

This instrument prepared by:
W. Crit Smith, Esquire
Smith, Thompson & Shaw, P.A.
3520 Thommsville Road - 4th Floor
Tallahassee, Florida 32308-3469

Inst:0000221247 Date:02/18/2005 Time:14:42
DC, Brent Thurmond, WAKULLA County B:579 P:585

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
OF MALLARD POND HOMEOWNERS ASSOCIATION, INC.**

THIS DECLARATION, made on the date hereinafter set forth by **Michael V. Harbin, Randy Merritt and Penny McKinney**, hereinafter referred to as "Declarant",

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in Wakulla County, State of Florida, which is more particularly described as:

**See Exhibit "A" attached hereto and by
reference made a party hereof;**

NOW, THEREFORE, Declarant hereby declares that all of the property described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns and shall inure to the benefit of each owner thereof.

ARTICLE I

Definitions

Section 1. "Association" shall mean and refer to **MALLARD POND HOMEOWNERS ASSOCIATION, INC.**, its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the

Association.

Section 4. "Common Area" shall mean all real property, if any, (including the improvements thereto) owned by the Association for the common use and enjoyment of the Owners.

Section 6. "Declarant" shall mean and refer to **Michael V. Harbin, Randy Merritt and Penny McKinney**, their heirs, successors and assigns.

ARTICLE II

Property Rights

Section 1. Owners' Easements of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every lot, subject to the following provisions:

(a) The right of the association to charge reasonable admission and other fees for the use of any recreational facility, if any, situated upon the Common Area;

(b) The right of the association to suspend the voting rights and right to use of the recreational facilities, if any, by an owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed 60 days for any infraction of its published rules and regulations;

(c) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by two-thirds of each class of members has been recorded.

Section 2. Delegation of Use. Any owner may delegate, in accordance with the Bylaws, his rights of enjoyment to the Common Area and facilities, if any, to the members of his family, his tenants, or contract purchasers who reside on the property.

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ARTICLE III

Membership and Voting Rights

Section 1. Every owner of a lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners, with the exception of the Declarant, and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any lot.

Class B. The Class B members shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier;

- (1) when the total votes outstanding in the Class A membership equal to the total votes outstanding in the Class B membership;
- (2) January 1, 2003.

ARTICLE IV

Covenant for Maintenance Assessments

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the owner of

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such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Properties and for the improvement and maintenance of the Common Area.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be \$200.00 per lot.

- (a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than 5% above the maximum assessment for the previous year without a vote of the membership.
- (b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above 5% by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.
- (c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

Section 4. Special Assessments for Capital Improvements. 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 a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for Any Action Authorized Under Section 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Sections 3 and 4 shall be sent to all members not less than 30 days nor more than 60 days in advance of the

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meeting. At such meeting, the presence of members or of proxies entitled to cast one-half of all the votes of each class of membership shall constitute a quorum.

If a quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be two voting members. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all lots and may be collected on a monthly basis.

Section 7. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the Common Area. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of 18% per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to

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payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for an assessments thereafter becoming due or from the lien thereof.

ARTICLE V

Land Use and Building Type

No lot shall be used except for residential purposes.

ARTICLE VI

Dwelling Size

No dwelling shall be permitted on any lot unless it is at least 1200 square feet.

ARTICLE VII

Building Location

No building shall be located on any Lot nearer to the front lot line or nearer to the side street than the minimum setback lines determined by the Wakulla County Building Codes.

ARTICLE VIII

Nuisances

No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or may become any annoyance or nuisance to the neighborhood.

ARTICLE IX

Signs

No sign of any kind shall be displayed to the public view on any lot except one sign of not more than four square feet to advertise the property for sale or lease.

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ARTICLE X

Livestock and Poultry

No animals, livestock, or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or other household pets may be kept, provided they are not kept, bred or maintained for any commercial purpose.

ARTICLE XI

Recreational Vehicles and Activities

No boat, trailer, motorcycle, motor home, camper, plane, recreational vehicle nor commercial van or truck may be parked nor stored on any street nor any Lot except within an enclosed garage. The pursuit of hobbies or other activities, including, but not limited to, work on vehicles or other mechanical devices and woodworking, which tend to result in disorderly, unsightly or unkempt condition, shall not be pursued nor undertaken except within an enclosed garage.

ARTICLE XII

Mail Boxes

No mail box or paper box or other receptacle of any kind for use in the delivery of mail, newspaper, magazines or similar materials shall be erected or located on the Properties unless an until the size, location and type of material for said boxes or receptacles shall have been approved by the Architectural Committee.

ARTICLE XI

Architectural Control

No building, fence, wall or other structure shall be commenced, erected or maintained upon the properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same

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shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated committee fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this article will be deemed to have been fully complied with.

ARTICLE XII

General Provisions

Section 1. Enforcement. The Association, or any owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by 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.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall not affect any other provisions which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date of this Declaration recordation, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety per cent (90%) of the Lot Owners, and thereafter by an instrument signed by not less than two-thirds of the Lot Owners. Any amendment must be recorded.

Section 4. Annexation. No additional land may be annexed without the consent of two-thirds vote of each class of members of the Association.

Section 5. FHA/VA Approval. As long as there is a Class B membership, the following

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actions will require the prior approval of the Federal Housing Administration and the Veterans Administration: Annexation of additional properties, dedication of Common Areas, and amendment of this Declaration of Covenants, Conditions and Restrictions.

DATED this 9th day of Feb., 2005.

Signed, sealed and delivered in the presence of:

[Signature]
Signature

Michael V. Harbin
Print Name MICHAEL V. HARBIN

Bonnie Brinson
~~MICHAEL V. HARBIN WITNESS~~
Bonnie Brinson

[Signature]
Signature

Randy Merritt
Print Name RANDY MERRITT

Lisa G. Welch
~~RANDY MERRITT WITNESS~~
Lisa G. Welch

Matasha Finch
Signature

Matasha Finch
Print Name WITNESS

Penny McKinney
PENNY MCKINNEY

STATE OF FLORIDA
COUNTY OF LEON

MICHAEL V. HARBIN, RANDY MERRITT and PENNY MCKINNEY, known to be the persons described in and who executed the foregoing instrument, who acknowledged before me that they executed the same, that I relied upon the following form of identification of the above-named persons: _____ and that an oath was not taken.

Multiple Copy Agreement/MALLARD POND Homeowners Association, Inc. doc

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WITNESS my hand and official seal in the County and State last aforesaid this 9th day
of February, 2005.

Lisa G. Welch
NOTARY PUBLIC



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**Edwin G. Brown
& Associates, Inc.**

SURVEYORS • MAPPERS • ENGINEERS

October 1, 2003
(REVISED: OCTOBER 20, 2004)

MICKEY HARBIN & RANDY MERRITT

75.32 ACRES

I hereby certify that this is a true and correct representation of the following described property and that this description meets the minimum technical standard for land surveying (Chapter 61G17, Florida Administrative Code).

Begin at a St. Joe Paper Company concrete monument marking the Northwest corner of the Southeast Quarter of Lot 72 of the Hartsfield Survey of Lands in Wakulla County, Florida, and thence run South 18 degrees 01 minutes 58 seconds East along the West boundary of the Southeast Quarter of said Lot 72, a distance of 599.72 feet to the Northerly right-of-way boundary of Lower Bridge Road, thence run South 81 degrees 01 minutes 45 seconds East along said right-of-way boundary 590.85 feet to a re-rod, thence run North 18 degrees 00 minutes 25 seconds West 356.49 feet to a re-rod, thence run North 71 degrees 59 minutes 39 seconds East 512.33 feet to a re-rod, thence run South 17 degrees 50 minutes 27 seconds East 149.82 feet to a re-rod, thence run South 18 degrees 02 minutes 53 seconds East 468.18 feet to a point on the Northerly right-of-way boundary of said Lower Bridge Road, said point lying on a curve concave to the Northeasterly, thence run Southeasterly along said right-of-way boundary and along said curve with a radius of 5679.59 feet thru a central angle of 08 degrees 20 minutes 42 seconds for an arc distance of 827.22 feet, the chord of said arc being South 85 degrees 22 minutes 28 seconds East 826.49 feet to a rod and cap, thence run North 08 degrees 49 minutes 33 seconds East 1594.51 feet to a rod and cap, thence run South 72 degrees 35 minutes 40 seconds West 212.82 feet to a concrete monument, thence run South 72 degrees 15 minutes 11 seconds West 1274.40 feet to a concrete monument, thence run South 72 degrees 52 minutes 12 seconds West 1034.88 feet to the POINT OF BEGINNING containing 48.93 acres, more or less.

LESS AND EXCEPT THE FOLLOWING:

Commence at the Northwest Corner of the Southeast Quarter of Lot 72 of the Hartsfield Survey of Lands in Wakulla County, Florida; thence run North 72 degrees 52 minutes 12 seconds West 1034.88 feet to a concrete monument; thence North 72 degrees 15 minutes 11 seconds West 1274.40 feet to a x-top concrete monument; thence South 23 degrees 27 minutes 55 seconds West 923.54 feet to the POINT OF BEGINNING; thence from said POINT OF BEGINNING run North 54 degrees 21 minutes 36 seconds West 82.18 feet; thence North 72 degrees 58 minutes 18 seconds West 67.33 feet; thence South 77 degrees 52 minutes 45 seconds West 98.81 feet; thence South 41 degrees 12 minutes 58 seconds West 101.76 feet; thence South 03 degrees 13 minutes 40 seconds West 113.53

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ST. JOE TIMBERLAND COMPANY
OCTOBER 1, 2003
(REVISED: OCTOBER 20, 2004)
75.32 ACRES

feet; thence South 33 degrees 33 minutes 58 seconds East 125.17 feet; thence South 84 degrees 55 minutes 34 seconds East 111.57 feet; thence North 69 degrees 51 minutes 42 seconds East 119.77 feet; thence North 12 degrees 09 minutes 26 seconds East 120.00 feet; thence North 09 degrees 41 minutes 21 seconds West 100.10 feet to the POINT OF BEGINNING, containing 1.89 acres more or less.

AND ALSO:

Commence at a St. Joe Paper Company concrete monument marking the Northwest corner of the Southeast Quarter of Lot 72 of the Hartsfield Survey of Lands in Wakulla County, Florida, and thence run South 18 degrees 01 minutes 58 seconds East along the West boundary of the Southeast Quarter of said Lot 72, a distance of 711.96 feet to the Southerly right-of-way boundary of Lower Bridge Road for the POINT OF BEGINNING. From said POINT OF BEGINNING thence run South 81 degrees 01 minutes 45 seconds East along said right-of-way boundary 1086.50 feet to a rod and cap marking a point of curve to the left, thence run Southeasterly along said right-of-way boundary and along said curve with a radius of 5779.59 feet thru a central angle of 03 degrees 21 minutes 00 seconds for an arc distance of 337.91 feet, the chord of said arc being South 82 degrees 35 minutes 29 seconds East 337.87 feet to a rod and cap, thence run South 17 degrees 58 minutes 02 seconds East 670.78 feet to an old axle, thence run South 73 degrees 35 minutes 01 seconds West 1272.89 feet to a St. Joe Paper Company concrete monument, thence run North 18 degrees 01 minutes 58 seconds West along the West boundary of the Southeast Quarter of said Lot 72, a distance of 1273.35 feet to the POINT OF BEGINNING containing 28.28 acres, more or less.

The undersigned surveyor has not been provided a current title opinion or abstract of matters affecting title or boundary to the subject property. It is possible there are deeds of records, unrecorded deeds, easements or other instruments which could affect the boundaries.


Wade G. Brown
Professional Surveyor & Mapper
FL Certificate No. 5959 (LB 6475)

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