

Barbara J. Linn CLERK

DECLARATION OF COVENANTS, CONDITIONS,
EASEMENTS AND RESTRICTIONS

FOR

RIVER CLUB SUBDIVISION

STATE OF GEORGIA)
COUNTY OF FULTON)

THIS DECLARATION made by DUNWOODY PROPERTIES, INC., a Georgia corporation, hereinafter referred to as "Declarant";

W I T N E S S E T H :

WHEREAS, Declarant is the owner of certain real property in Fulton County, which Declarant proposes to develop as a residential community together with certain related Common Elements, all to be known as "River Club" and described herein as the "Property"; and

WHEREAS, Declarant desires to provide for the preservation of values and for the maintenance of the Common Elements, and for these purposes desires to subject the Property, more particularly described in Exhibit "A" attached hereto and by this reference incorporated herein, to the protective covenants, restrictions, reservations, easements, assessments, charges and liens (referred to collectively as "covenants and restrictions") hereinafter set forth which are for the benefit of said Property and each property owner thereof; and

WHEREAS, River Club Homeowners' Association, Inc., a non-profit Georgia corporation, has been created for the purpose of administering and enforcing the provisions of the Declaration;

NOW, THEREFORE, Declarant hereby declares that the above described Property is hereby subjected to this Declaration and is and shall be held, transferred, sold, conveyed, used, occupied and mortgaged or otherwise encumbered subject to the protective covenants and restrictions hereinafter set forth. Every grantee of any interest in the Property hereby made subject to this Declaration, by acceptance of a deed of trust or other conveyance, whether or not it shall be so expressed in any such deed or conveyance and whether or not such person shall otherwise consent in writing, shall take subject to the terms and conditions of this Declaration and shall be deemed to have consented to said terms and conditions.

ARTICLE I
MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 1. Membership. Every Owner of a Lot in River Club shall be a member of the Association. Membership shall be automatic, and shall be appurtenant to and may not be separated from ownership of any Lot.

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

Class A. Class A Members shall be all those owners of a Lot with the exception of the Declarant and each Class A member shall be entitled to cast one vote for each Lot owned.

Class B. Class B Members shall be the Declarant. The Class B Members shall be entitled to the same number of votes as are cumulatively held by all Class A Members plus one, provided that Class B membership shall end when the Declarant holds less than five Lots in River Club; provided, however, that in no event shall Class B membership cease to exist prior to September 1, 1985, unless the Declarant chooses to abolish Class B membership at some earlier date. At such time as Class B membership ceases to exist, the Declarant shall remain as Class A Members as to each Lot then owned by Declarant.

When more than one person is the owner of a Lot, the vote for such Lot shall be exercised as the owners among themselves determine. The acts approved by a majority of the votes entitled to be cast by those present in person or by proxy at a meeting at which a quorum of votes is represented shall constitute the acts of and be binding upon the members except where approval by a greater number of members shall be required by the Articles, the Declaration or By-Laws.

ARTICLE II ASSESSMENTS

Section 1. Purpose of Assessments. The assessments levied under this Article II shall be used for the purpose of promoting the wellbeing of and providing such services for Lots and Lot Owners as the Board of Directors of the Association may from time to time deem appropriate to effect and assure reasonable and acceptable levels of quality in the appearance and condition of the Property within River Club, and for the repair, renovation, improvement and maintenance of the Common Elements and related costs thereto.

Section 2. Creation of the Lien and Personal Obligation for Assessments. Each Lot subject to this Declaration is subject to a lien and permanent charge in favor of the Association for the annual and special assessments set forth in this Article II, and for other duly applied charges as set forth in Article III. Each such assessment, together with such interest and cost of collection as may reasonably apply, shall be a permanent charge and continuing lien upon the Lot against which it relates, and shall be the joint and several personal obligation of each Owner of such Lot at the time the assessment fell due; each such Owner covenants, and by acceptance of a deed or other conveyance, whether or not it shall be so expressed, shall be deemed to covenant and agree to pay the same to the Association as and when due.

Section 3. Annual Assessments. Annual assessments shall be established on a fiscal year basis by the Board of Directors. For the first fiscal year the maximum annual assessment shall be \$120.00 per lot. Maximum annual assessments for each succeeding year shall not exceed 110% of the previous year's maximum annual assessment; provided, however, the maximum annual assessment may be increased above 10% by the assent of two-thirds of the votes cast at a duly called meeting of the Association for the purpose; the Board of Directors may set the annual assessment at an amount below the maximum, as it deems proper.

Section 4. Date of Commencement of Assessments. The annual assessment shall be fixed on a fiscal year basis beginning October 1, 1983. Owners of Lots, other than Declarant or builders, shall make payment in full of the annual assessment on the first day of each fiscal year or the applicable prorated amount based and due on the first day of the month following the purchase of the Lot. Builders who acquire a Lot directly from Declarant shall pay a prorated portion of the annual assessment payable monthly in advance.

The Association may provide for monthly, quarterly or semi-annual due dates for the annual assessment, provided the Owners are given thirty days prior notice of any change. Payment of the assessment shall be delinquent 30 days after due date or billing date. The due date of any special assessment under Section 5 hereof shall be fixed in the resolution authorizing such assessment.

Section 5. Special Assessments. In addition to the annual assessment, the Board of Directors may levy special assessments for the purpose of paying, in whole or in part, the cost of any construction, repair or replacement of a capital improvement included as part of the Common Elements. Any such assessment shall be approved by two-thirds of the votes cast at a meeting of the Association duly called for this purpose.

Section 6. Duties of the Board of Directors. The Board of Directors shall have such powers and duties as are prescribed in the Association's Articles and By-Laws, as amended from time to time, which shall include the following: to fix the due date of all special or annual assessments; to give written notice of every assessment to the Owner subject thereto at least ten days prior to the due date; to provide upon demand to any person with legitimate interest a true and accurate statement of the amount of unpaid assessments, if any, with respect to any Lot subject to assessment by the Association.

Section 7. Uniform Rate of Assessment. The amount of any annual or special assessment shall be the same for all Lots excluding Lots owned by the Declarant as provided below.

Section 8. Exempt Properties.

(A) Until conveyed to an Owner other than Declarant, each Lot subject to this Declaration is exempt from the assessments, charges and liens herein while owned by the Declarant. This provision shall not be modified, amended or revoked without the express consent of the Declarant.

(B) All Common Elements shall be exempt from the assessments, charges and liens created herein.

ARTICLE III
ARCHITECTURAL, MAINTENANCE AND USE RESTRICTIONS

Section 1. Architectural Committee.

(A) No building or improvement shall be erected, placed or altered on any Lot until the building plans and specifications and a plot plan showing the location of such structures have been approved in writing by an architectural control committee composed of Judson Townley, Larry Morris and Wayne LeBaron (the "Committee") or such others as may from time to time be appointed in their stead by Declarant. In the event the Committee fails to approve or disapprove the design and location within forty-five days, approval will not be required and this covenant deemed to have been complied with. All Committee decisions shall be final and binding. Committee members shall not be liable to any persons subject to or possessing or claiming the benefits of these restrictive covenants for any damage or injury to property or for any loss arising out of their actions; it being understood an aggrieved party's remedies shall be restricted to injunctive relief and no other.

(B) In order to assure that location of structures, extent of clearing and amount of impervious surface are entirely appropriate with regard to ecological constraints and governmental requirements for individual Lots, Declarant and Committee reserve the right to control absolutely and solely to decide the precise location and the maximum limits of clearing and impervious surface for any house or other structure upon all Lots; provided, however, that such location and limitations shall be determined only after the Owner is given reasonable opportunity to recommend a specific site and building plan.

(C) All builders, prior to construction, must receive approval by the Committee concerning financial stability, building experience and ability to build structures of the type and quality which are to be built on the Property.

(D) Refusal or approval of plans, specifications, builder or location may be based on any grounds including purely aesthetic considerations which in the sole discretion of the Committee shall be deemed sufficient.

(E) In the event any Owner violates the terms of this Section, the Association shall, after thirty days written notice, have the right to enter upon the property of the Owner and cure such defect including removal of any structure in violation hereof, all at the cost and expense of Owner.

Section 2. Restrictions on Use and Rights of the Declarant and Association.

(A) All Lots shall be used for single family residential dwellings exclusively. No structures other than one single family dwelling not above two stories in height, a maximum of one small one-story accessory building and such recreational structure as may be specifically approved by the Committee shall be built upon any Lot. No business or business activity shall be carried on within the Property except those activities of the Declarant and Association related to the development, sale and management of the Property.

(B) No structure of a temporary nature shall be placed upon the Property at any time but for those shelters used by contractors during construction of any residence.

(C) No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance or nuisance to the neighborhood. Plants, animals or such devices or things as may be dangerous, unsightly, unpleasant or of a nature as may diminish the enjoyment of the Property shall not be maintained or permitted.

(D) It is the responsibility of each Owner to prevent any unhealthy, unsightly or unkept conditions of buildings or grounds on Owner's property which tend to substantially decrease the beauty of the River Club area. Declarant may, after thirty days written notice to any Owner, enter upon Owner's Lot to provide such maintenance as Declarant, in its sole opinion, deems necessary. The Lot Owner shall be personally liable for the cost of such maintenance and the charge shall be a lien against the Lot as provided for in Article II of this declaration.

(E) Each house and other structures shall be constructed of materials approved in writing by Declarant and unless fewer minimum square feet are specifically approved in writing by Declarant, each house shall contain at least 2200 square feet of living space with respect to a one story house and 2800 square feet of living space for a two story house; this shall be exclusive of garages, porches and terraces.

(F) All electrical service, cable television and telephone lines shall be placed underground.

(G) All playground equipment, doghouses, clotheslines and garbage receptacles shall not be exposed to view from the street.

(H) Except for compressors for air conditioning systems, which must be screened by shrubbery, approved walls or fencing or other similar devices, no heating or other mechanical equipment, and no fuel or water tanks or similar storage receptacle may be exposed to view from the street.

(I) No mobile homes, trailers, campers, boats or other recreational vehicles shall be placed on any Lot so as to be visible from any street or other Lots within the Property, or parked upon any street within the Property. No outbuilding or other structure (except such accessory structures approved by the Committee as provided in Sections 1 and 2 of this Article III), whether temporary or permanent, shall be placed on any Lot at any time.

(J) All residences shall have garages which issue from the side or rear of the residence.

(K) No building materials or related mechanical devices used for building purposes shall be placed or stored on any Lot except during construction of a residence or related improvement.

Section 3. Animals and Pets. No animals of any kind may be raised, bred or kept on any Lot, excepting dogs, cats or other usual and common household pets in reasonable number, provided they are not bred or maintained for any commercial purpose and, in the sole discretion of the Association, do not endanger the health or constitute a nuisance or inconvenience to the Owners of other Lots.

ARTICLE IV RESERVATION OF EASEMENTS

Section 1. Access. Declarant reserves unto itself and the Association the right to an easement for access to and from and over any of the Properties as shown on the recorded plans of River Club to service any of the Common Elements or easements provided for herein. Reciprocal easements are hereby reserved for the benefit of adjoining Lot Owners for the control, maintenance and repair of utility and water lines affecting or crossing any Lot.

Section 2. Utilities and Drainage. Declarant, on behalf of itself, the Association and such utility companies as may from time to time serve River Club, and their agents and licensees, without further assent, reserves the right, title and privilege of a general easement, which shall be perpetual, alienable and assignable, to go in and on the Properties with men and equipment to construct, maintain and operate in, upon and through said premises, in a proper and workmanlike manner, electric, water, gas, telephone, septic drainage systems and storm drainage systems, and other conveniences and utilities including trenching and installation of such equipment and structures as may be necessary, and the right to take any other action reasonable and necessary to provide for economical and safe utility installation and the maintenance of reasonable standards of health, safety and appearance. These reservations shall not be considered an obligation of Declarant to provide or maintain any such utilities or service.

ARTICLE V
MISCELLANEOUS PROVISIONS

Section 1. Duration. The covenants and restrictions of this Declaration shall run with and bind the land, shall be and remain in effect, and shall inure to the benefit of and be enforceable by the Declarant, the Association or the Owner of any Lot subject to this Declaration, their respective heirs, legal representatives, successors, successors-in-title and assigns for a period of twenty (20) years from the date this Declaration is recorded. After this twenty year period, these covenants and restrictions shall be extended automatically for successive periods of ten (10) years each unless prior to the expiration of any ten year period thereafter, a written agreement is recorded in the real estate records of Fulton County by which these covenants and restrictions are changed, modified or extinguished in whole or in part; the agreement shall be executed by the Association after approval of such action by three-fourths of the votes cast at a duly called meeting of the Association.

Section 2. Amendments. This Declaration can be amended at any time by three-fourths of the votes cast at a duly called meeting of the Association voted in favor of the proposed amendment. Upon approval of a proposed amendment, the President or Secretary of the Association will execute an amendment to this Declaration setting forth the amendment and its effective date, which shall be no less than thirty days after the amendment is recorded, the date of the Association meeting at which the Amendment was approved, the date notice of the meeting was given, the number of votes by members of the Association, the number required to constitute a quorum, the number of votes required to adopt an amendment, the number of votes cast against the amendment. Such amendment shall be recorded in the real estate records of Fulton County. The Declarant may unilaterally amend this Declaration without the consent or approval of the Association or other Owners for a period of eighteen months from the date hereof; such supplemental declarations shall bind all the Property; provided, however, such supplemental declarations shall not bind without the consent of the Owners thereto, any portions of the Properties previously sold by the Declarant as evidenced by a deed recorded in the real estate records of Fulton County.

Section 3. Notices. Any notice required to be sent to any Member or Owner under the provisions of the Declaration shall be deemed to have been properly sent, and notice thereby given, when mailed with the proper postage to the last known address of the person who appears as the Member or Owner on the records of the Association at the time of such meeting. It shall be the obligation of each Member to notify the Secretary of the Association in writing of any change of address.

Section 4. Enforcement. Enforcement of these covenants and restrictions shall be by any proceeding by law or in equity against any person or persons violating or attempting to violate or circumvent any covenant or restriction, or by any appropriate proceeding against the land to enforce any lien created by these covenants; failure by the Association or any Owner to enforce any covenant or restriction shall not be deemed a waiver of the right to do so thereafter.

Section 5. Interpretation. In all cases, the covenants and restrictions provided for in this Declaration shall be given that interpretation or construction which, in the opinion of the Declarant or the Association, will best effect the intent of the general plan of development and maintenance set forth in this document. The covenants and restrictions shall be liberally interpreted so as to make them fully effective.

Section 6. Delegation and Assignability. Declarant shall at all times and from time to time have the right to delegate and assign to the Association any and all rights and functions reserved to the Declarant. When Declarant conveys to a third party the last Lot owned by it in River Club, all rights and functions held by the Declarant which have not already been delegated and assigned to the Association shall be automatically delegated and assigned to the Association as of the date of conveyance; thereafter the Board of Directors of the Association, or such person or committee as the Board may delegate, shall have the authority to exercise such rights and functions reserved hereunder to Declarant and the Association.

Section 7. Severability. If the application of any provision of this Declaration to any person or property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or its application which remains effective without the invalid provision or application.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto caused this Declaration of Covenants, Conditions, and Restrictions and Reservation of Easements for River Club Subdivision to be executed by its duly authorized officers this 8th day of August, 1983.

Executed before the undersigned this 8th day of August, 1983.

Wayne L. Brown
Unofficial Witness

Pauline Hayward
Notary Public
Notary Public, Georgia, State at Large
My Commission Expires May 10, 1985

DUNWOODY PROPERTIES, INC.

BY: Larry C. Morris
Larry C. Morris
President

Attest: Judson E. Townley
Judson E. Townley
Secretary

(CORPORATE SEAL)



LEGAL DESCRIPTION

ALL THAT TRACT OR PARCEL of land being located in Land Lots F-21, F-22 and 293 of the First District, First Section, Fulton County, Georgia and being more particularly described as follows:

TO REACH THE POINT OF BEGINNING start at the Land Lot corner of Land Lots F-21, 252, 291 and 292, located approximately in the center-line of Ga. Highway No. 141; proceed thence southeasterly along the east line of F-21 and the west line of 292 to the intersection of the south R/W line of Ga. No. 141 (100' R/W) and the point of beginning. Run thence along said Land Lot Line S 00° 57' 34" E a distance of 1390.90 feet to a point; and the Land Lot corner of Land Lots F-21, F-22, 292 and 293. Running thence northeasterly along the south line of 292 and the north line of 293 on a bearing of N 87° 58' 14" E a distance of 856.35 feet to a point; running thence S 11° 20' 25" E a distance of 210.78 feet to a point; running thence S 57° 50' 25" E a distance of 358.50 feet to a point; running thence N 88° 48' 45" E a distance of 140.6 feet to a point; said point being on the east line of Land Lot 293 and the west line of F-28; run thence along said Land Lot Line S 01° 23' 32" E a distance of 353.0 feet to a point; running thence S 55° 29' 55" W a distance of 589.67 feet to a point; running thence S 60° 02' 23" W a distance of 313.62 feet to a point; running thence S 67° 15' 15" a distance of 212.12 feet to a point; said point being on the north line of Land Lot F-26 and the south line of Land Lot 293. Running thence along said Land Lot Line S 88° 55' 20" W a distance of 405.57 feet to a point and said point being the Land Lot corner of F-22, F-25, 293 and F-26. Running thence N 12° 04' 02" W a distance of 1360.34 feet to a point; running thence N 79° 38' 59" W a distance of 317.71 feet to a point; running thence N 65° 25' 49" a distance of 85.13 feet to a point; running thence N 49° 16' 13" W a distance of 63.64 feet to a point; running thence N 20° 48' 19" W a distance of 516.5 feet to a point; said point being on the South R/W Line of Ga. Highway No. 141. Running thence along said R/W Line N 51° 58' 41" E a distance of 823.43 feet to a point. Running thence on a curve to the left an arc distance of 337.16 feet (said curve having a chord distance of 337.16 feet on a bearing of N 46° 06' 06" E and a radius of 1620.11 feet to a point and the POINT OF BEGINNING.

Said tract contains 54.1 acres of land as shown on a Final Plat of River Club Subdivision for Dunwoody Properties, Inc. by Browning Engineering & Development, Inc., dated June 13, 1983.

EXHIBIT "A"