

DECLARATION OF RESTRICTIVE COVENANTS,
EASEMENTS AND PARTY WALL AGREEMENT

DR125401175

THIS DECLARATION, made on this 30th day of March, 1987, by R. FRANK DONALDSON and A. B. HOPKINS, JR., hereinafter referred to as "Declarants," for themselves and their successors, grantees, and assigns,

WITNESSETH THAT:

1. Lands. The Declarants are the owners of certain land located in Leon County, Florida, more particularly described in Exhibit "A" attached hereto and made a part hereof, hereinafter sometimes referred to as "the Property." The Declarants have initially divided the Property into forty (40) lots upon each of which lots the Declarants will construct duplex or triplex or quadraplex townhouse type single-family living units, said lots being substantially in accordance with the map or plat of the Property attached hereto as Exhibit "B" and made a part hereof. The Declarants further intend to impose upon the Property restrictive covenants under a general plan for the benefit of all parcels within the Property and the owners thereof. These covenants and restrictions are hereby imposed on all lands described on the attached Exhibit "A".

2. Name. The name by which the property shall be known and identified is "FOREST COMMONS."

3. Submission of Property to Restrictive Covenants. Declarants do hereby impress and impose upon the Property the restrictive covenants, obligations, covenants, and conditions set forth and provided for herein which shall run with the land. This Declaration shall be binding upon Declarants, their successors, assigns and grantees. All covenants, restrictions, reservations, easements, and cross-easements set forth herein shall be binding upon grantors, grantees, mortgagors and mortgagees of property in FOREST COMMONS regardless of whether recited in any instrument of conveyance or encumbrance.

4. Definitions. The terms used herein and in the By-Laws of the Homeowners' Association shall have meanings as follows:

(a) "Lot" shall mean the parcels of real property within FOREST COMMONS, as depicted upon Exhibit "B." Until such time as a lot shown on Exhibit "B" is subdivided by the construction thereupon of the townhouse-type residential units, it shall be treated under these covenants and By-Laws as one lot. Upon the construction of a common or party wall between the residences upon a lot, it shall thereafter constitute two, three or four separate lots, as the case may be, being one lot for each residential unit.

(b) "Homeowner" and "lotowner" mean the owner of a lot located in FOREST COMMONS.

(c) "Association" means FOREST COMMONS HOMEOWNERS ASSOCIATION, INC., a nonprofit corporation, and its successors, which association shall be responsible for the operation and management of the common areas, detention or retention ponds, roadways, and easement areas within the subdivision, and such other rights, duties, and obligations as are set forth in this Declaration.

(d) "By-Laws" shall mean such By-laws as are established by the Association from time to time.

(e) "Common Expenses" mean the expenses for which the homeowners are liable to the Association.

(f) "Assessment" means a share of the funds required for the payment of common expenses which, from time to time, is assessed against a homeowner.

(g) "Common Surplus" means the excess of all receipts of the Association, including, but not limited to, assessments, rents, profits, and revenues over the amount of common expenses.

(h) The "Property" means and includes the land described on Exhibit "A" (together with any land subsequently incorporated into the subdivision by the Declarants or the Association), and all improvements thereon and hereinafter constructed thereon, together with all easements and rights appurtenant thereto intended for use in connection with the Property, and necessary

to effectuate the purpose and intent of Declarants as set forth herein.

(i) "Common area" means that portion of the Property owned by the Association.

5. Houses and Boundaries Thereof. Each house built in FOREST COMMONS shall consist of the following:

(a) With regard to common walls (if any) the centerline of said walls shall be the boundary between the respective living units separated by the wall.

(b) Each house shall include a parcel of real property as described in the deed by which said land and house is conveyed by Declarants to third party purchasers.

(c) Bearing walls, columns, and wiring and other utility installations serving more than one house (if any) shall be commonly owned by the houses being served thereby.

6. Subdivision. No lot shown on the map or plat attached as Exhibit "B" may be divided or subdivided except by the Declarants in accordance with paragraph 4(a) above.

7. Membership in the Association.

(a) Each homeowner shall automatically, upon becoming the owner of a lot, be a member of the Association and shall retain such membership until such time as he no longer owns a lot in FOREST COMMONS, at which time his membership in the Association shall automatically terminate.

(b) The Association shall have two classes of voting members as follows:

CLASS A. Class A members shall be all owners except the Declarants, and each of them shall be entitled to one vote for each lot owned by said owner. When more than one person owns an interest in a given lot, all such persons shall be members and the vote for such lot shall be exercised as they may determine among themselves. In no event shall more than one vote be cast with respect to any lot owned by Class A members.

CLASS B. The Class B members shall be the Declarants, who collectively shall be entitled to exercise three (3)

votes for each lot owned by the Declarants. Class B membership shall cease and be converted to Class A membership when the total votes outstanding in Class A membership equal the total votes outstanding in Class B membership, or on January 1, 1990, whichever first occurs.

8. Assessments and Liens. Each homeowner(exclusive of the Declarants who are exempt from assessments hereunder until January 1, 1990, at which time lots then owned by the Declarants shall become subject to assessment in accordance with the provisions of this Declaration) by the acceptance of a deed for a house located within the property, whether or not it shall be so expressed in such deed, covenants and agrees to pay to the Association, commencing on the first day of the month following the month in which the homeowner closes his lot purchase, (a) annual assessments or charges as herein set forth and as initially established by the Declarants, and (b) special assessments for capital or other improvements or acquisitions, which assessments are to be established and collected as hereinafter provided.

The annual and special assessments, together with interest, costs, and reasonable attorneys' fees required to collect the same, if any, shall be a lien against the lot or lots owned by the party failing to pay the same; provided however, that any such lien shall be subordinate and inferior to any first mortgage on such lot or lots. Assessments shall be made pursuant to the By-Laws of the Association. No homeowner may exempt himself from liability for his contribution towards the common expenses by waiver of the use or enjoyment of any of the common areas or easement areas or by the abandonment of his lot.

9. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote and maintain the recreation, health, safety, and welfare of the members of the Association, and in particular, for the improvement and maintenance in a first class condition and in a good state or repair of the common areas, roadways, roadway lighting, and easement areas of

the property, and such other areas which are maintained by the Association, whether owned by the Association or by the homeowner.

10. Deposit of Assessments. Any and all sums collected from the assessments or related payments may be commingled with each other in a single account and shall be held and used for the purposes set forth in the Declaration, Articles, By-Laws, or other agreements among the homeowners.

11. Annual Assessments. The initial annual assessment per homeowner shall be \$40.00 per year per home. The annual assessment may be increased only upon the vote of a majority of the votes entitled to be cast by the full membership of the Association. The annual assessments shall commence under this Declaration on the first day of January, 1988.

12. Special Assessments. In addition to the annual assessments authorized above, the Association may levy in any assessment year a special assessment applicable to that year only for the purpose of defraying in whole or in part the cost of any construction, reconstruction, repair or replacement of the improvements or easements, or any other area or improvement which is the responsibility of the Association, including improvements, fixtures, and real or personal property related thereto, or for the exercise of the powers granted in Paragraph 18 hereof; provided, however, that any such assessment shall be made in accordance with the By-Laws of the Association.

13. Collection of Assessments. Assessments shall be due and payable on the first day of January in each year, and are delinquent if not paid by the 31st day of that month. No set-offs shall be allowed to any homeowner for repairs or improvements, or services contracted for by any homeowner without the express written authorization of the Board of Directors of the Association. Assessment payment shall be mailed or delivered to the Treasurer of the Association unless the Directors give written notice otherwise. The Association shall be entitled to collect from the homeowner all costs, including a reasonable attorney's fee, incurred by the Association in connection with or

incident to the collection of such assessment and/or late charges or fees or in connection with the enforcement of the lien resulting therefrom.

14. Service Charge of Delinquent Assessments. In order to encourage prompt and timely payment of assessments, and to defray the cost of additional bookkeeping, billing, and related expenses, all assessments not paid by the 31st of January of the year of the assessment may upon decision of the Board of Directors of the Association bear a late fee-service charge of \$5.00 per month from January 1 of the assessment year.

15. Effective Transfer of Title on Assessment. The sale or transfer of any house shall not affect the assessment lien; provided, however, the sale or transfer of any house pursuant to mortgage foreclosure or any proceedings in lieu thereof shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such house from liability for any assessment thereafter becoming due or from the lien thereof. In any voluntary conveyance, grantee shall be jointly and severally liable with the grantor for all unpaid assessments against the grantor up to the time of such voluntary conveyance without prejudice to the rights of the grantee to recover from the grantor the amounts paid by the grantee therefor. Any such grantee shall be entitled to a statement from the Association setting forth the amount of the unpaid assessments against the grantor in excess of the amount of the statement; provided further, however, the grantee shall be liable for all assessments becoming due after the date of such statement.

16. Bidding at Foreclosure Sale. The Association shall have the power to bid on any house at foreclosure sale thereof and to acquire and hold, lease, mortgage, and convey the same.

17. Architectural Control Committee. The Board of Directors of the Association shall appoint from among themselves and/or the members of the Association an Architectural Control Committee consisting of not less than two nor more than five persons. With

the exception of the initial members, members of the Committee must be homeowners in FOREST COMMONS. The initial members will serve until January 1, 1990, unless they sooner resign. Thereafter, all members shall serve at the pleasure of the Board of Directors of the Association. The initial members of the Committee are R. Frank Donaldson, A. B. Hopkins, Jr., and Larry Elliott, all being residents of Tallahassee, Florida. All notices or submission requests to be given to the Committee shall be in writing delivered by mail to the principal registered office of the Association as from time to time set forth in the records of the office of the Secretary of State of Florida, Corporate Division. No homeowner shall erect or maintain any building, fence, wall, or other structure nor shall any homeowner commence or make any exterior addition to or change or alteration in the shape, color, or appearance of the exterior of existing improvements or make any material alteration, addition, or deletion to the landscaping of any lot until and unless the plans and specifications showing the nature, kind, shape, height, materials, color, location, and all other details of the same shall have been submitted to and approved in writing by the Architectural Control Committee as to the quality of materials, harmony and external design, and color, and the location in relation to surrounding structures and topography. The effect of the changes, improvements, or alterations on the topography of the land and the environmental impact thereof may also be considered by the Committee in determining whether approval may be given. Such approval may be withheld for any reason, but if no written notice of approval or disapproval is given by the Committee within thirty (30) days after it has received full plans and specifications, approval will not be required and this provision will be deemed to have been complied with. In the event written approval is given, no work shall be commenced until such time as the homeowner or his contractor has obtained all permits required by law. Notwithstanding the foregoing provisions related to the appointment of the Architectural Control Committee