

9-4
STATE OF FLORIDA
COUNTY OF ESCAMBIA

**DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS**

THIS DECLARATION, made on January 10, 1994, by KIMBERLY DEVELOPERS, INC., a Florida Corporation, hereinafter referred to as "Declarant";

W I T N E S S E T H:

Declarant is the owner of certain real property in Escambia County, Florida, described more particularly as follows:

THE EAST HALF OF THE WEST HALF OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER, ALSO THE WEST 330.00 FEET OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 20, TOWNSHIP 1 NORTH, RANGE 30 WEST, ESCAMBIA COUNTY, FLORIDA, LESS THE SOUTH 435.00 FEET OF THE WEST 300.00 FEET AS RECORDED IN O.R. BOOK 404 AT PAGE 31.

ALSO, BEGINNING AT THE NORTHEAST CORNER OF THE WEST HALF OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 20, TOWNSHIP 1 NORTH, RANGE 30 WEST, ESCAMBIA COUNTY, FLORIDA, THENCE WESTERLY ALONG THE QUARTER SECTION LINE FOR 210.00 FEET TO THE POINT OF BEGINNING, THENCE CONTINUE WESTERLY ALONG QUARTER SECTION LINE FOR 166.66 FEET, THENCE SOUTHERLY AT RIGHT ANGLES TO THE NORTHERLY RIGHT-OF-WAY LINE OF KINGSFIELD ROAD, THENCE SOUTHEASTERLY ALONG SAID RIGHT-OF-WAY TO A POINT 210.00 FEET WEST OF THE QUARTER SECTION LINE, THENCE NORTHERLY TO THE POINT OF BEGINNING, CONTAINING 17.79 ACRES, MORE OR LESS.

NOW, THEREFORE, Declarant hereby declares that its ownership of the properties listed 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 aforesaid ownership in 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.

✓ Hamilton Crossing
82 E. 9 mile Rd
Pensacola, FL 32534

ARTICLE I. DEFINITIONS

Section 1: "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot and shall include contract sellers pursuant to an unrecorded contract. Owner shall not include those persons or entities having a record interest in a lot merely as security for the performance of an obligation.

Section 2: "Common Area" or "Areas Held in Common" shall mean all areas within HAMILTON CROSSING described more particularly in Exhibit "A" attached hereto, not included in numbered lots or not otherwise dedicated. Common areas shall include, but not be limited to, the wetlands and all components of the storm water management system, as well as the entry way to the subdivision as described in Exhibit "A". All improvements on Common Areas shall be deemed to be a part of the Common Areas. The Common Areas are intended to be devoted to the common use and enjoyment of all Owners, as defined hereinabove.

Section 3: "Declarant" shall mean and refer to KIMBERLY DEVELOPERS, INC., a Florida Corporation, its successors and assigns.

Section 4: "Lot" shall mean and refer to all those lots shown on the recorded subdivision plat of HAMILTON CROSSING, the above-described real property, with exception of the Retention Ponds.

Section 5: "Properties" shall mean and refer to that certain real property described in Exhibit "A" hereto as HAMILTON CROSSING.

ARTICLE II. ARCHITECTURAL CONTROL

No structure or other improvement shall be erected, altered or placed on any Lot in the subdivision until design, location, plans, specifications and plot plan showing the nature, kind, shape, height, materials, color and location of such construction or improvement have been approved in writing as to the harmony of external design and location in relation to surrounding structures and topography by the Declarant, or by its designated Architectural Review Committee. In the event Declarant, or its designated Architectural Review Committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, such approval will not be required, the person or entity submitting such plans and specifications will be deemed to have fully complied with this Article.

ARTICLE III. USE RESTRICTIONS

Section 1: All lots shall be used and occupied solely for residential purposes and shall not be used for commercial, trade, public amusement, public entertainment or business purposes of any kind or character. No structure shall be erected, altered, or placed or

permitted to remain on any residential Lot other than one single family dwelling structure not exceeding two stories with a private two car garage attached to the main structure or a detached garage in conformity with architectural design of the residential structure, with a servant's room, tool room and/or laundry room attached to same.

Notwithstanding the above, during the period of development of HAMILTON CROSSING, Declarant, its successors or assigns, may maintain and operate a construction office for commercial and business purposes on any Lot.

Section 2: No building shall be located nearer to the front lot line nor nearer to the side street line than the building setback lines, if any shown on the recorded plat of the subdivision. In any event, no building shall be located on any residential building lot nearer than 20 feet to the front lot line nor nearer than 8 feet to any side street line, nor nearer than 8 feet to any inside lot line, nor shall any rear lot line setback violate Escambia County standards. Except for the side yard line setback, the foregoing setback limitations may be changed or modified on a per-Lot basis by a written waiver executed by the Declarant or its designated Architectural Review Committee. Notwithstanding the above, in no event shall an inside lot line setback be less than six (6) feet.

Section 3: No residential structure shall be erected or placed on any building plat plan which has an area of less than 8,000 square feet or a width of less than 40 feet at the front building setback line; provided, however, that any Lot shown as such on the recorded plat approved by the proper authorities shall be deemed to comply with this restriction notwithstanding that it does not meet the foregoing requirements of this paragraph as to size.

Section 4: No noxious or offensive trade or activity shall be carried on upon any lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.

Section 5: No sign of any kind shall be displayed to the public view on any Lot except one sign of reasonable size (not to exceed five (5) square feet) advertising the property for sale or rent or used by a builder to advertise the property during the construction and sales period.

Section 6: No trailer, basement, tent, shack, garage, barn or other outbuilding shall at any time be used as a residence, temporarily or permanently, nor shall any structure of a temporary character be used as a residence.

Section 7: No one-story residential dwelling having a habitable floor area less than 1600 square feet (exclusive of garages, porches or carports) shall be constructed upon any of the property above described. No dwelling of more than one-story having a ground floor area of less than 1200 square feet and a total habitable floor area of less than 1600 square feet (exclusive of garages, porches or carports) shall be constructed upon any of the property

above described. In addition, any dwelling constructed within the subdivision shall be required to have a two car garage, which floor area shall not be included in the area to be computed as the minimum floor area restriction contained herein.

Section 8: No fence or fence-type walls shall be constructed and no hedge shall be planted until its design, construction and location are approved by the Declarant or its designated Architectural Review Committee. No chain-link fence shall be permitted under any circumstances. No fence of any description shall be erected nearer to the front lot line than the mid-point between the front and the rear of the house on that lot. No fence shall be erected on any side street any closer than the side street setback line. This restriction does not apply to a growing hedge or fence not over approximately three feet high.

Section 9: No animals, livestock poultry, fowl, domestic or otherwise, shall be raised, bred or kept on any Lot except that dogs, cats or other household pets may be kept; provided, however, that they are not kept, bred or maintained for any commercial purposes, and that they are not kept in such numbers as to be an annoyance or nuisance to other Owners in the subdivision, and that they are not permitted to run at large. If not kept and maintained inside the house, all animals must be kept and maintained within an area on the Owner's Lot, properly fenced in accordance with the restrictions set forth in Article III, Section 8, or if no such fencing is installed, be tied or chained in an area no nearer the front lot line than the rear of the residential structure, or if a corner Lot, no nearer to the side street than the side-street building setback line provided for in Article III, Section 2.

Section 10: No outside antennas, poles, masts, towers, satellite receiving dishes or the like (except commonly utilized house-mounted television antennas) shall be erected nor shall any above-ground swimming pool having a diameter of greater than 6 feet, be located or maintained upon any lot unless same is located in the backyard of such lot and the entire backyard area shall be enclosed by a six foot privacy fence, unless such use is approved in advance and in writing by the Declarant or its designated Architectural Review Committee.

Section 11: Off-the-road vehicles, jeeps, beach buggies, boats, campers, trailers, motor homes, recreational vehicles, trucks, vans and such other vehicles shall not be parked anywhere, temporarily or permanently, except in garages, carports or otherwise enclosed or camouflaged, so as not to be detrimental to the appearance of the property from any lot line.

Section 12: All mail boxes are to be constructed of brick and be approved in accordance with Article II, Architectural Control, hereinabove.

Section 13: Declarant shall convey the storm water management systems, as permitted by the Florida Department of Environmental Protection, including all lakes, retention areas, filters, culverts and related appurtenances, to an appropriate agency or local government. If the conveyance is not accepted, then the storm water management system must then be operated and maintained by the Declarant.

ARTICLE IV. COMMON AREAS

Section 1: Grant/Reservation of Easements.

A. Declarant does hereby grant a non-exclusive perpetual easement and right of ingress and egress across, under and to all Common Areas unto each and all law enforcement, fire fighting and postal or delivery organizations, and to any other persons, organizations or entities who, in the normal course of their operation, respond to public or private emergencies, or who provide public or private utility services.

B. Declarant, for himself, his successors and assigns, does hereby reserve a non-exclusive perpetual easement and the right of ingress and egress across, under and to all Common Areas for purposes of construction thereof of subdivision improvements, sale of Lots and such other purposes and uses as Declarant deems appropriate or necessary in connection with the sale and development of the Lots within the above-described real property, HAMILTON CROSSING.

C. Declarant, for himself, his successors and assigns, does hereby reserve a specific, perpetual easement and right of ingress and egress across, under and to Lot 21A HAMILTON CROSSING, for purposes of ingress and egress to any and all adjacent real property not identified as part of HAMILTON CROSSING, for any purposes and uses the Declarant requires in connection with the development of a residential development on any such adjacent real property.

D. Each lot owner shall maintain a 1/46th ownership interest in the Common Areas and it shall be the responsibility of the lot owners to maintain all Common Areas.

ARTICLE V. GENERAL PROVISIONS

Section 1: Declarant, 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 imposed by the provision of this Declaration. Failure by the Declarant, 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. If any Court proceedings are required for the successful enforcement of any condition, restriction or covenant herein contained (due to its violation or breach), or lien against any Owner or against any other person or entity, said Owner, person or entity expressly agrees to pay all costs, including reasonable attorney's fees, of the Owner or Declarant who initiates such successful judicial proceedings for the enforcement of said condition, restriction, covenant or lien. Any successful judicial determination against an Owner for any breach of these covenants, conditions and restrictions shall become a lien against such Owner's Lot(s).

Section 2: In the event Owner shall fail (after 30 days written notice from the Declarant, sent United States mail, postage prepaid) to maintain a Lot or to maintain the improvements situated thereon in a neat, clean and orderly fashion and otherwise satisfactory to the Declarant, the Declarant may after approval of 2/3 of the Lot Owners, have the right, through its agents, employees and contractors, to enter upon said Lot and to repair, maintain and restore the Lot and/or exterior of the building or any other improvements erected thereon. The cost of such Lot and/or exterior maintenance, together with interest at the maximum rate then allowed by law (if not paid within 30 days after written demand therefor), as well as reasonable attorney's fees and costs, shall be a charge on the Lot, shall be a continuing lien on the Lot, and shall also be the personal obligation of such Lot Owner at the time such maintenance is performed.

Section 3: Invalidation of any one of the covenants or restrictions by judgment or Court Order shall in no way affect any other provisions, which shall remain in full force and effect thereafter.

Section 4: The covenants, conditions and restrictions of this Declaration shall run with and bind the land, shall be deemed to be a part of all deeds and contracts for conveyance of any and all Lots, and shall be binding on all Owners and all persons claiming under them for a period of 25 years from the date this Declaration is recorded, unless amended by an instrument signed by 2/3 of the then Lot Owners. After the initial 25 year term, this Declaration shall be automatically extended for successive periods of five years, unless amended by an instrument signed by the majority of the then Lot Owners. Notwithstanding the foregoing, Declarant reserves the right unto himself to amend this Declaration at any time within two years after date hereof if so doing is necessary or advisable to accommodate FHA, VA, FNMA or the like financing of residential structures within the subdivision. Any amendment of this Declaration must be recorded in the public records of Escambia County, Florida.

Section 5: Additional residential property may be annexed to the subdivision with the consent of fifty-one percent (51%) of the Lot Owners.

Section 6: The Declarant shall not, in any way or manner, be held liable for failure to enforce the conditions, restrictions and covenants herein contained or to any Owner or any other person or entity for any violation of the restrictions set forth herein by any Owner other than itself.

Section 7: Any single violation of any use restrictions by any Owner shall constitute a continuing violation which shall allow the Declarant or any other Owner to seek permanent injunctive relief. In no event shall a violation of these conditions, restrictions or covenants ever be interpreted to work a reverter or forfeiture of title.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 24th day of January, 1994.

WITNESSES:

Tracy A. Hendrix
W. L. F. [Signature]

KIMBERLY DEVELOPERS, INC.

By: [Signature]
Don C. Paedae, President

(CORPORATE SEAL)

STATE OF FLORIDA
COUNTY OF ESCAMBIA

The foregoing instrument was acknowledged before me this 24th day of January, 1994, by DON C. PAEDAE, who is personally known by me, as President of KIMBERLY DEVELOPERS, INC., a Florida Corporation, on behalf of the corporation.

Tracy A. Hendrix
NOTARY PUBLIC



Prepared By: Don Paedae
Kimberly Developers, Inc.
82 East 9 Mile Road
Pensacola, FL 32534

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FILED & RECORDED IN
PUBLIC RECORDS OF
ESCAMBIA COUNTY, FLORIDA
FEB 2 11 21 AM '94
THOMAS W. HENNING
ABOVE
JOE A. HENNING
COUNTY CLERK
ESCAMBIA COUNTY