

Orange Co FL 1997-0164823
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OR Bk 5250 Pg 160
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This instrument prepared by and
after recording return to:

Michael J. Sheahan, Esquire
Godbold, Downing, Sheahan & Battaglia, P.A.
222 West Comstock Avenue, Suite 101
Winter Park, Florida 32789

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**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
STONEBROOK, A GOLF COMMUNITY**

**RETURN TO:
GARY SHOWE
DEVELOPMENT ENGINEERING**

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
STONEYBROOK, A GOLF COMMUNITY**

This Declaration is made this 14th day of April, 1997, by STONEYBROOK JOINT VENTURE, a Florida general partnership, hereinafter called the "Declarant," for itself and its successors, grantees, and assigns.

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P R E A M B L E .

WHEREAS, Declarant has commenced the development of certain real property located in Orange County, Florida, and intends to create thereon a planned development of single-family homes, multi-family structures, other approved uses, and related recreational and other common facilities and amenities, to be known as "Stoneybrook, a Golf Community" (the "Community"); and

WHEREAS, Declarant desires to develop the Community in phases and in order to preserve, protect and enhance the values of the property and amenities in the Community, and the general health, safety and welfare of the residents, Declarant deems it desirable to subject from time to time the phased development portions of the Community to certain protective covenants, conditions and restrictions; and

WHEREAS, the first phased development portion of the Community is that certain real property owned by Declarant, located in Orange County, Florida, and more particularly described on the attached Exhibit "A" (the "Property"); and

WHEREAS, in addition to the Property, Declarant may from time to time subject additional lands to this Declaration, whereupon such added property, hereinafter referred to as "Additions to Property," shall be subject to this Declaration; and

WHEREAS to provide a means for meeting the purposes and intents herein set forth, Stoneybrook Master Association of Orlando, Inc., a Florida corporation not for profit (hereinafter the "Community Association") has been incorporated; and

WHEREAS Declarant shall, in its sole discretion, from time to time, designate Common Areas (as hereinafter defined) within or outside of the Property by plat, deed, easement, or other designation to the Community Association (which must accept the same) for the purpose of roads, maintenance, landscaping, drainage, utilities, recreation or other purposes for the use and benefit of the Owners (as hereinafter defined) of lands within the Property and their families, tenants and guests, and others.

NOW THEREFORE the Declarant hereby declares that the real property described in Exhibit "A" hereto (the "Property"), as it may be amended from time to time, are and shall be owned, used, sold, conveyed, encumbered, demised and occupied subject to the provisions of this Declaration, which shall run with the land and be binding on all parties having any right, title or interest in the Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof. Additional real property may be added to the Property as provided in Article III hereafter. The express intent of Declarant is that substantive contract and vested property rights created by this Declaration shall not be affected retroactively by legislation enacted after the recording of this Declaration.

ARTICLE I - DEFINITIONS

The following definitions shall apply to the terms used in this Declaration and its recorded exhibits, unless the context clearly requires another meaning.

1.1 "**Additions to Property**" means any real property which may become subject to this Declaration under the provisions of Article III hereof. Such Additions to Property, which may be added from time to time, may be of any size and contain any number of Lots and Tracts and in any sequence determined solely by Declarant.

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1.2 "**Architectural Review Committee**" or "**ARC**" means the Architectural Review Committee as established and empowered in Article VII of this Declaration.

1.3 "**Assessment**" or "**Assessments**" means a share of the funds required for the payment of the expenses of the Community Association which from time to time is assessed against the Members, including without limitation all assessments as authorized by Article X of this Declaration.

1.4 "**Board**" means the Board of Directors of Stoneybrook Master Association of Orlando, Inc.

1.5 "**CDD**" means and refers to a Community Development District, as defined in Chapter 190, Florida Statutes, that may be established for the purpose of owning and maintaining property or facilities within or without the Community.

1.6 "**Club Property**" means the country club, golf course and related facilities and improvements surrounding and intertwined with the Property as more particularly described in Section 2.3 of this Declaration.

1.7 "**Common Areas**" means any and all real property and improvements thereon owned by, leased to, to be maintained by, or dedicated to the Community Association for the use and benefit of some or all of its Members.

1.8 "**Community**" means the real property planned to be developed as Stoneybrook, a Golf Community, and the improvements thereon.

1.9 "**Community Association**" means Stoneybrook Master Association of Orlando, Inc., a Florida corporation not for profit, which has its principal place of business in Orange County, Florida, and its successors and assigns.

1.10 "**Conservation Areas**" means the wetland preserve areas and the upland preserve areas within or outside of the Property as described in Article VI of this Declaration.

1.11 "**County**" or "**the County**" means Orange County, Florida.

1.12 "**Declarant**" means Stoneybrook Joint Venture, a Florida general partnership.

1.13 "**Developer**" means any other entity to which the Declarant specifically assigns any rights it may have under this Declaration as to part or all of the Community. The Declarant will also be a Developer.

1.14 "**Family**" means one adult natural person occupying a Living Unit, that person's spouse, if any, and their unmarried children who regularly reside with them, if any.

1.15 "**Governing Documents**" means this Declaration, and the Articles of Incorporation and Bylaws of the Community Association. In the event of an irreconcilable conflict between provisions of the Governing Documents, the priority shall be given to the documents in the order stated in this Paragraph.

1.16 "**Guest**" means a person who is physically present in, or occupies a Living Unit on a temporary basis at the invitation of the Owner or other legally permitted occupant, without the payment of consideration.

1.17 "**Institutional Mortgagee**" means:

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(A) a lending institution having a first mortgage lien upon a Lot, including any of the following institutions: a Federal or State savings and loan or building and loan association, a bank chartered by a state or federal government, a real estate investment trust, a pension and profit sharing trust, a mortgage company doing business in the State of Florida, or a life insurance company; or

(B) a governmental, quasi-governmental or private agency that is engaged in the business of holding, guaranteeing or insuring residential mortgage loans, including without limitation the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Housing Administration and the Veterans Administration, and which holds, guarantees or insures a first mortgage upon a Lot or Living Unit; or

(C) the Developer, and any and all investors or lenders, or the successors and assigns of such investors or lenders which have loaned money to Developer to acquire, develop, or construct improvements upon, the Property and who have a mortgage lien on all or a portion of the Property securing such loan. An "**Institutional Mortgage**" is a mortgage held by an Institutional Mortgagee encumbering a Lot or Living Unit

1.18 "**Lease**," when used in connection with a Living Unit, means the grant by the Owner of the Unit of a temporary right of use of the Unit for valuable consideration.

1.19 "**Living Unit**" or "**Unit**" means any residential structure, including a single family detached or attached dwelling unit or condominium unit, located within the Property and intended for occupancy by one Family. If a Living Unit is a free-standing or attached single family home or villa located on a Lot, the use of the term "Living Unit" or "Unit" shall be interpreted as if the term was followed immediately by the words "and the Lot on which it is located."

1.20 "**Lot**" means one or more of the platted portions of land into which the Property has been subdivided, upon each of which a single Living Unit has been or is intended to be constructed. It has the same meaning as "parcel" as used in Sections 617.301 - 617.312, Florida Statutes (1995). Unless the context clearly requires a different interpretation, the term "Lot" shall be interpreted as if it were followed by the words "and the Living Unit constructed thereon."

1.21 "**Member**" means any or all of those persons who are entitled to membership in the Community Association, as provided in the Governing Documents.

1.22 "**Occupy**" when used in connection with a Living Unit, means the act of residing in the Unit on two or more consecutive days, including staying overnight. An "Occupant" is one who occupies a Living Unit.

1.23 "**Owner**" means the record owner of legal title to any Lot, Living Unit, Tract or Parcel.

1.24 "**Parcel**" means any and all unplatted portions of the Property.

1.25 "**PD**" means and refers to Planned Development 95-10, created by Orange County Ordinance 95-74, as adopted by the Board of County Commissioners of Orange County, Florida, on December 12, 1995, as amended from time to time.

1.26 "**Property**" means initially the real property described on the attached Exhibit "A" which has become subject to this Declaration and also shall include all such other real property as may from time to time be subjected to this Declaration under the provisions of Article III hereof.

1.27 "**Rules and Regulations**" means the administrative regulations governing use of the Common Areas and procedures for administering the Community Association, as adopted, and amended from time to time by resolution of the Board of Directors.

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1.28 "**SJRWMD**" means St. Johns River Water Management District.

1.29 "**Service Assessment**" means a charge against one or more (but less than all) Lots, Living Units, Tracts or Parcels for any service, material or combination thereof which may be provided by the Community Association to or for the use and benefit of the Owner(s) on a voluntary basis, such as repairs, services, materials or maintenance, whether provided on an individual basis, or in bulk. The amount paid or incurred by the Community Association on behalf of the Owners accepting or receiving such materials or services shall be the basis for a service assessment against the Lots, Living Units, Tracts or Parcels so benefited. An Owner is deemed to have agreed to such assessment by the act of subscribing to, requesting, or accepting the material or service.

1.30 "**Structure**" means something built or constructed, or any piece of work artificially built up or composed of parts joined together in some definite manner, the use of which requires a more or less permanent location on the ground, or which is attached to something having a permanent location on the ground. The term shall be construed as if followed by the words "or part thereof." The term includes, without limitation, all Living Units, swimming pools, spas, fences, flagpoles, antennas, basketball backboards, skateboard ramps, swing sets or other play equipment, and storage sheds.

1.31 "**Surface Water Management System**" means a system which is designed and constructed or implemented to control discharges which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, overdrainage, environmental degradation, and water pollution or otherwise affect the quantity and quality of discharges from the system, as permitted pursuant to the Florida Administrative Code. The Surface Water Management System also shall mean and refer to all land, easements and other facilities and appurtenances that together constitute and comprise the master surface water management and drainage system of the Community as reflected on the plans therefor on file with and approved by the SJRWMD, as may be amended or supplemented from time to time.

1.32 "**Tract**" means any and all platted portions of the Property other than the Lots.

ARTICLE II - GENERAL DEVELOPMENT PLAN.

The Community is a Planned Development ("PD"), presently anticipated to include approximately 1,143 acres of land. The primary development objective is residential community, with common recreation facilities, together with other approved uses under the PD as may be amended. Declarant has the right, but not the obligation, in its sole discretion, to limit or further expand the Community by annexing additional land, units, lots, recreational amenities or memberships that the Declarant considers compatible with the overall Community.

2.1 Renderings, Plans and Models. From time to time Declarant and others may present to the public certain renderings, plans and models showing possible future development of the Community. Declarant does not warrant in any way the schemes in these renderings, plans or models or how the future improvements in this Community will actually be developed. Any such renderings, plans or models are primarily thematic, and in no way represent a guaranteed final development plan.

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2.2 Community Development District. The Declarant reserves the right, but not the obligation, to create a Community Development District ("CDD"), as defined in Chapter 190, Florida Statutes (1995), as amended, which includes all or a portion of the Community, and may also include property outside of the Community. The CDD, if created, would manage and provide certain urban infrastructure facilities and services, and would have the authority to levy and collect fees, rates, charges, taxes and assessments against property owners benefited, to pay for, finance and provide said facilities and services. "Assessment" as used in this Section 2.2 refers to assessments as defined in Chapter 190, Florida Statutes, not as defined in Section 1.3 of this Declaration. The CDD would be empowered by state law to finance, fund, plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, and maintain systems and facilities for basic infrastructure through the issuance of revenue bonds to be paid off by property taxes levied by the CDD. Some types of facilities or services that could be provided by a CDD are water management and control, potable water distribution systems; sewage collection and transmission systems; and waste water management facilities. As long as Declarant is offering units for sale in the ordinary course of business, the Declarant reserves the right to amend the Governing Documents in any way convenient or necessary to create or structure the CDD if one is created.

2.3 Club Property. Portions of the lands in the planned Community may be utilized for a country club, golf course with related facilities and related improvements, and other recreational facilities (the "Club Property"). The Club Property is not part of the Property and will be operated independently of the Property. No Owner shall have any right, title, interest or membership rights in or to the Club Property, other than such membership as an Owner may choose to purchase from the owner or operator of the independent Club Property. Certain use privileges and other promotional activities involving the Club Property and its facilities may be extended to Owners from time to time, but such privileges and activities will be temporary and may be revoked or cancelled at any time. All persons, including all Owners and all Members, are hereby advised that no representations or warranties have been made or are made by the Declarant, any Developer, the owner of the Club Property, or any other person or entity with regard to the continuing ownership or operation of the Club Property and its facilities and improvements as may be initially established. Further, the ownership and/or operations of the Club Property may change at any time and from time to time; the present or future use of the Club Property as a golf course or any other improvements or facilities related thereto, may be discontinued or suspended at any time by the owner of the Club Property.

2.4 Quiet Enjoyment. Because of its size and dependent upon market conditions, the development of the Property and any additional lands in the Community will span an extended number of years. Incident to the development process, the quiet enjoyment of the Property and the Community may be unavoidably interfered with by construction and sales operations.

THERE IS A PUBLIC GOLF COURSE RUNNING THROUGH, BUT NOT A PART OF, THE PROPERTY. PURCHASERS CAN EXPECT ALL THE USUAL AND COMMON NOISES, DISTURBANCES, AND ERRANT GOLF BALLS CREATED BY, AND INCIDENT TO, THE CONSTRUCTION AND OPERATION OF A GOLF COURSE.

2.5 Treated Effluent. The Declarant, its successors or assigns, may negotiate an agreement with Orange County for the use of treated sewage effluent within the Community for irrigation purposes. All Owners within the Property, by the act of purchasing, are deemed to have irrevocably consented to the irrigation of areas within the Property and the Community with treated effluent, provided that the effluent emanates from an approved treatment plant with a current operating permit from the State of Florida, Department of Environmental Protection, or other such agency with jurisdiction. The cost of such treated effluent and all administrative, operational, maintenance and support costs related to it, are common expenses of the Community Association.

ARTICLE III - PROPERTY SUBJECT TO THIS DECLARATION.

3.1 Property. The Property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located in Orange County, Florida, and is more particularly described on the attached Exhibit "A."

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3.2 Additions to Property. The Declarant from time to time may cause additional lands to become subject to this Declaration, which additional lands have been hereinabove defined as "Additions to Property." Until such time as such additions are made to the Property in the manner hereinafter set forth, no real property other than the Property described on the attached Exhibit "A" shall be affected or encumbered by this Declaration. The Declarant's right to cause additional lands to become subject to this Declaration shall not require the prior approval of any other party.

3.3 Supplemental Declaration. The Additions to Property authorized under this Article shall be made by the Declarant's filing of record a Supplemental Declaration with respect to the Additions to Property which shall extend the scheme of the covenants and restrictions of this Declaration to such property. Upon the filing of record of such Supplemental Declaration, the lands described therein shall be added to and become a part of the Property under this Declaration.

Such additions may be made whenever the Declarant in its sole discretion deems appropriate. Such Supplemental Declarations shall be made by Declarant and shall not require consent of any Owner, Member, mortgagee of a Living Unit, or the Community Association. Such Supplemental Declaration may contain such additions and modifications of the covenants and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the Additions to Property. The Owner of each Living Unit in any Additions to Property shall become a Member of the Community Association when the Supplemental Declaration is recorded in the Public Records of Orange County, Florida, submitting the Additions to Property in which the Living Unit is located to the terms of this Declaration, and at that time the Owner may exercise all rights of a Member of the Community Association, including the right to vote, and shall become subject to the terms and conditions of this Declaration as provided in the Supplemental Declaration.

