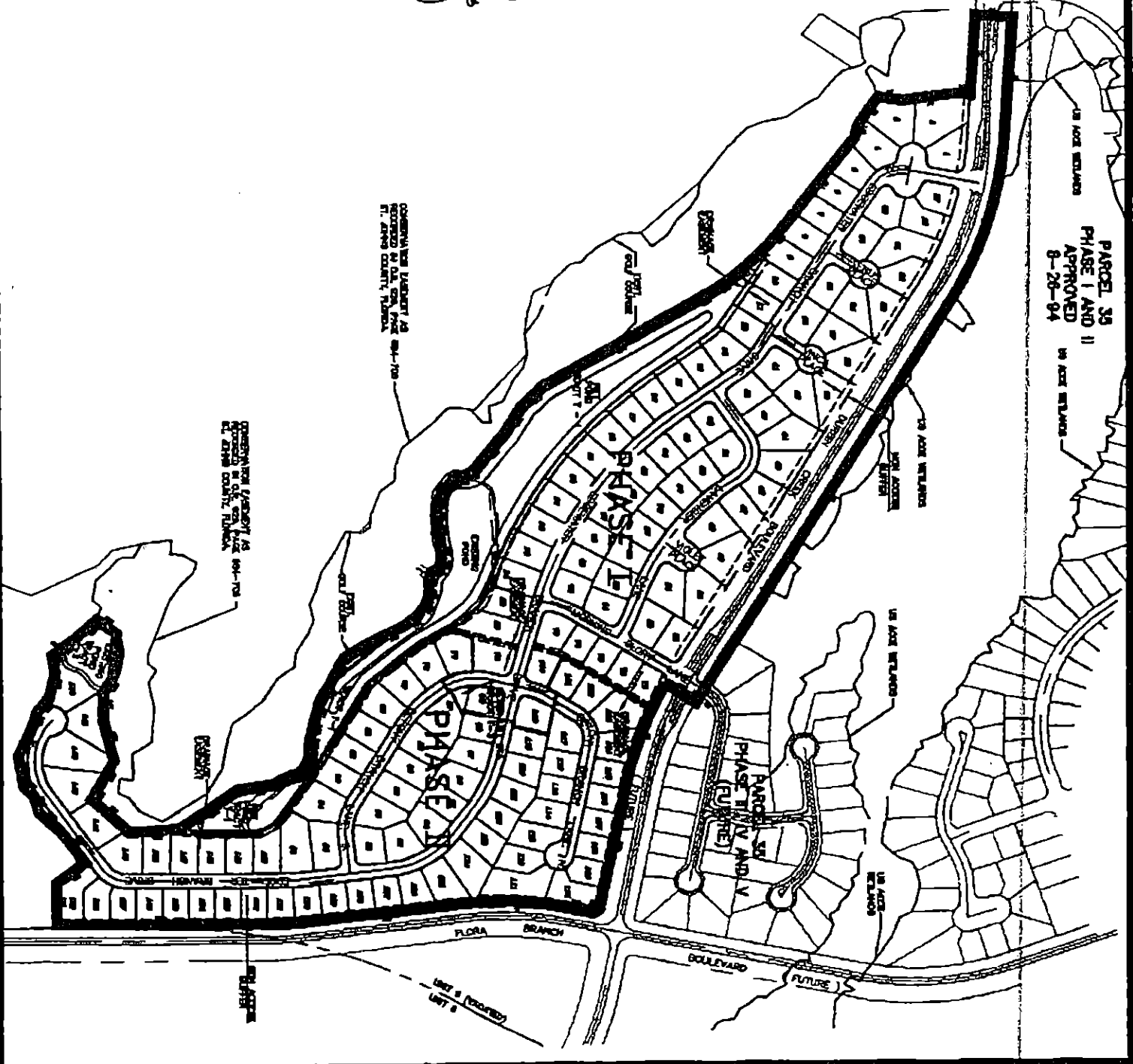
ATTEST: CARL "BUD" MARKEL, CLERK

By: *Irma Pucetti*  
Deputy Clerk

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DUNN CREEK  
BLVD  
CONSTRUCTION  
APPROVED  
8-18-94



**England-Thims & Miller, Inc.**  
 Consulting & Design Engineers  
 3131 St. Johns Bluff Road South  
 Jacksonville, Florida 32216  
 Phone Number (904) 642-8990

**SITE PLAN**  
**JUNGTION CREEK PLANTATION**  
**PARCEL 23**  
**ATLANTIC GULF COMMUNITES**

PROJ. NO.	E 94-53
DATE:	11-21-94
SCALE:	1" = 500'
DRAWING NO.	1

EXHIBIT B  
WRITTEN TEXT

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Atlantic Gulf Communities Corp. hereby submits, for approval by the St. Johns County Planning and Zoning Agency and the St. Johns County Board of County Commissioners, a final development plan (the "Final Development Plan") for single family subdivision to be known as Julington Creek Plantation Parcel 23 (the "property" or "subdivision"). The Final Development Plan consists of a 1-page map identified as Exhibit A to the Resolution (the "Map"), the legal description as shown on Exhibit A, this text identified as Exhibit B to the Resolution (the "Text"), copies of the applicable sections of the covenants and restrictions, and a list of those sections of the covenants specifically incorporated into the Final Development Plan, which list is identified as Exhibit C to the Resolution, and Indemnity Agreement identified as Exhibit D to the resolution. The Property is located wholly within that parcel of land zoned Planned Unit Development (PUD) pursuant to Ordinance 93-43. The area encompassed by this Final Development Plan is located within the Julington Creek Plantation PUD. It occupies portions of Parcel 23 as shown on the approved Master Plan. Under the approved Master Plan, Parcel 23 may be used for up to 153 single family units. Parcel 23, Phase I and II will contain 150 single family lots on approximately 80.3 acres.

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

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

Nothing contained in the covenants shall be interpreted to limit or restrict in any way the regulatory powers of St. Johns County (including its powers to review and approve plats and replats under Section 177.071 of the Florida Statutes). Those sections of the covenants which are specifically referenced herein and listed on Exhibit C are incorporated by reference in the Final Development Plan, shall be made a part of the Final Development Plan and shall not be amended without approval of the Board of County Commissioners

of St. Johns County. A list of the sections of the covenants made a part of the Final Development Plan is provided with this submission and is identified as Exhibit C to the Resolution. The developer reserves the right to alter, amend, or allow to be amended all other sections of the covenants.

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8-4-1 Density of Development

The total ground area occupied by residential buildings and structures in the Subdivision shall not exceed 35 percent of the total ground area committed to residential use. There will be approximately 1.9 residential units per acre.

8-4-2 Open Space

Areas of jurisdictional wetlands to be preserved have been set aside as a part of the conservation easement recorded in O.R.B. 929, pages 684-706, St. Johns County. These areas are outside of the boundaries of this map and will not be disturbed.

The subdivision will contain stormwater retention and treatment areas which are depicted as Tracts T-1 and T-2 on the map. The area designated as Tract T-3 on the map shall be used as a sewer lift station site.

Open space areas shall be dedicated and maintained by the existing property owners association, the existing MSTU or the proposed CDD, at the discretion of Atlantic Gulf Communities.

All of the above mentioned areas have been incorporated into the overall drainage system.

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

All development which is to occur within the Subdivision will comply with the spirit and intent of the P.U.D. There will be no more than 150 residences (RS-2) in Julington Creek Plantation DRI - Parcel 23. The minimum lot size shall be 10,000 square feet. The minimum setback requirements are as follows: front yard: 25', side yard: 8', and rear yard: 10'. On corner lots, a front yard of the required depth shall be provided on one frontage. The other frontage shall meet the rear yard requirement.

All setbacks shall be measured from the exterior wall of the dwelling to the applicable parcel boundary.

Setbacks to accessory structures shall meet the minimum required by Section 7-17 of the St. Johns County Zoning Ordinance unless otherwise specified in the covenants and restrictions.

Temporary construction trailers may be used within the Subdivision during the construction period (which shall be up to 24 months from the date of approval of this final development plan). Model homes may be used within the development as temporary sales centers. Parking for the temporary sales center shall be within the driveway only.

There may be signs, fencing, landscaping and irrigation within the subdivision on property owned by Atlantic Gulf, Julington Creek Plantation Owners' Association, Inc. ("Association"), or within right-of-way dedicated to the County. The actual size and locations of signage shall be included in the right-of-way permit to be obtained prior to installation. Atlantic Gulf has agreed to install such signs, fencing, landscaping and irrigation in accordance with the terms and conditions hereinafter set forth and to indemnify and hold the County harmless from any claims, loss or damage arising from or in connection with the installation of such signs, fencing, landscaping and irrigation all as more fully set forth herein:

- a. The cost of installation of any signs, fencing, landscaping, irrigation and related equipment, whether installed on lands owned by Atlantic Gulf, the Association or on rights of way dedicated to the County, shall be solely paid by Atlantic Gulf or any developer of the portion of Julington Creek Plantation who owns the tract of land on which the signs, fencing, landscaping and irrigation is to be located.
- b. The cost of maintenance, repair or replacement of any signs, fencing, landscaping and irrigation, whether installed on lands owned by Atlantic Gulf, the Association or on rights of way dedicated to the County, shall be paid by Atlantic Gulf or the Association. Atlantic Gulf or the Association shall obtain and maintain liability insurance in connection with the signs, fencing, landscaping and irrigation which shall be in the minimum amount of \$100,000.00 per person and \$200,000.00 per occurrence and shall provide proof of such insurance to the Clerk of the Circuit Court, St. Johns County, Florida.
- c. Prior to the installation of any signs, fencing, landscaping, irrigation, and/or other structures or uses within County rights of way, Atlantic Gulf or the responsible entity shall submit an Application for a Right of Way Permit for review and approval from the Public Works Department of St. Johns County, Florida and a copy of the Planning and Zoning Department for filing with the Final Development Plan and current renewals filed annually.
- d. Prior to installation of any signs, fencing, landscaping and irrigation Atlantic Gulf or the owner of the tract of land on which the signs, fencing, landscaping and irrigation is to be installed shall apply for and receive a building permit from the Building Department of St Johns County, Florida.

- e. No signs, fencing, landscaping and irrigation shall be installed closer than twelve feet (12') from the edge of the pavement of the adjacent two (2) streets. No signs, fencing, landscaping and irrigation shall be installed so as to obstruct the field of vision of motorists or pedestrians along any adjacent roads, driveways or thoroughfares, whether paved or unpaved. In all cases, sight distance shall meet the requirements set forth in the Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways, latest edition.
- f. Atlantic Gulf or the Association shall maintain all signs, fencing, landscaping and irrigation installed in accordance herewith in good repair and condition.
- g. Atlantic Gulf and the Association have agreed that they shall be solely liable and agrees to be solely liable for and shall indemnify, defend and hold St. Johns County harmless from any and all loss, damage, claim, action, suit, judgment, cost or expense for injury to persons, including death or damage to property, including destruction in any manner arising from or out of the installation, maintenance or failure to remain, use or existence of any and all signs, fencing, landscaping and irrigation installed within the County rights of way.

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

#### 8-4-4 Project Size

The PUD consists of more than twenty acres. This Final Development Plan consists of 80.3 acres.

#### 8-4-5 Support Legal Documents for Open Space

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

- a. The Covenants shall provide for conveyance of the title of the common property to an ownership by the appropriate property owners association which shall be a duly constituted and legally responsible community association.  
Article IV, Section 2 provides that "Developer may retain legal title to the Common Property until such time as it has completed improvements thereon and until such time as, in the opinion of the Developer, the Association is able to maintain the same, but, notwithstanding any provisions herein, the Developer hereby covenants, for itself, its successors and assigns that subject to the foregoing, it shall convey the Common Property to the



Association not later than Turnover, free and clear of all monetary liens and encumbrances except for real property, taxes for the year in which the conveyance takes place, covenants, conditions, restrictions of record and any easements granted or reserved by the Developer pursuant to Section IV of this Agreement. Upon such conveyance the Association shall be obligated to accept such conveyance and any such conveyance shall be as is." Julington Creek Plantation Property Owners' Association is a duly constituted property owners association filed with the Secretary of State of Florida.

- b. The use of the Common Property is granted to the owners of the Association. According to Article IV, Section 1, the members of the Association, their guests, invitees and mortgagees, all of which have the right and easement of enjoyment in and the Common Property for all proper and reasonable purposes and such easement shall be appurtenant to and pass with title to every Lot and Living Unit.
- c. Pursuant to the provisions of Article I, Section 1(b), the covenants shall assign responsibility for the management and maintenance of the Common Property to the proper property owners association. Pursuant to Article IV, Section 2, the Developer retains title to the Common Property until all improvements have been completed and the Association is in the position to maintain it. Accordingly, upon conveyance of the Common Property to the Association, it had the obligation to maintain that property. This is consistent with the definition of Common Property set forth in Article I, Section 1(b).

In addition, Article II(b) of the Articles of Incorporation of the Julington Creek Plantation Property Owner's Association, Inc. states that the Association is formed for the purpose of owning, acquiring, operating and maintaining the Common Property as defined above.

- d. The covenants shall place responsibility for enforcement of the covenants upon the appropriate property owners association. Pursuant to the provisions of Article VII(4), the enforcement of this Amended Declaration may be made by the Association, the Developer or any owner and shall be by a proceeding at law or in equity against such person or persons violating or attempting to violate any covenant or restriction, either to restrain the violation or to recover damages and against the land to enforce any lien created by these covenants and restrictions.

In addition, Article II(b) of the Articles of Incorporation of the Julington Creek Plantation Property Owner's Association, Inc. states that the Association is formed for the purpose of owning, acquiring, operating and maintaining the Common Property as defined above.

- e. The Declaration shall permit the subjection of each Lot to an assessment for a proportionate share of maintenance costs.

Article V, Section I provides that the Developer for each Lot or Living Unit owned by it hereby covenants and each Owner of each Lot or Living Unit by acceptance of a deed or other conveyance, whether or not it shall be so expressed in such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association all assessments levied by the Association.

All of the foregoing provisions are set forth in the Restated and Amended Declaration. The property encompassed by this Final Development Plan is subjected to these Restated Covenants and also to additional covenants unique to that particular subdivision pursuant to the Supplemental Declarations.

#### 8-4-6 Access

As graphically depicted on the Final Development Plan, each lot is provided vehicular access within the subdivision via the public rights-of-way to be dedicated to St. Johns County.

A non-access buffer which prevents frontage on a collector roadway shall be provided along all lots which are adjacent to Durbin Creek Boulevard and Flora Branch Boulevard.

Corner lots shall be provided access from only one street.

#### 8-4-7 Privacy

Visual and acoustical privacy of each dwelling unit will be provided, where required.

#### 8-4-8 Community Facilities

- a. None of the utility facilities serving the Property are proposed for dedication to St. Johns County; therefore, the provisions of subparagraph "a" are inapplicable.
- b. All requirements for off-street parking and loading set forth in Article 9 of the St. Johns County Zoning Ordinance are addressed specifically in sections 9-1-1 through 9-4-1 of this text.

- c. The Final Development Plan illustrates the anticipated traffic flow patterns. Sufficient space has been allowed to permit access for fire fighting equipment, furniture moving vans, fuel trucks, refuse collection, deliveries and debris removal. Locations of the fire hydrants serving the Property shall be depicted on the signed and sealed construction plans. The fire hydrants to be installed pursuant to this Final Development Plan shall meet county standards and must be approved by the county fire coordinator prior to issuance of certificates of occupancy for any structure to be served by such hydrants.
- d. All utilities serving the Property including telephone, power, cable television, and sewer and water lines within the subdivision will be installed underground. Power lines within Durbin Creek Boulevard shall be overhead in accordance with JEA Standards. The signed and sealed construction plans shall show the location and design of the storm sewer facilities serving the Subdivision and the grading and topography of the site facilitating proper drainage of storm waters and preventing erosion.
- 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 in Ordinance Number 86-4. Street names included on the final development plan have not been approved by the county. Street names will require county acceptance prior to approval.

#### 9-1-1 Drainage

The overall drainage plan for the property is designed to prevent damage to abutting parcels, public streets, and alleys and is graphically depicted on the Final Development Plan. Specific drainage plans for each lot upon which a residence is to be constructed will be consistent with this overall drainage plan.

Conceptual stormwater management, including anticipated drainage patterns and retention/detention ponds have been shown on Exhibit A. Detailed drainage plans demonstrating compliance with requirements of Ordinance 86-4 and the St. Johns County Comprehensive Plan shall be included within the signed and sealed construction plans. The actual locations of drainage facilities and easements shall be shown on the signed and sealed construction plans.

The construction plans must be reviewed and approved by St. Johns County Engineering Department prior to commencement of land clearing, site preparation or construction.

All necessary easements for drainage and access shall comply with the requirement of Ordinance 86-4 and shall be depicted on the Final Plat.

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9-1-2 Separation from Walkway and Street

Each single family unit will have an individual garage which provides for the required off-street parking.

9-1-3 Entrances and Exits

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

9-1-4 Interior Drives

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

9-1-5 Marking of Parking Spaces

As shown on the Final Development Plan, there will be no parking spaces in groups of more than ten to serve the single family units.

9-1-6 Lighting

Lighting within the subdivision will be placed in accordance with JEA standards.

9-1-7 Screening

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

9-2 Location

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

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

The Subdivision will be used for single family residential lots. Two off-street parking spaces will be provided per dwelling on the same parcel they intend to serve, which is twice the requirement specified in Subsection a. of 9-3-1.

9-4-1 Off-Street Loading Requirements

This section does not apply to residential developments.

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APPLICANT

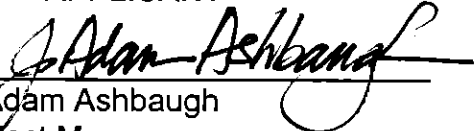
by:   
J. Adam Ashbaugh  
Project Manager  
England, Thims & Miller, Inc.  
(Agent)

EXHIBIT C

Listed below are the Articles of the Amended and Restated Declaration of Covenants and Restrictions of Julington Creek Plantation Owner's Association recorded in Official Records Book 1004, Page 1823 of the public records of St. Johns County, Florida, referred in Exhibit B, Section 8-4-5 - Support Legal Documents for Open Space. Copies of these Articles are attached.

Article I, Section 1(b)

Article IV, Section 1 and Section 2

Article V, Section 1

Article VII, Section 4

Articles of Incorporation Article II(b)

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L. Pursuant to the provisions of Article VII, Section 1 of the Declaration, the Developer has the right, prior to "Turnover" of control of the Association to amend the Declaration, and the Developer, at the time of recording this Amended Declaration, is the Class B Member having more votes outstanding than the Class A Members and Developer desires to amend the Declaration on the terms and conditions more fully set forth herein.

NOW, THEREFORE, in consideration of the premises, the Developer hereby partially terminates, restates, amends and supplements the Declaration in its entirety as follows:

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WITNESSETH

WHEREAS, Developer is the owner of certain real property located in St. Johns County, Florida, in which it desires to create a planned residential community with open spaces and recreational facilities for the benefit of such community; and

WHEREAS, Developer desires to provide for the preservation of values of the lands from time to time subjected to this Amended Declaration and for the maintenance of open spaces and recreational facilities and to this end desires to subject only the real property described in Exhibit A ("Property") together with such additions as may hereafter be made hereto (as provided in Article II) to the covenants, restrictions, easement, charges, fees and liens hereinafter set forth, each and all of which is and are for the benefit of the property and each Owner thereof; and

WHEREAS, Developer has deemed it desirable for the efficient preservation of the values of said community to create an association to which should be delegated and assigned the powers of maintaining and administering the Common Property and facilities and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, the Developer has incorporated under the laws of the state of Florida the Association which is a Florida non-profit corporation for the purpose of exercising the functions of the aforesaid.

NOW, THEREFORE, the Developer hereby declares that the Property and such additions thereto as may be made pursuant to Article II hereof is and shall be held, transferred, sold, conveyed, occupied subject to the covenants, restrictions, easements, charges and liens hereinafter set forth.

Article I

DEFINITIONS

Section 1. The following words, when used in this Amended Declaration or any Supplemental Declaration, (unless the context shall prohibit) shall have the following meanings:

a. "Additional Property" shall mean and refer to the land more fully described in Exhibit B attached hereto and made a part hereof, any of which may, from time to time, be added hereto and made a part hereof in the manner more fully set forth in Article II.

b. "Common Property" shall mean and refer to those areas of land shown on any recorded subdivision plat or replat of the Property which are intended to be devoted to

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the common use and enjoyment of the Owners of the Property or a Neighborhood (as hereinafter defined), or any other property or easement hereafter conveyed to the Association, which may include those parcels or tracts of land, irrespective of ownership, which are dedicated for recreational and/or park areas, open areas, conservation areas, drainage, ingress, egress and rights-of-way, including all improvements, fixtures and personal property located therein and for which the Association has certain maintenance obligations. Provided, however, the listing of the foregoing shall not be deemed a representation or warranty that all of the foregoing Common Property will be provided. The use of the Common Property may be restricted and devoted to the common use and enjoyment of the Owners of the Property or to only the Owners within one or more Neighborhoods and such other persons as may be granted use privileges, as hereinafter described ("Neighborhood Common Property"). The maintenance obligations of the Association may be exercised in conjunction with or enhancement of the maintenance obligations of St. Johns County or other governmental entities.

c. "Neighborhood Common Property" shall mean and refer to the Common Property which is restricted to the common use and enjoyment of the Owners of one or more Neighborhoods.

d. "Property" shall mean and refer to all lands as described in Exhibit A attached hereto and made a part hereof and additions thereto as are added to this Amended Declaration by any Supplemental Declaration under the provisions of Article II hereof.

e. "Association" shall mean and refer to Julington Creek Plantation Property Owners' Association, Inc., a Florida corporation not-for-profit (formerly known as Julington Creek Property Owners' Association, Inc.).

f. "County" shall mean and refer to St. Johns County, Florida.

g. "Developer" shall mean Atlantic Gulf Communities Corporation or any person or entity who may be assigned all or part of the rights of the Developer pursuant to a written agreement executed by the Developer and recorded in the public records of St. Johns County, Florida. In addition, in the event that any person or entity obtains title to all of the Property then owned by the Developer as a result of the foreclosure or deed in lieu thereof, such person or entity may elect to become the Developer by written election recorded in the public records of St. Johns County, Florida, and regardless of the exercise of such election, such person or entity may appoint as Developer or assign any rights of Developer to any third party which acquires title to all or any portion of the Property by written appointment in the public records of St. Johns County, Florida. In any event, any subsequent Developer shall not be liable for any actions or defaults of, or obligations incurred by, any previous Developer, except as may be expressly assumed by the subsequent Developer.

h. "Living Unit" shall mean and refer to any house, apartment, condominium apartment, cooperative apartment, villa, townhouse, patio home, cluster home or the like situated upon the Property designed and intended for use and occupancy as a residence by a single family. A "Living Unit" shall be deemed to exist when a Certificate of Occupancy or equivalent has been issued for a Living Unit or a building in which a Living Unit is located. From and after the issuance of a certificate of occupancy for a Living Unit on a Lot, the Lot shall not be considered separate or a part for purposes of voting or Assessments.



Article IV

PROPERTY RIGHTS AND COMMON PROPERTY

Section 1. Member's Easements of Enjoyment. Subject to the provisions of Section 3, every member subject to Assessments as provided in Article V, Section 4 hereof, his guests, invitees and mortgagees shall have a right and easement of enjoyment in and to the Common Property for all proper and reasonable purposes and such easement shall be appurtenant to and shall pass with the title to every Lot and Living Unit. Provided, however, to the extent that any Common Property is restricted solely for the use and benefit of the Owners within a specified Neighborhood(s), the use and enjoyment of such Neighborhood Common Property shall be restricted to those Owners within the Neighborhood(s) and the expenses of owning and maintaining same shall be assessed solely against the Owners within the designated Neighborhood(s). Provided however, there shall be no absolute liability of Owners for damage to the Common Property or Lots within the Property.

Section 2. Title to the Common Property. The Developer may retain the legal title to the Common Property until such time as it has completed improvements thereon and until such time as, in the opinion of the Developer, the Association is able to maintain the same, but, notwithstanding any provisions herein, the Developer hereby covenants, for itself, its successors and assigns that subject to the foregoing it shall convey the Common Property to the Association not later than Turnover, free and clear of all monetary liens and encumbrances, except real property taxes for the year in which the conveyance takes place, covenants, conditions and restrictions of records and any easements granted or reserved by the Developer pursuant to Section 4 of this Article. Upon such conveyance the Association shall be obligated to accept such conveyance and any such conveyance shall be "as is". Any other person may also convey land to the Association as Common Property but the Association shall not be obligated to accept such conveyance unless approved by the Board. Further, to the extent required in order to obtain mortgages insured or guaranteed by the VA or FHA, the Developer shall convey applicable Common Property to the Association prior to the first mortgage in the plat being insured or guaranteed by FHA or VA.

Section 3. Use of Common Property for Stormwater Management System. Certain Common Property is or may be designated on the plats, in any Supplemental Declaration or in Permits for the development of such Common Property to form a part of the Stormwater Management System. It was originally intended that the Stormwater Management System would be maintained by the Municipal Service Taxing District created pursuant to Ordinance #82-17 by St. Johns County ("MSTU"). In connection with the development of the Property, it has been determined that certain portions of the Stormwater Management System may be more appropriately maintained by the Association or the Community Development District, as hereinafter defined. Such determination in no way limits any further determination with respect to the future obligations of the MSTU.

Therefore, at the time of recording this Amended Declaration, the MSTU is obligated pursuant to the dedications set forth in some of the plats, to be responsible for all operational maintenance activities necessary for the Stormwater Management System, including, without limitation, any obligations under applicable Permits, to keep the Stormwater Management System in proper and operational order including all routine maintenance activities and any special repair activities. The MSTU shall maintain and control the water level and quality of the Stormwater Management System and shall maintain the bottoms of any lakes or retention areas in the System. The MSTU has the power, obligation and responsibility, as required by the permits, to control plants, fowl, reptiles, animals, fish and fungi in and on any portion

right to grant easements for installation and maintenance of public utilities and temporary roads on the Common Property in addition to those already reserved. No such grant shall require the removal or relocation of any improvements existing on the Common Property on the date of the grant.

Section 7. Association Right to Grant Easements. Without limiting the rights of the Developer hereunder, the Association, by majority vote of the Board of Directors, has the non-exclusive right to grant permits, licenses and easements over the Common Property for utilities, road and other purposes reasonably necessary or useful for the proper maintenance or operation of the Property.

Section 8. Admission Fees. The Association may charge reasonable admission and other fees as a condition of use of the recreational facilities by the members. The Association may open enjoyment of such facilities to the general public upon the payment of such admission or other fees as are generally established from time to time.

Article V

COVENANT FOR MAINTENANCE ASSESSMENTS

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Section 1. Creation of the Lien and Personal Obligation of Assessments. Except as provided elsewhere herein, the Developer for each Lot or Living Unit owned by it within the Property hereby covenants and each Owner of any Lot or Living Unit by acceptance of a deed or other conveyance, whether or not it shall be so expressed in such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association all assessments levied by the Association which are applicable to such Lot or Living Unit, including, without limitation:

- a. Annual General Assessments.
- b. Special Assessments.
- c. Capital Improvements Assessments.
- d. Neighborhood Assessments.

The foregoing assessments (collectively, the "Assessments") shall be fixed, established and collected from time to time as hereinafter provided. Such Assessments, together with interest thereon and costs of collection thereof as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the Lot or Living Unit against which such Assessment is made. Such Assessments, together with interest thereon and the cost of collection thereof, as hereinafter provided, shall also be the personal obligation of the person who was the Owner of the Lot or Living Unit at the time when the Assessments fell due, except as provided in Section 10 hereof. All Lots and Living Units and the Owners thereof shall be subject to and liable for Annual General Assessments, Special Assessments and Capital Improvement Assessments. Only the Lots and Living Units and the Owners thereof within any particular Neighborhood shall be subject to and liable for Neighborhood Assessments for that Neighborhood. No Mortgagee shall be required to collect Assessments on behalf of the Association and unless specifically set forth in the Mortgage on a Lot or Living Unit, the failure to pay Assessments shall not constitute a default under any Mortgage.

m. Maintaining private streets and roads, if any;

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n. Maintaining the Stormwater Management System in a manner so as to allow the Stormwater Management System to provide drainage, water storage, conveyance of other stormwater management capabilities as permitted by the SJRWMD and fixing the portion of the assessments required to perform such maintenance. Any repair or reconstruction of the Stormwater Management System shall be as permitted, if modified, and as approved by the SJRWMD;

o. Maintaining swimming pools, if applicable, including cleaning, chemicals, maintenance of pumps, pool heater, including gas and maintenance of heating pumps and providing for lifeguards and management of the facility;

p. Maintaining air conditioning of recreational building, if applicable;

q. Insofar as permitted by law doing any other thing that, in the opinion of the Board of Directors, will promote the common benefit and enjoyment of the Owners of the Property.

#### Article VII

#### GENERAL PROVISIONS

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#### Section 1. Amendments.

a. Anything in this Amended Declaration to the contrary notwithstanding, this Amended Declaration and any Supplemental Declaration hereto may be amended from time to time by the Developer prior to Turnover of control of the Association.

b. After Turnover, the Association may amend this Amended Declaration or any Supplemental Declaration by recording among the public records of St. Johns County, Florida, an instrument executed by the President and attested to by the Secretary of the Association that the amendment was approved by a majority of all the votes of all Members entitled to vote, as more fully set forth in the Articles of Incorporation. Provided however, that so long as the Developer owns any portion of the Property or the Additional Property, no such amendment may be made by the Association without the written consent of the Developer.

c. Any amendment to this Amended Declaration or a Supplemental Declaration which alters the Storm Water Management System, beyond maintenance in its original condition, including the Storm Water Management portion of the Common Property, must have the prior approval of the SJRWMD.

d. Any Supplemental Declaration creating one or more Neighborhood(s), or any provisions of any Supplemental Declaration affecting only one or more Neighborhoods, may be amended by the Developer so long as the Developer owns any portion of the property within the applicable Neighborhood(s), unless otherwise provided in the Supplemental Declaration. Thereafter, in the event that a proposal is made to amend a Supplemental Declaration which encumbers only specific property and does not affect the rights or obligations

of Owners not subject to such Supplemental Declaration, then an amendment to such Supplemental Declaration shall be made if approved by the majority of all Owners subject to such Supplemental Declaration. Upon such approval, the amendment shall be evidenced by recording a certificate of the Association, executed by the president, setting forth the amendment to the Supplemental Declaration.

e. If any mortgage encumbering any Lot is guaranteed or insured by the Federal Housing Administration or by the Veterans Administration, then the following action, if made by the Developer while the Developer is the Class B Member, must be approved by either such agency; (i) any annexation of additional property, except for the property described in Exhibit B attached hereto; (ii) any mortgage, transfer or dedication of any Common Property, any amendment this Amended Declaration, the Articles of the Bylaws, if such amendment materially and adversely affects the Owners of materially and adversely affects the general scheme of development created by this Amended Declaration, provided however, such approval shall specifically not be required where the amendment is made to add any property described in Exhibit B, or to correct errors or omissions, or as required to comply with the requirements of any Mortgagee, or as required by any governmental authority; (iii) any amendment to this Amended Declaration or any Supplemental Declaration or (iv) any merger, consolidation or dissolution of the Association. Such approval shall be deemed given if either agency fails to deliver written notice of its disapproval of any such action to the Developer or to the Association within 30 days after a request for such approval is delivered to the agency by certified mail, return receipt requested, or equivalent delivery, and such approval shall be conclusively evidenced by a certificate of the Developer or the Association that the approval was given or deemed given.

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Section 2. Duration. The covenants and restrictions of this Amended Declaration shall run with and bind title to the Property and shall inure to the benefit of and be enforceable by the Association or the Owner of any land subject to this Amended Declaration and their respective legal representatives, heirs, successors and assigns, for a term of twenty (20) years from the date of this Amended Declaration as recorded unless the same shall be amended and modified or revised as provided herein. Thereafter and after the expiration of the said initial twenty year period, said covenants shall automatically be extended for successive ten year periods unless amended, modified, terminated or revised as provided in Section 1 of this Article.

Section 3. Notices. Any notice required to be sent to an Owner under the provisions of this Amended Declaration shall be deemed to have been properly sent when mailed, post paid to the address of the Living Unit, or the last address of the person, who appears as the owner in the records of the Association at the time of such mailing.

Section 4. Enforcement. Enforcement of this Amended Declaration may be made by the Association, the Developer, or any Owner and shall be by proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain the violation or to recover damages and against the land to enforce and lien created by these covenants and restrictions; any failure by the Association, Developer or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. In addition, Developer shall have the right wherever there shall have been built on any Lot or any structure which is in violation of this Amended Declaration, to enter upon the Lot where such violation exists and summarily abate or remove the same at the expense of the Owner; such entry and abatement or removal

shall not be deemed a trespass. In connection with any action taken under this Amended Declaration, in order to enforce a compliance with the terms and conditions hereof, the prevailing party shall be entitled to its attorneys' fees prior to or at trial, on appeal or in bankruptcy.

The St. Johns River Water Management District shall have the right to enforce legal proceedings at law or in equity, the provisions contained in this Amended Declaration which relate to the maintenance, operation and repair of the Stormwater Management System. All other provisions may be enforced by an Owner, the Developer or the Association.

Section 5. Severability. Invalidation of any of these covenants or restrictions by judgment or court order shall in no way affect any other provision hereof, shall remain in full force and effect.

Section 6. Information. The Association is required to make available to Lot or Living Unit Owners and Mortgagees current copies of the Amended Declaration, Bylaws or other rules concerning the Property and the books, records and financial statements, if any, of the Association. "Available" means available for inspection upon request during normal business hours or under other reasonable circumstances.

Section 7. Mortgagees' Notices. Upon written request to the Association, identifying the name and address of the Mortgagee, and the property number or address of the Lot or Living Unit on which such Mortgagee has a mortgage, any such Mortgagee shall be entitled to:

a. timely written notice of any condemnation or casualty loss which effects the material portion of the Property on which there is a mortgage held by Mortgagee;

(i) any delinquency on the payment of Assessments owed by an Owner subject to a mortgage held by a Mortgagee which remains uncured for a period of sixty (60) days;

(ii) any lapse or material modification of any insurance policy or fidelity bond maintained by the Association;

(iii) any proposed action which will require the consent of a specified percentage of Mortgagees; and

b. no Mortgagee shall be required to collect Assessments under the terms of its mortgage and failure to pay Assessments shall not be a default under the mortgage unless the Mortgagee so provides under the terms of its mortgage.

c. copies of any financial statement for the immediately preceding year.

Section 8. Insurance and Fidelity Bonds. The Association has a duty to maintain in effect casualty and liability insurance and fidelity bond as specified in Section 803.07 of the FNMA conventional home mortgage selling contract supplement.

Section 9. Community Development District. The Developer has reserved the right but not the obligation, to create a Community Development District pursuant to the terms of Florida Statutes Chapter 190 which may provide for the purposes of funding the construction of infrastructure for off-site

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**ARTICLE II**

**PURPOSES**

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The Association does not contemplate pecuniary gain or profit, direct or indirect, to its Members. The purposes for which it is formed are:

- a. To preserve the values of the Property and such Additional Property as from time to time may be added to the Declaration (the "Property"); and
- b. To own, acquire, operate and maintain, for the benefit of the Owners of all or part of the Property ("Members"), the lands hereinafter referred to as the "Common Property" as more fully defined in the Declaration, together with any buildings or other improvements that may be constructed thereon, including, but not limited to: swimming pools, parks, playgrounds, lakes, commons, open spaces, and private streets, if any; and,
- c. To maintain unkempt lands or trees; and
- d. To fix and collect Assessments (as defined in the Declaration) to be levied against the Property and the Owners and to pay all expenses in connection therewith; and,
- e. To enforce any and all covenants, restrictions and agreements applicable to the Property; and,
- f. To pay taxes and insurance on the Common Property; and,
- g. To do and undertake all actions and duties as set forth in the Declaration, these Articles and the Bylaws; and
- h. Insofar as permitted by law, to do any other thing that, in the opinion of the Board of Directors, will promote the common benefit and enjoyment of the Members.

**ARTICLE III**

**MEMBERSHIP**

Every person or entity who is record owner of a fee or undivided fee interest in any Lot or Living Unit which is subject to the Declaration shall be a Member of the Association from the date such Member acquires title to his Lot or Living Unit, provided that any such person or entity who holds such interest merely as a security for the performance of an obligation shall not be a Member. Provided further, that for so long as Atlantic Gulf Communities Corporation ("Developer") or its successor or assign is the Developer under the Declaration and owns a parcel of land within the Additional Property Developer shall be a member of the Association. The interest of a Member in the finances and assets of the Association can not be assigned, hypothecated or transferred in any manner, except as an

*Articles of Incorporation*

EXHIBIT D

INDEMNITY AGREEMENT

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THIS AGREEMENT is made this 19<sup>th</sup> day of August, 1994, by and among ATLANTIC GULF COMMUNITIES CORPORATION, a Delaware corporation authorized to do business in Florida ("Atlantic Gulf"), JULINGTON CREEK PLANTATION PROPERTY OWNERS'S ASSOCIATION, INC., a Florida not for profit corporation ("Association") for the benefit of THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA ("County").

IN CONSIDERATION of the approval of the County of that certain Resolution No. 93-\_\_\_\_, permitting the installation of certain signs, landscaping, irrigation and fencing all on the terms and conditions more fully set forth in the Resolution, Atlantic Gulf and the Association hereby agree to be solely liable for and shall indemnify, defend and hold St. Johns County harmless from any and all loss, damage, claim, action, suit, judgement, cost or expense for injury to persons, including death or damage to property, including destruction in any manner arising from or out of the installation, maintenance or failure to repair, use, or existence of any and all signs, fencing, landscaping and irrigation installed with the County rights of way, in accordance with the Resolution.

IN WITNESS WHEREOF, the undersigned set their hands and seals as of this 19<sup>th</sup> day of August, 1994.

ATLANTIC GULF COMMUNITIES CORPORATION

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

J. Thomas Gillette, III  
Vice President

JULINGTON CREEK PLANTATION PROPERTY OWNERS' ASSOCIATION, INC.

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

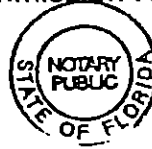
J. Thomas Gillette, III  
President

STATE OF FLORIDA  
COUNTY OF ST. JOHNS

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The foregoing instrument was acknowledged before me this 19<sup>th</sup> day of August, 1994, by J. Thomas Gillette, III, Vice President of Atlantic Gulf Communities Corporation, a Delaware corporation authorized to do business in Florida, on behalf of the corporation. He is personally known to me and did not take an oath.

Sharon Hudson  
Print Name: Sharon Hudson  
Notary Public, State of Florida  
Commission Number: 00107354



SHARON HUDSON  
My Comm. Exp. 12-11-95  
Bonded By Service Ins. Co.

STATE OF FLORIDA  
COUNTY OF ST. JOHNS

The foregoing instrument was acknowledged before me this 19<sup>th</sup> day of August, 1994, by J. Thomas Gillette, III, President of Julington Creek Plantation Property Owners' Association, Inc., a Florida corporation, on behalf of the corporation. He is personally known to me and did not take an oath.

Sharon Hudson  
Print Name: Sharon Hudson  
Notary Public, State of Florida  
Commission Number: 00107354



SHARON HUDSON  
My Comm. Exp. 12-11-95  
Bonded By Service Ins. Co.



STATE OF FLORIDA  
COUNTY OF ST. JOHNS

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

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

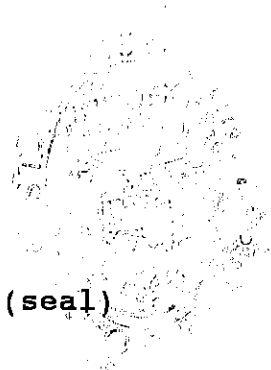
RESOLUTION NO. 94-224

adopted by the Board of County Commissioners of St. Johns County, Florida at a regular meeting of said Board held December 13, 1994

FILED AND RECORDED  
ST. JOHNS COUNTY  
95 JAN - 3 AM 11:03  
CLERK OF CIRCUIT COURT  
CARL "BUD" MARKEL

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

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office this 30th day of December, 1994.



(seal)

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

By: Patricia DeGrande  
Patricia DeGrande, Deputy Clerk