

LANDINGS AT SUMMERHAVEN - UNIT 2

DECLARATION OF COVENANTS AND RESTRICTIONS
AS FILED OF RECORD IN VOLUSIA COUNTY, FLORIDA,
BY THE DEVELOPER

THIS DECLARATION, Made this 27th day of September, 1989, by D & H DEVELOPMENT CORPORATION, a Florida corporation, with its principal place of business at 2415 S. Volusia Ave., #A4, Orange City, Florida 32763 (hereinafter sometimes referred to as the "Developer"):

WITNESSETH:

WHEREAS, the Developer is the record owner in fee simple absolute of certain real property located in Volusia County, Florida, and more particularly described in the "Schedule of Legal Description" which is attached hereto as Exhibit "A" and made a part hereof; and

WHEREAS, in accordance with the applicable provisions of State law and local ordinance, the Developer caused the above described real property to be subdivided into a platted subdivision known as LANDINGS AT SUMMERHAVEN, UNIT 2, and a subdivision plat thereof duly filed in the Office of Clerk of the Circuit Court, Volusia County, Florida, on Sept. 27, 1989 and recorded in Map Book 43 at page 14-17 of the Public Records of Volusia County, Florida.

NOW, THEREFORE, this Declaration is made, filed and recorded by the Developer so that from the effective date hereof, the real property described in the Schedule of Legal Description, which is attached hereto as Exhibit "A", is and shall be held, transferred, sold, conveyed, given, donated, leased, occupied and used subject to the restrictions, conditions, easements, charges, burdens, assessments, affirmative obligations and liens (all hereinafter sometimes

W. J. Marshall
CLERK CIRCUIT COURT
VOLUSIA CO. FL
88 SEP 28 PM 1:39

FILED FOR RECORD
RECORD VERIFIED
127759

RANDALL J. MARSHALL
ATTORNEY AT LAW
POST OFFICE BOX 117
465 SOUTH VOLUSIA AVENUE
SUITE B
ORANGE CITY FLORIDA 32763

referred to as the "Covenants") hereinafter set forth. This Declaration shall become effective for LANDINGS AT SUMMERHAVEN, UNIT 2, on the date and at the time it is filed and recorded in the Public Records of Volusia County, Florida, and shall become effective as to additional units of LANDINGS AT SUMMERHAVEN on the date and at the time the respective plats of said additional units are recorded in the Public Records of Volusia County, Florida.

ARCHITECTURAL REVIEW BOARD (ARB)

The owner, in order to give guidelines to owners and builders concerning construction, has formed an Architectural Review Board (ARB). The ARB shall be composed of not less than two (2) nor more than three (3) persons. The members of the ARB shall be appointed for staggered three (3) year terms by the Board of Directors of D & H DEVELOPMENT CORPORATION, a Florida corporation. In the event of death, resignation, inability to serve or other vacancy in office of any members of the ARB, the Board of Directors of D & H DEVELOPMENT CORPORATION shall promptly appoint a successor member who shall serve for the duration of the unexpired term of the member replaced. The membership, rules of procedure and duties of the committee shall be prescribed by and, from time to time, changed or modified by the Board of Directors of D & H DEVELOPMENT CORPORATION. When the Board of Directors of D & H DEVELOPMENT CORPORATION in their exclusive determination, deem the circumstances appropriate, they shall terminate the ARB.

DUTIES OF ARCHITECTURAL REVIEW BOARD

A. To approve, **prior to construction**, all buildings, fences, walls, pools and/or other structures which shall be commenced or erected upon the properties. The ARB shall be furnished two (2) sets of completed plans and specifications showing the nature, type, shape, height, materials and location of same and shall approve in writing as to the harmony of external design and locations in relation to surrounding

structures and topography.

B. To approve, prior to construction, any such building plans and specifications and lot grading and landscaping. The conclusion and opinion of the ARB shall be binding, if, in its opinion for any reason, including purely aesthetic reasons, the ARB should determine the said building is not consistent with the development plan formulated by the Developer for the property or contiguous land thereto.

C. To require to be submitted to it for approval any samples of non-natural exterior building materials proposed or any other data or information necessary to reach its decision.

1. Exterior Materials: Exterior elevations will be encouraged to be of natural materials. Cypress, cedar, redwood or other durable wood types will be encouraged. Stone or natural brick is also encouraged. Stucco is acceptable under strict control of the ARB. The ARB shall have final control as to acceptable design and front elevation. Stucco Brick or simulated brick is unacceptable.

2. Roofs: Flat roofs shall not be permitted on areas other than Florida rooms, porches and patios unless specifically approved by the ARB. Built-up roofs are not permitted on pitched surfaces. Mansard roofs are not permitted unless approved by the ARB. The pitch must be at least 5/12 unless otherwise approved.

D. To require the builder to submit a set of plans and specifications which shall be held by the ARB until the building is completed. The work contemplated must be performed substantially in accordance with the plans and specifications approved. All approvals of plans and specifications must be evidenced by signatures of at least two (2) members of the ARB on plans and specifications furnished. The existence of the signatures of at least two (2) members of the ARB shall be conclusive proof of the approval by the ARB of such plans and specifications.

GENERAL RESTRICTIONS - USE AND OCCUPANCY

Section 1. General Prohibition. No dwelling, dwelling house, garage, outbuilding structure or appurtenance of any kind, including additions or substantial alterations thereto, shall be erected, placed or maintained on the properties or any portion thereof that does not conform to the standards, requirements, prohibitions and provisions of this Declaration, and all such construction shall be performed, completed, erected, placed and maintained only in accordance with the plans and specifications required herein as approved by the ARB.

Section 2. Only Residential Purposes. No lot shall be used in whole or in part for anything other than residential purposes, except for model residential dwelling units which may be maintained by the builder or developer only for the purposes of the sale of residential dwellings within the properties. Other than conducting the sale of residential dwellings, no trade, traffic or business of any kind, whether professional, commercial, industrial or manufacturing or other than non-residential use shall be engaged in or carried on upon the properties, or any part thereof; nor shall anything be done thereon which may be or which may become an annoyance or a nuisance to the properties or adjacent properties.

Section 3. Single-Family Residential Use. No building or structure shall be erected, altered, placed or permitted to remain on any lot other than one (1) single-family residential dwelling and appurtenant outbuildings or structures as may be suitable and necessary for the purposes for which said lot is permitted to be used.

Section 4. Subdivision. No lot shall be subdivided.

Section 5. Occupancy Before Completion. No building or structure upon the properties shall be occupied until the same is approved for occupancy by such governmental agency which is responsible for regulation of building construction and until it complies with the terms and provisions of these

covenants.

Section 6. Maintenance and Repair. All dwellings, structures, buildings, outbuildings, walls, driveways and fences placed or maintained on the properties or any portion thereof shall at all times be maintained in good condition and repair.

Section 7. Completion of Construction. All exterior construction and paint and stain finishing for which plans and specifications are required herein to be submitted to the ARB for approval shall be completed within six (6) months from the date of approval for said approval to remain in force and effect, unless said ARB shall grant a greater period of time to complete said construction or shall grant an extension of said six (6) months period.

Section 8. No Temporary Buildings. No tent, shack, trailer, house trailer, basement, garage, or other outbuildings shall at any time be used on any lot as a residence temporarily or permanently and no building or dwelling of a temporary character, and no outdoor storage sheds shall be permitted, except as follows: Buildings necessary for construction or sales taking place on the properties and not intended to be used for living accommodations may be erected and maintained on the property only during the course of construction and sales, and all such buildings will be temporary and mobile.

Section 9. Ground Maintenance.

(a) Grass, hedges, shrubs, vines and mass plantings of any type on each lot shall be kept trimmed and shall at regular intervals be mowed, trimmed and cut so as to maintain the same in a neat and attractive manner. Trees, shrubs, vines and plants which die shall be promptly removed and replaced.

(b) No weeds, vegetation, rubbish, debris, garbage, objects, waste materials or materials of any kind whatsoever shall be placed or permitted to accumulate upon any portion of a lot which would render it unsanitary, unsightly, offensive, or detrimental to the properties in the vicinity thereof or to the occupants of any such property in such vicinity.

(c) No building materials of any kind or character shall be placed or stored upon any lot so as to be open to view by the public or neighbors, unless such material will be used and is used within (1) month after the construction of buildings or structures upon the lot on which the material is stored.

(d) Any and all mail receptacles must be built according to the standards set forth by Volusia County.

Section 10. Fences, Walls, Hedges, Mass Plantings of any Type.

(a) No fence, wall, hedge or mass planting of any type may be installed without prior written approval of the ARB.

(b) No hedge or mass planting of any type exceeding three (3) feet above the finished graded surface of the ground upon which it is located shall be constructed, planted, placed or maintained between the street and the front setback line of any lot without the written consent and approval of the ARB.

(c) All fences shall be erected in strict accordance with the permitting and other ordinances of Volusia County, Florida.

Section 11. Sidewalks. Concrete sidewalks, a minimum of four (4) feet in width and four (4) inches in thickness (six (6) inches thick in driveways) shall be constructed on each lot abutting county right-of-way easement. The cost of said sidewalks shall be borne by the owner and/or contractor at the time of construction of the residence on each lot.

Section 12. Animals, Birds and Fowl. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, except that a reasonable number of dogs, cats or other household pets may be kept provided that they are not kept, bred or maintained for any commercial purposes. In the event of dispute as to the reasonableness of the number of such cats, dogs or household pets kept upon the properties, the decision and opinion of the Developer shall control. Additionally, the maximum number of pets permitted on any premises shall comply with the definition of "kennel" in Section

201 of Volusia County Uniform Zoning Ordinance.

Section 13. Laundry. No clothes, sheets, blankets or other articles shall be hung out to dry in the side, front or rear yards of any lot.

Section 14. Exterior Light Fixtures. No exterior lighting fixtures shall be installed on any lot or residential dwelling without adequate and proper shielding of the fixture. No lighting fixture shall be installed that may become an annoyance or a nuisance to the residents of adjacent properties.

Section 15. Boat and Vehicle Storage. No automobile, truck, trailer, boat trailer or other vehicle, and no boat of any kind shall be parked, left or stored upon any lot which is a nuisance or eyesore to the community. Whether such vehicles are a nuisance or eyesore shall be the sole determination of the Developer or its Assignee. As a guideline, no trucks larger than a pickup truck shall be permitted to be parked in the residential house area of the properties for a period of more than four (4) hours unless the same is present and necessary in the actual construction or repair of buildings on the land. No trucks larger than a pickup truck, trailers, campers or other habitable vehicles of any type, boats or boat trailers shall be parked overnight or for more than forty-eight (48) daylight hours on the properties unless parked in a completely enclosed garage. No automobile, truck or other commercial vehicle which contains lettering or advertising thereon or which is identified with a business or commercial activity, shall be parked (for any period of time) or stored or otherwise permitted to remain on any lot except in an enclosed garage at the residence. No vehicle of any type shall be permitted on the properties unless the same has a current license tag in accordance with the laws of the State of Florida. No junk or abandoned vehicles of any type shall be permitted on the properties. Vehicles shall include, without limitation, motorcycles.

Section 16. Utility and Drainage Easements.

(a) Easements for installation and maintenance of utilities and drainage facilities are shown on the plat, or are of record, and the same are reserved for each use. Within these easements, or on any lot, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. It is important that the banks, swales, and berms constituting a part of the lakes, swales and drainage canals located within the properties remain undisturbed and properly maintained in order to perform their function. Where any portion of such berms, swales and banks lie within a lot, the owner of that lot shall maintain the same continuously and shall not disturb, damage or otherwise interfere with the berm, swale, drainage canal or other portion of said lake, drainage canal or system which adjoins said owner's lot.

(b) No fences shall be erected on any lots which are effected by the Florida Gas Transmission Company easement, in such a manner which would in any way block or impede travel by Florida Gas Transmission Company's agents or assigns along said easement.

Section 17. Excavations. No excavations for stone, gravel, dirt or earth shall be made on any portion of the properties; except for the construction of dwellings, walls, foundations, structures and other appurtenances, plans and specifications for which excavations have been approved by the ARB. Excavations may be made for swimming pools and landscaping without said ARB approval, subject to this Declaration of Covenants.

Section 18. Signs. No sign of any kind shall be erected, permitted to remain on or displayed to public view on or from any lot, except an approved sign giving the name of the

contractor and owner during construction and giving the name of the occupant of the residence located on said lot or one approved sign advertising the premises for sale or rent. All signs shall be approved by the ARB.

Section 19. Refuse. No trash, garbage, rubbish, debris, waste or materials or other refuse shall be deposited or allowed to accumulate or remain on any lot. All trash containers must be returned to the utility yard or enclosure within eight (8) hours after announced pickup time.

Section 20. Nuisances. No noxious or offensive trade or activity shall be permitted on any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

Section 21. Preservations and Maintenance of Slopes, Banks and Swales. No person shall reconstruct, damage or destroy, open, reduce, remove, alter, modify or install anything or improvement within, over or upon any bank, slope or swale without first obtaining written approval from the Developer.

Section 22. Wells. No water wells shall be dug on any lot or on the properties except for purposes of irrigation of landscaping and/or heating.

Section 23. Open Burning.

(a) Open burning of wooden materials or vegetation generated by a land clearing operation or the demolition of a structure is allowed if said open burning takes place fifty (50) yards or more from any occupied building or public highway and is performed between 9:00 A.M. and one (1) hour before sunset, or other times when the approval of the Volusia County Pollution Control Board or successor organizations has been received. At all times, Florida Statutes 17-5.090 and 17-5.030 (3) shall be strictly complied with during any open burning.

(b) Open burning to reduce solid waste on occupied residential premises is not permitted.

Section 24. Maintenance of Common Driveways. Where one private driveway serves two (2) or more lots, maintenance of

said driveway within areas set aside for access easements shall be the equal responsibility of the owners of the lots served by said driveway.

Section 25. Swimming Pools. Swimming pools may be constructed on any lot provided that access to them from outside the lot is controlled from all directions by screening and the residential structure. Such screens and their structures shall be approved by the ARB. All pools shall be constructed in strict accordance with the permitting and other ordinances of Volusia County, Florida.

Section 26. Preservation of Existing Trees. No existing tree greater than three (3) inches caliper, measured four and one-half (4½) feet above the ground, shall be removed from any lot for any reason except disease or unless said tree directly interferes with the erecting or placing of the living unit on said lot.

Section 27. Right to Inspect. The Developer may, at any reasonable time or times during periods of construction or alteration and within thirty (30) days thereafter, enter upon and inspect any lot and any improvements thereon for the purpose of ascertaining whether the maintenance of such lot and the maintenance, construction or alteration of structures thereon are in compliance with the provisions hereof; and neither Developer nor any of its agents shall be deemed to have committed a trespass or other wrongful act by reason of such entry or inspection.

Section 28. Antennae and Aerials. No exterior antennae or aerials, no ham radios or radio transmission equipment or earth satellite signal reception equipment shall be operated or permitted to be operated on subject property.

Section 29. Dwelling Size. The ground floor of the main structure exclusive of one (1) story open porches, breezeways and garages shall not be less than two thousand (2,000) square feet minimum living area for a one (1) story dwelling and not less than fourteen hundred (1,400) square feet living area

for a dwelling of one and one-half (1½) or two (2) stories nor shall any residence contain less than two thousand two hundred (2,200) square feet of total area covered by roof. Each residence shall have an enclosed garage for a minimum of two (2) cars. Only side entry garages are permitted and the side entry must not face any street. No carports shall be permitted.

Section 30. Building Location.

(a) Front yards shall not be less than twenty-five (25) feet in depth measured from the front lot line to the front of any living unit.

(b) Rear yard shall be 20% of lot depth, but not less than twenty (20) feet measured from the rear lot line to the rear of any living unit, exclusive of pool or patio.

(c) Side yards shall be provided on each side of every living unit of twenty (20) feet total both sides, not less than eight (8) feet on one side except on a corner lot, where setbacks from all streets or roads shall be a minimum of twenty-five (25) feet on the front and twenty-five (25) feet on the side.

(d) The locations shall be staggered such that the typical development in-line appearance is avoided.

Section 31. Fencing and Screening.

(a) No fence is to be more than six (6) feet high and is not permitted to extend beyond the front of the house.

(b) Chain link and other metal fences are not permitted unless adequate shrubbery or plantings are included that would essentially cover the metal fencing from view of adjoining property and streets.

(c) All fences are to be installed with finished side facing adjoining property and street sides.

Section 32. Landscaping. All lots within the subdivision shall be fully sodded.

Section 33. Utility Lines. The system from primary utility lines, including but not limited to water, sewer,

electric, telephone and cable TV (if any) shall all be underground and the cost of the installation and maintenance thereof shall be at the expense of the lot owner.

Section 34. Homeowners Association. Upon transfer of title by the Developer to Purchasers, membership in the homeowners association known as SUMMERHAVEN HOMEOWNERS ASSOCIATION, INC. shall be mandatory.

COVENANTS TO RUN WITH LAND

The restrictions and burdens imposed by the provisions and covenants of the Declaration shall constitute covenants running with the land, and each shall constitute an equitable servitude upon the owner of each lot and dwelling unit and any appurtenant undivided interest in the common areas and upon the heirs, personal representatives, successors and assigns of each owner.

Enforcement shall be by action against any person or persons violating or attempting to violate any covenants, either to restrain violations or to recover damages. The party bringing the action shall be entitled to recover, in addition to costs and disbursements allowed by law, such sum as the court may adjudge to be reasonable for the services of his attorney.

Invalidation of any one of these covenants by judgment or court order in no wise shall affect any of the other provisions, which shall remain in full force and effect.

IN WITNESS WHEREOF, the Developer has hereunto set its hand and seal the day and year first above written.

In the Presence of:

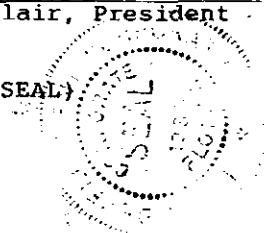
Randall J. Marshall

Richard W. Sinclair

D & H DEVELOPMENT CORPORATION

By: *Richard W. Sinclair*
Richard W. Sinclair, President

(CORP. SEAL)



RANDALL J. MARSHALL
ATTORNEY AT LAW
POST OFFICE BOX 117
455 SOUTH VOLUSIA AVENUE
SUITE B
ORANGE CITY FLORIDA 32763

STATE OF FLORIDA)
)
COUNTY OF VOLUSIA)

The foregoing instrument was acknowledged before me this
27th day of September, 1989, by RICHARD W. SINCLAIR, as
President of D & H DEVELOPMENT CORPORATION, a Florida
Corporation, on behalf of the Corporation.



NOTARY PUBLIC

My commission expires:

Notary Public
State of Florida
My Commission Expires
July 28, 1993
Bonded Through
Notary Public Underwriters

RANDALL J. MARSHALL
ATTORNEY AT LAW
POST OFFICE BOX 117
460 SOUTH VOLUSIA AVENUE
SUITE 8
ORANGE CITY FLORIDA 32763

Schedule of Legal Description

All of Lots 4 and 5, and a portion of Lots 6 and 7, assessor's subdivision of the F.L. Paine Homestead, a subdivision as recorded in Map Book 3, Page 27, Public Records of Volusia County, Florida described as follows:

Beginning at the Southwest corner of said F.L. Paine Homestead, said point also being the NW corner of Summerhaven, Phase II, a subdivision as recorded in Map Book 39, Pages 147 and 148, Public Records of Volusia County, Florida; Run thence N 00°15'03" W, along the West line of said F.L. Paine Homestead, said line also being the West line of Section 25, Township 18 South, Range 30 East, Volusia County, Florida, a distance of 1309.49 feet to a concrete monument marking the NW corner of said Section 25 and the NW corner of Lot 4, aforesaid F.L. Paine Homestead; Thence N 89°51'44" E, along the North line of said Lot 4, a distance of 670.00 feet to the NE corner of said Lot 4; Thence S 23°03'00" E, along the East line of said Lot 4, a distance of 279.01 feet, to the NW corner of Lot 5, said F.L. Paine Homestead; Thence N 89°51'44" E, along the North line of said Lot 5 a distance of 541.42 feet to the NE corner of said Lot 5; Thence S 00°18'38" E, along the East line of said Lot 5 a distance of 399.59 feet to the SE corner of said Lot 5; Thence S 89°56'30" W, along the South line of said Lot 5 a distance of 166.868 feet to the point of curvature of a curve concave Southerly and having a radius of 445.00 feet, a central angle of 29°59'31.4" and a chord bearing of S 74°56'44" W; thence along the arc of said curve 232.94 feet; Thence S 30°02'03" E, a distance of 17.262 feet to the point of curvature of a curve concave Southwesterly, having a Radius of 1162.837 feet, a central angle of 07°13'38", and a chord bearing of S 26°25'13.5" E; thence along the arc of said curve 146.681 feet to the NE corner of Lot 37, Landings at Summerhaven-Unit 1, a subdivision as recorded in Map Book 42, Pages 97 and 98, Public Records of Volusia County, Florida; Thence S 76°03'42" W, along the North line of aforesaid Landings at Summerhaven-Unit 1, a distance of 375.16 feet; Thence N 89°57'20" W, along the North line of said Unit 1, a distance of 270.00 feet to the NW corner of Lot 33, Landings at Summerhaven-Unit 1, aforesaid; Thence S 00°05'36.5" W, along the West line of said Unit 1, a distance of 359.852 feet to a point on the North line of Summerhaven, Phase II, a subdivision as recorded in Map Book 39, Pages 147 and 148, Public Records of Volusia County, Florida; Thence N 89°58'43" W, along said North line, a distance of 367.00 feet to the Point of Beginning.