



## Three Building Lots in Swan Harbour Subdivision near Harriman, TN (3)



(615) 517-7675



[www.mclemoreauction.com](http://www.mclemoreauction.com)



[will@mclemoreauction.com](mailto:will@mclemoreauction.com)

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# Table of Contents



Auction Sales Map.....	1
Covenants and Restrictions .....	2
Lot 30 on Indigo Bunting Drive .....	53
Lot 33 on Indigo Bunting Drive .....	54
Lot 34 on Indigo Bunting Drive .....	55
Subdivision Plat.....	56
Tax Information - Lot 30.....	59
Tax Information - Lot 33.....	61
Tax Information - Lot 34.....	63
Video .....	65





# Auction Sales Map





#874

SWAN HARBOUR

COVENANTS AND RESTRICTIONS

STATE OF TENNESSEE, ROANE COUNTY, REGISTER'S OFFICE

This instrument and certificate were noted in  
Note Book T, Page 287 at 12:35 o'clock P.M. 7-30, 1997  
and recorded in Deed Book 3, Series 20, Page 363  
Rec. Fee \$ 204.00 State Tax \$          Regs. Fee \$           
Total \$ 204.00 Receipt No. 61270

Witness my hand.

Maxie Crowe Register  
By Gail Woods

July 1997

This document prepared by: SANDPIPER PROPERTIES, INC, 608 Swan Pond Circle, Hartman, Tennessee 37748

363





**DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS FOR  
SWAN HARBOUR**

**THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS** dated as of the 30th day of JULY, 1997, and executed by Swan Harbour L.P., a Tennessee limited partnership (the "Developer").

**WITNESSETH:**

**WHEREAS**, the Developer is the owner of certain real estate in the County of Roane, State of Tennessee, described in Exhibit "A" attached hereto and incorporated herein by reference (said real estate being referred to herein as the "Property") which Developer desires to develop as a residential community to be known as "Swan Harbour" with various open spaces and common facilities for the benefit of said community; and

**WHEREAS**, the Developer desires to provide for the protection and preservation of the values, amenities, desirability and attractiveness of the Property; and

**WHEREAS**, the Developer desires to establish and provide for a system of administration and continual operation and maintenance of certain Common Areas and the Property, as hereinafter described; and

**WHEREAS**, the Developer further desires to establish for Developer's benefit and for the mutual benefit and advantage of all future owners and/or occupants of the Property and all persons or entities having any interest in the Property, certain rights, easements, privileges, obligations, restrictions, covenants, liens, assessments and regulations governing the use and occupancy of the Property and the maintenance, protection and administration of the Common Areas thereof, all of which are intended to be in furtherance of a plan to promote and protect the operative aspects of residency or occupancy in the Property and on all portions thereof, and are intended to be construed as covenants running with the land which shall be binding on all parties hereafter having or acquiring any right, title or interest in all or any portion of the Property and which shall inure to the benefit of each Owner thereof;

**NOW, THEREFORE**, Developer, as legal title holder of the Property and for the purposes set forth above and further hereinafter set forth, declares as follows:

**ARTICLE I - Definitions**

"Assessment" shall mean and refer to such amounts as are required by SHOA for payment of the Common Expenses and levied against the Owners by SHOA in accordance herewith.

COVENANTS & RESTRICTIONS  
JULY 1997

364

**"Building"** shall mean and refer to any building which may be built on the Property including, without limitation, homes, boat facilities, storage facilities, construction facilities, or utility structures.

**"Bylaws"** shall mean and refer to the Bylaws of SHOA attached hereto as Exhibit "B" and made a part hereof, and as may be amended from time to time.

**"Common Area"** shall mean and refer to all real property, and the improvements and facilities located thereon, situated within the Property now or hereafter owned and maintained by SHOA for the common use and enjoyment of the Owners, including, but not limited to, areas designated as "open space", "common area" or "open area" on any Plan, all portions of the streets, parking areas, all open space and landscaped areas, retention and drainage areas, nature trails, sidewalks, patios, and walls constructed by the Developer and designated as Common Property.

The term **"Common Areas"** as defined herein shall not be deemed to include any Residential Unit or any publicly dedicated streets, roads, or utilities.

**"Common Expense"** shall mean and refer to all expenses incurred by SHOA for the construction, maintenance, repair, replacement, operation, management and administration of the Property and the Common Property.

**"Construction Phase"** shall mean and refer to an area so designated by the Developer where development, home construction and sales are to take place during a certain expected period.

**"Declaration"** shall mean and refer to this Declaration of Protective Covenants, Conditions and Restrictions applicable to the Property which is recorded in the Office of the Register of Deeds for Roane County, Tennessee, as it may be amended from time to time.

**"Developer"** shall mean and refer to Swan Harbour L.P., a Tennessee limited partnership, having a principal place of business in Harriman, Tennessee, its successors and assigns provided such successors and assigns are designated in writing by Developer as a successor or assign of the rights of Developer herein.

**"Developer Membership"** shall refer to the provisions defining the Developer's membership in the Swan Harbour Owners' Association as described in Article 4.2.2.

**"Easement"** shall mean and refer to any parcel of land, so depicted on the recorded plat for the Property, where certain reservations are established for uses upon and/or over that parcel.

**"Homesite"** shall mean and refer to any plot of land shown on any recorded Plat intended for any type of independent ownership for use and occupancy as a residence by a single family, whether a Building is constructed thereon or not.

**"Household"** shall mean and refer to those who dwell under the same roof and constitute a family.

COVENANTS & RESTRICTIONS  
JULY 1997

365



**"Limited Common Area"** shall mean and refer to those areas reflected as such upon any recorded subdivision plat of the Property and those areas so designated from time to time by the Developer, intended to be devoted to the common use and enjoyment of the owners of specifically designated property.

**"Marginal Strip"** shall mean and refer to the property located between the land owned by the Developer and the lake shore. More particularly, this strip is defined as the land lying below the 750 foot contour.

**"Member"** shall mean and refer to any person or persons who shall be an Owner, and as such, shall be a Member of SHOA.

**"Model Home"** shall mean and refer to a residence constructed and used to demonstrate a Swan Harbour home to the public.

**"Mortgagee"** shall mean and refer to the holder of a first lien deed of trust encumbering a Residential Unit.

**"Occupant"** shall mean and refer to any person or persons in possession of a Residential Unit.

**"Owner"** shall mean and refer to the record owner, whether one or more persons or entities, of the fee interest in any Residential Unit or Homesite which is part of the Property, excluding, however, those parties having such interest merely as a security interest for the performance of an obligation, including a Mortgagee, unless and until such person or entity has acquired the fee interest pursuant to foreclosure or any proceeding in lieu of foreclosure.

**"Person"** shall mean and refer to a natural person, as well as a corporation, partnership, firm, association, trust or other legal entity.

**"Personal Charge"** shall mean and refer to any expense or charge for which a specific Owner is liable.

**"Plat"** shall mean and refer to any recorded plat or plan of the Property, or any portion thereof, which has been filed in the Register's office for Roane County, Tennessee, and such other plats or plans as are submitted to the Declaration pursuant to Article II hereof.

**"Private Streets"** shall mean and refer to every way of access for vehicles which is not dedicated to the general public but is designated as either Common Property or Limited Common Property. The fact that a Private Street shall be known by the name of street, parkway, boulevard, road, avenue, way, lane, place or other name shall in no wise cause the particular street to be public in nature despite the fact that streets under general definitions are not private in nature.

**"Property"** shall mean and refer to any and all of that certain real estate described in Exhibit "A" attached hereto, and such other property as may be submitted to this Declaration pursuant to the provisions of Article XV hereof.

COVENANTS & RESTRICTIONS  
JULY 1997



"Reserved Properties" shall mean and refer to those areas of land designated as such on any recorded subdivision plat of the Property.

"Residential Unit" shall mean and refer to any portion of the Property intended for any type of independent ownership for use and occupancy as a single-family residence.

"Rules and Regulations" shall mean and refer to rules and regulations as promulgated hereunder and as established and modified by SHOA from time to time.

"SHARB" shall mean and refer to the Swan Harbour Architectural Review Board.

"SHOA" shall mean and refer to the Swan Harbour Owners' Association, Inc., a nonprofit corporation to be organized under the laws of the State of Tennessee, its successors and assigns.

"Shoreline Management Plan" shall mean and refer to the TVA/Swan Harbour plan for management of the Marginal Strip.

"TVA 26a Permit" shall mean and refer to the permit issued by the Tennessee Valley Authority that, among other approvals, permits improvements on the Marginal Strip.

"TVA Marginal Strip License/lease/easement" shall mean and refer to the TVA license or lease, as it may be renewed from time to time, or a permanent recreational easement, under which the Developer has obtained the use of the Marginal Strip.

"Utility Easements" shall mean and refer to those areas of land designated for such purposes on any recorded subdivision plat of the Property or as may be provided for in or by this Declaration or any Supplemental Declaration.

## **ARTICLE II - PROPERTY SUBJECT TO THE DECLARATION. RESERVATION OF EASEMENTS**

**2.1 Submission of the Property to Declaration and Bylaws.** The Developer, as legal title holder in fee of the Property, hereby submits and subjects the Property to the provisions of this Declaration. This Declaration shall constitute covenants running with the land and binding upon all parties now owning or hereafter having or acquiring any right, title or interest in the Property or any part thereof, and shall inure to the benefit of each such party. Every person hereafter acquiring a Residential Unit, or any portion of the Property, by acceptance of a deed to any interest in a Residential Unit, or any portion of the Property, shall accept such interest subject to the terms of this Declaration, and by acceptance of the same shall be deemed to have consented to and agreed to be bound by the terms and covenants of this Declaration.

**2.2 Reservation of Easements.** Developer reserves the rights of ingress and egress across the Property for the purpose of construction and completion of streets,

COVENANTS & RESTRICTIONS  
JULY 1997



utilities and Common Areas and generally for the purpose of completing the intended development of the Property.

**2.2.1 Utility and Drainage Easements.** Developer, for itself and its successors and assigns, hereby reserves and is given a perpetual, alienable and releasable blanket easement, privilege and right, but not the obligation, on, in, over and under the lands as hereinafter designated of the Property to install, maintain and use electric, antenna television and telephone transmission and distribution systems, poles, wires, cables and conduits, water mains, water lines, drainage lines and drainage ditches, or drainage structures, sewers and other suitable equipment and structures for drainage and sewerage collection and disposal purposes, or for the installation, maintenance, transmission and use of electricity, cable television systems, telephone, gas lighting, heating, water, drainage, sewerage and other conveniences or utilities on, in, over and under all of the Common Property, Limited Common Property and the Marginal Strip, and on, in, over and under all of the easements, including, but not limited to, private and public streets, in place or shown on any subdivision plat of the Property, whether such easements are for drainage, utilities or other purposes, and on, in, over and under a 5 foot strip along the interior of all lot lines of each Homesite in the Property, said 5 foot strip aforesaid to be parallel to the interior lot lines of the respective Homesites. The Developer shall have the unrestricted and sole right and power of alienating and releasing the privileges, easements, and rights referred to herein with the understanding, however, that the Developer will make such utility easements available to SHOA for the purpose of installation of water lines and other water installations and sewer lines and other sewer installations and, in addition, will also make such utility easements available to SHOA for any other utilities which the Developer and SHOA shall agree upon, and for which SHOA shall have assumed the responsibility for obtaining additional easements in order that utilities other than sewer and water may be installed. Such utility easements shall be made available to SHOA without cost to it. SHOA and Owners other than the Developer shall acquire no right, title or interest in or to any poles, wires, cables, conduits, pipes, mains, line or other equipment or facilities placed on, in, over or under the property which is subject to said privileges, rights and easements. All such easements, including those designated on any plat of the Property, not made available to SHOA are and shall remain private easements and the sole and exclusive property of the Developer and its successors and assigns. Within these aforesaid easements, 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 channels within the easements, or which may obstruct or retard the flow of water through drainage channels with the easements.

**2.2.2 Easements for Streets.** Developer, for itself and its successors and assigns, hereby reserves a perpetual, alienable and releasable blanket easement, privilege and right, but not the obligation, in, upon, over and across the Common Properties, Limited Common Properties and the Marginal Strip for purposes of constructing and maintaining such roads, streets or highways as it shall determine to be necessary or desirable in its sole discretion, including such cuts, grading, leveling, filling, draining, paving, bridges, culverts, ramps and any and all other actions or installations which it deems necessary or desirable for such roads, streets, or

COVENANTS & RESTRICTIONS  
JULY 1997

highways to be sufficient for all purposes of transportation and travel. The width and location of the right of way for such roads, street or highways shall be within the sole discretion of Developer, its successors and assigns, provided, however, that the Developer, its successors and assigns, will use their best efforts consistent with their purposes to lessen any damage or inconvenience to improvements which have theretofore been located upon the property. Developer, its successors and assigns, further reserves the unrestricted and sole right and power of designating such roads, street or highways as public or private and of alienating and releasing the privileges, easements and rights reserved herein.

**Private Roads/Streets.** The roads and streets as shown on the Plat are not public areas or thoroughfares and no rights in the general public are intended to be created hereby or by the recording of the Plat. The streets are private thoroughfares to be owned, maintained, operated and controlled by SHOA. The cost of maintaining the roads/streets in the Property will be an expense of SHOA. Neither Roane County, Tennessee, nor any other governmental entity, has the responsibility for maintenance, repair, or replacement of the streets and/or roads within the Property. The Developer and/or SHOA reserves the right to control access to the Property by entry onto the streets of the Property or otherwise. The Developer and/or SHOA reserves the right to deny entry and access into the Property to any persons who are not authorized to use the streets of the Property pursuant to this Declaration. Soliciting within the Property is expressly prohibited.

**2.2.3 Other Easement and Reservations.** All other easements and reservations as reflected on or in the notes of the recorded subdivision plats of lands within the Property or hereafter granted of record by SHOA, in its sole discretion, as to the Common Property, shall be binding upon each Owner and his Homesite or Residential Unit to the same extent as if set forth herein.

## ARTICLE III - Reserved Properties.

**3.1 Reserved Properties.** Any area upon a recorded plat under this Declaration or any Supplemental Declaration, if any, designated as "Reserved Properties," shall remain the sole and exclusive property of the Developer, its successors and assigns, and neither this Declaration nor any Supplemental Declaration nor the plats in connection with same shall in anyway apply to such "Reserved Properties" unless at a later time same shall be included thereunder as provided in Article XV hereof.

**3.2 Utilities Reserved.** It is contemplated that utilities for the Property other than the water distribution system and sewer collection system shall be furnished by companies so engaged in the vicinity of the Property. The Developer has and retains the exclusive right to negotiate contracts and agreements with such companies, under such conditions and for such considerations as it shall deem proper under the circumstances. The utilities referred to shall include, but not be limited to, natural, liquified or manufactured gas systems, electrical systems, sanitation service, telephone systems, and antenna television transmission and distribution facilities.

COVENANTS & RESTRICTIONS  
JULY 1997  
369





In the event the Developer cannot negotiate contracts and agreements with local companies to furnish the utility services aforesaid, it may, but shall not be obligated, to organize a company or companies to furnish such utility services and shall have the right to enter into agreements therewith to furnish utility services, even though such companies so organized shall be wholly or partially owned by the Developer.

The Developer shall have the right, but not the obligation, to delegate to SHOA the right to enter into contracts with utility companies to furnish certain or all of the utility services aforesaid. In the event of such delegation, SHOA shall have the right to so contract and to expend funds of SHOA therefor as a Common Expense in order to secure necessary or desirable utility services whether named herein above or not.

#### ARTICLE IV - Membership in SHOA.

4.1 Association. The name of the Association shall be the Swan Harbour Owners' Association, Inc., (SHOA). SHOA will be a non-profit corporation. The bylaws for the Association are attached hereto as Exhibit B.

#### 4.2 Categories of Membership.

4.2.1 Owner Membership. Every person or entity who is a record owner of a Homesite and/or Residential Unit which is subject to being assessed by SHOA, even though such Assessment has not yet commenced, shall be an Owner-member of SHOA. Every person or entity who is an Owner shall be a Member of SHOA for such period of time as such person or entity is an Owner. Owner-members shall be entitled to all privileges of Membership. Membership shall be appurtenant to and may not be separated from ownership of any Residential Unit.

4.2.2 Developer Membership. The Developer, its successors and assigns, shall be a Member of SHOA so long as it shall be the record owner of a fee or undivided fee interest in any Homesite or Residential Unit which is subject to being assessed by SHOA, even though such assessments have not yet commenced. The Developer, its successors and assigns, shall be entitled to the privileges of a Member for each such Homesite or Residential Unit and shall be further entitled to the issuance of Membership guest cards during such Membership to the extent it may deem necessary in its sole discretion to assist in the development and sale of Homesites, Residential Units and Associate Memberships. Developer membership shall cease at the time all Homesites and/or Residential Units have been the subject of initial completed sale and Developer has been paid in full for each such Homesite and/or Residential Unit, or at such time as Developer voluntarily surrenders such membership, whichever shall first occur.

Notwithstanding anything herein above to the contrary, these provisions for Developer Membership are not extended to any person or entity other than the Developer who holds such interest merely as security for the performance of an obligation.

COVENANTS & RESTRICTIONS  
JULY 1997

**4.2.3 Associate Membership.** In order to provide operating revenue to SHOA and enhance utilization of the recreational facilities, particularly during the early development of the Property, SHOA shall have 300 Certificates of Associate Membership in SHOA. Such Associate Memberships may be sold by SHOA and membership shall not require the ownership of a Homesite or Residential Unit, however, SHOA may not sell Associate Memberships during any period that the total active membership (Owners and Associates) in SHOA is at 300 members or above. Proceeds from the sale of the Associate Memberships will accrue to the benefit of SHOA. Any person who owns or is purchasing from SHOA an interest in such Associate Memberships shall be entitled to the privileges of Membership in SHOA except as hereinafter provided. The purchase price for the Certificates of Associate Membership and the Associate Membership dues will be set by SHOA. The term of Associate Membership certificates and conditions with respect thereto shall be set by SHOA provided that the maximum term for which a certificate shall be issued shall not exceed one year. At the expiration of ten (10) years from the date of recording of the Declaration the Members, other than Associate Members, shall at the next annual meeting of the Membership vote on the issue of continuing the Associate Memberships. If a majority of the total votes cast favor continuing said Associate Memberships, said Associate Memberships shall continue for a period of five (5) years. At the expiration of said term of years, there shall be another like vote at the annual meeting of Members and a like vote every five (5) years thereafter until, if ever, a majority of the voters, elect to terminate said Associate Memberships. Upon such termination, SHOA shall be required to promptly purchase any such Associate Memberships which have been sold by SHOA from the then Owners at a price equal to ten percent (10%) of the original purchase price of said Associate Membership. Except as to the Developer, Associate Memberships may be owned only by natural persons and are not transferable other than between spouses and shall terminate in the event of the death of both spouses. Such Associate Memberships may also be terminated by SHOA for failure of the purchasing Owner to pay in full the purchase price therefor or any other breach of such contract of purchase in accordance with the terms of such contract of purchase or by the mutual cancellation of such contract of purchase by the parties thereto, and by SHOA for the failure to pay any assessments or other amounts owed by the Owner therefor to SHOA or for any other breach by such Owner of this Declaration which failure to pay or breach shall not be cured within six (6) months after notice to such Owner by SHOA. Notwithstanding anything herein above to the contrary, upon the termination of an Associate Membership, for any reason whatsoever other than the vote of SHOA Membership as herein above provided, SHOA shall have the right, but not the obligation, to create and sell an additional Associate Membership in the place thereof so long as the total of Memberships does not exceed 300 and so long as such Associate Memberships have not been terminated by vote of SHOA Membership as herein above provided.

#### **4.3 Voting and SHOA Administration.**

**4.3.1 Voting by Owner Members .** Owner Members shall be entitled to one vote for each Homesite or Residential Unit owned. The vote for any one Homesite or Residential Unit owned by more than one person or entity shall be exercised as they among themselves shall determine, but in no event shall the vote or votes with respect to any jointly owned Residential Unit be cast separately.

COVENANTS & RESTRICTIONS  
JULY 1997





**4.3.2 Voting by Developer Members.** Developer Members shall be entitled to vote until Developer Membership ceases.

**4.3.3 Voting on Special Assessments.** Owner Members will have one vote per Homesite or Residential Unit owned - Developer Class Members will have four votes for each Homesite or Residential Unit owned.

**4.3.4 Voting by Associate Members.** Associate Members shall not be entitled to vote on the affairs of SHOA.

**4.3.5 Suspension of Voting Rights.** Any Member who is delinquent in the payment of any charges duly levied by SHOA against a Homesite or Residential Unit owned by such Member shall not be entitled to vote until all such charges, together with such reasonable penalties as the Board of Directors of SHOA may impose, have been paid.

**4.3.6 Voting by Proxy.** Members shall vote in person or by proxy executed in writing by the Member. No proxy shall be valid after eleven (11) months from the date of its execution or upon conveyance by the Member of his Residential Unit. No proxy shall be valid unless promulgated by the Board of Directors as an official proxy. A corporate Member's vote shall be cast by the President of the Member corporation or by any other officer or proxy appointed by the President or designated by the Board of Directors of such corporation.

**4.3.7 SHOA Policy.** The policies of SHOA will be determined and implemented by the SHOA Board of Directors as established by Exhibit B. The Board of Directors will consist of five (5) members, two (2) directors being chosen by the Owner Membership and three (3) directors being chosen by the Developer Membership. There will be no provision for director selection by the Associate Membership.

#### **4.4 Agreements and Contracts with the Developer.**

**4.4.1 Lease of Partnership Spaces.** The Developer may enter into long-term lease agreements with SHOA for corporate/partnership/office/sales spaces in buildings owned by SHOA. During the Swan Harbour sales program, these spaces may be utilized for administration, sales information and presentation, building materials storage, equipment storage and repair, and other functions germane to the development and construction of a planned residential development.

**4.4.2 Lease Structure.** The Developer may enter into long-term agreements with SHOA for the lease of the Marina and operate it as a commercial venture. In this event, the Developer will be responsible for all losses incurred and will be entitled to any and all profits created through the operation of the Marina.

**4.4.3 Lease Payments.** Lease payments derived from leases between Developer and SHOA will be structured in an effort to pay the direct expenses of occupying the spaces so leased. An effort will be made to set these lease payments in such amounts as to reimburse SHOA for property taxes, insurance, and utilities. Maintenance on the leased spaces may be the responsibility of the

COVENANTS & RESTRICTIONS  
JULY 1997

Developer as lessee, and equipment and furnishings for the leased spaces may be purchased and owned by the Developer. Equipment and furnishings, if purchased, will remain the property of the Developer.

## ARTICLE V - Assessments

### 5.1 Creation of Lien and Personal Obligation of Assessments.

**5.1.1 Owner Assessments.** The Developer, subject to the provisions hereinafter set forth, for each Homesite and Residential Unit owned by it within the Property, hereby covenants and each Owner of a Homesite and/or Residential Unit other than the Developer, by acceptance of a deed or certificate therefor or by entering into a contract of purchase with the Developer therefor, whether or not it shall be so expressed in any such deed, certificate, contract of purchase or other conveyance, shall be deemed to covenant and agree to pay to SHOA: (1) Annual Assessments, and (2) Special Assessments, such Assessments to be fixed, established and collected from time to time as herein provided. The Annual and Special Assessments, together with such interest, thereon and costs of collection thereof, including a reasonable attorney's fees, shall also be the personal obligation of the Owners of such property at the time when the Assessment fell due. The personal obligation for delinquent Assessments shall not pass to successors in title unless expressly assumed by them.

**5.1.2 Developer Assessments.** The following property subject to the Declaration shall be exempt from the Assessments created herein: (a) all properties dedicated to and accepted by a local public authority; (b) the Common Properties; (c) the Limited Common Properties; (d) utilities; (e) utility easements and all other easements; (f) any Reserved Properties; and (g) any Homesite or Residential Unit owned or held by the Developer prior to the initial sale or contract to sell by the Developer and excluding and exempting any such Homesite or Residential Unit sold or contracted to be sold by the Developer which does not remain effective by reason of failure of down payment or rescission pursuant to any right granted or created by any public and/or governmental agency or authority.

**5.1.3 Delegation of Collection of Assessment.** SHOA may delegate the collection of the Assessments herein provided to the Developer, its successors and assigns to be accomplished at the expense of SHOA. Due to the common interest of the Developer and SHOA, the failure on the part of the Owner to pay an Assessment as herein provided shall be a reason or ground for which the Developer may rescind a contract of sale as to a Residential Unit.

### 5.2 Annual Assessments

**5.2.1 Assessment Structure.** The Annual Assessments levied hereunder by SHOA shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the Owners and in particular for the construction, leasing, improvement and maintenance of properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Common

COVENANTS & RESTRICTIONS  
JULY 1997

Properties and the improvements situated thereupon, including, but not limited to, the water system and sewer system, taxes and insurance on the Common Properties, maintenance, repair, replacement and additions thereto, and for the cost of labor, equipment, materials, management and supervision thereof. The limitation aforesaid shall not preclude the use of Assessments levied hereunder for maintenance of streets within the Property, even though same may have been dedicated to the public.

**5.2.2 Basis and Maximum Annual Assessment.** Until January 1 of the year immediately following the date of this Declaration, the maximum Annual Assessment shall be Eight Hundred, forty Dollars (\$840.00) per Residential Unit. From and after January 1 of the year immediately following the date of this Declaration, the Annual Assessment aforesaid may be increased each year above the Annual Assessment for the previous year by majority vote of the Board of Directors of SHOA and without a vote of the Membership, provided, however, that such increase shall not in any one year exceed the greater of five percent (5%) or increases in the Consumer Price Index for the twelve (12) month period ending June 30 of the preceding year using the "All Urban Consumer, U.S. City Average" for "General Summary, All Items" as promulgated by the Bureau of Labor Statistics of the U.S. Department of Labor or, if such is not available, any other reliable governmental or other non-partisan publication evaluating similar information. Unless the Annual Assessments shall be increased as aforesaid, they shall remain at the rate prevailing for the previous year. From and after January 1 of the year immediately following the date of this Declaration, the Annual Assessment may be changed prospectively from the amounts herein above set forth in any year, without limitation on the amount of such change, by a majority vote of Members voting in person or by proxy at a meeting duly called for this purpose. The Board of Directors of SHOA may at any time after consideration of current income and expenses and the future income requirements of SHOA, with its discretion, fix the Annual Assessment at an amount less than the amounts aforesaid.

**5.2.3 Due Date of Annual Assessments.** Unless otherwise provided herein, annual assessments shall be due and payable in full within thirty (30) days after billed to an Owner by SHOA. The Bylaws contain provisions for payment of the annual assessments in monthly installments, at the option of the Board.

**5.3 Special Assessments.** In addition to the annual assessments herein above authorized, SHOA may levy special assessments for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, unexpected repair or replacement of the Common Areas, including the necessary fixtures and personal property related thereto; provided, however, that any such special assessment shall have the assent of, prior to the termination of Developer Membership, fifty-one percent (51%), and thereafter two-thirds (2/3), of the votes of Members present and voting in person or by proxy at an annual or special meeting of SHOA at which a quorum is present. Special assessments shall be due and payable on the date(s) which are fixed by the resolution authorizing such assessment. Special assessments may not be used for additions to the Common Areas until termination of the Developer Membership.

COVENANTS & RESTRICTIONS  
JULY 1987



**5.4 Commencement of Assessments.** The assessment for a Residential Unit shall commence upon purchase of the Residential Unit from Developer, or Developer may hereafter set a date for assessments to commence for all Residential Units which have been purchased from Developer. Assessments on residential Units that first become subject to assessments after the beginning of a fiscal year of SHOA shall be prorated and paid for the remainder of such fiscal year.

Annual Assessments shall commence and become due and payable as to each Residential Unit and Associate Membership on the date fixed by the Board of Directors of SHOA for commencement, provided, however, no Assessments shall be applicable to or payable with respect to any Residential Unit until the first day of the second month following the closing of the contract of sale by the Developer with respect to such Residential Unit, further provided, no Assessment shall commence upon a Residential Unit or Associate Membership where such contract of purchase is terminated by reason of a failure of down payment or financing. Each initial Annual Assessment on a Residential Unit, or Associate Membership shall be prorated according to the number of months remaining in that calendar year. Written notice of Assessments shall not be required. The due date of any Special Assessment shall be fixed in the resolution authorizing such Assessment and may also be payable monthly with the discretion of the Board of Directors. SHOA shall, upon demand and for which a reasonable charge may be imposed, furnish a certificate signed by an officer of SHOA setting forth whether the Assessments on a specified Residential Unit or Associate Membership have been paid, which certificate shall be conclusive evidence of payment of any Assessments therein stated to have been paid.

**5.5 Records of Assessments.** SHOA shall cause to be maintained in the office of SHOA a record of all Residential Units and assessments applicable thereto which shall be open to inspection by any Owner. Written notice of each assessment shall be mailed to every Owner of the Residential Unit subject to assessment.

**5.6 Effect of Non-Payment of Assessment or Other Charges.** If any Assessments are not paid by the date when due, then such Assessments shall become delinquent and SHOA shall have the right to declare the Assessments for the entire year due and payable, together with such interest thereon and costs of collection thereof as hereinafter provided. SHOA may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property and both actions shall be cumulative and neither shall preclude the other. No Owner may waive or otherwise escape liability for the Assessments by non-use of the Common Properties or abandonment. The lien for collection of annual or special assessments, subject to the provisions of paragraph 5.7, shall be a lien on the Homesite or Residential Unit to which it relates which lien shall run with the land until paid.

**5.6.1 Obligation for Assessments.** If Assessments have become delinquent, such Assessments shall bind such property in the hands of the then Owner, his heirs, devisees, personal representatives and assigns. The personal obligation of the Owner to pay such Assessments shall remain his personal obligation and shall not pass to successors in title unless expressly assumed by them. Such delinquent Assessments shall bear interest from time to time by the Board of Directors of SHOA or, if not so determined, the rate of 10% per annum. In the event a

COVENANTS & RESTRICTIONS  
JULY 1997

315

judgement is obtained, such judgement shall include interest on the Assessments as above provided and a reasonable attorney's fee to be fixed by the Court, together with the costs of the action.

**5.6.2 Delinquent Assessments.** Should an Owner other than the Developer become delinquent in the payment of any Assessment or Personal Charge or violate any other provision of this Declaration, and Supplemental Declaration, or SHOA Articles of Incorporation, Bylaws or Rules and Regulations, SHOA may deny such Owner enjoyment of the Common Properties until such time as any such delinquent Assessments or Personal Charges and any interest due thereon are paid and any such violations are ceased and penalties therefor are satisfied.

**5.6.3 Penalty Suspension.** SHOA shall further have the right in its sole discretion to impose as a Penalty Suspension for any violations the suspension of such Owners easement of enjoyment for a period not to exceed thirty (30) days for any one violation or occurrence. An Owner must be given such notice and opportunity as is reasonable under the circumstances to refute or explain in person or in writing the charges against him by SHOA before any decision of SHOA to impose any such Penalty Suspension is enforced.

**5.6.4 General.** Any suspension of rights under these provisions shall not be used as a basis for any reduction of Assessments or other charges payable by such Owner.

**5.7 Subordination of Lien.** The lien of the Assessments provided for herein shall be subordinate to the lien of any first mortgage or deed of trust now or hereafter placed upon the Property subject to Assessment. While an ordinary sale or transfer shall not affect the Assessment lien, any sale or transfer which is subject to any first mortgage or deed of trust pursuant to a decree of foreclosure or proceeding in lieu of foreclosure shall extinguish the lien of such Assessments which became due prior to such sale or transfer. No such sale or transfer shall relieve such property from liability for any Assessments thereafter becoming due or from the subsequent lien thereof except with respect to any future such decree of foreclosure or proceeding in lieu of foreclosure.

## **ARTICLE VI - Plan for Construction and Maintenance of Common Property**

**6.1 Common Property Plan for Administration.** It is the intent of the Developer that the streets, recreational facilities and Other Common Property, if any, will be constructed at Developer expense and as determined by Developer and will be dedicated to SHOA upon completion. It is anticipated that the water and sewer system and other utilities will either be dedicated to SHOA or a public or private utility upon completion. From the date of transfer of Common Property to SHOA, or the date that the Common Property becomes available for use by Swan Harbour, whichever should first occur, SHOA will bear the expense of operating and maintaining the Common Property. Though no capital cost will be charged to SHOA for the property, at the time of transfer repair, maintenance, upkeep, insurance and similar non capital type costs and expenses may have accrued and these charges will

COVENANTS & RESTRICTIONS  
JULY 1997

become the responsibility of SHOA. In the event that SHOA does not have the funds to pay such expenses, the Developer shall advance such expenses and later seek reimbursement for these expenses plus interest of New York Prime plus 2 points, and the reimbursement of these expenses may be spread over a period of time at the discretion of Developer. SHOA will be entitled to any revenues realized from the common property as well as bearing the operating and maintenance responsibilities. In the event that common properties are leased to Developer, then the provisions of Article 4.4 shall apply. Among others, it is expected that the following amenity and infrastructure items, when and if constructed, will be transferred by Developer to SHOA:

**Roads and appurtenances**

The Sales Information Center (the residential building that existed on the Swan Harbour property at time of closing on the property.)

Any security buildings constructed (gate guard house and/or security administration spaces)

Marina facilities (docks, slips, lifts, fuel tanks etc.)

Designated Common property

Tennis courts, gazebos, and any other recreational facilities constructed

Certain utilities inside the development

**6.2 Water and Sewer System.** It is contemplated that the water distribution system and sewer system within the Property shall be constructed by the Developer. The Developer shall be the sole judge as to the time when the water system and sewer system shall be constructed and shall also be the sole judge as to when such system shall be extended from time to time. SHOA, through its designated agents or employees, shall have the right to enter upon any Homesite to perform the required operation and maintenance to the pumped effluent sewer system and shall further have the right, but not the obligation, to perform any or all service, repair, replacement or routine inspections in connection with the on-site residential pressure sewer systems and appurtenances thereto and to make a Personal Charge to the Owner for the costs thereof. Further, SHOA shall have the right, but not the obligation, to contract for service and/or repair services to the on-site utilities, and retains the right to dedicate certain portions of the on-site utility system to a public utility. Should SHOA elect to accept the responsibility for maintenance and service of on-site utilities, regulations will require SHOA to conform to standards and requirements set forth by agencies governing utilities. SHOA reserves the right, but not the obligation, of applying for and being designated as an approved private utility for the administration of on-site utilities.

**6.3 Private Streets.** It is contemplated that the streets within the Property shall be constructed by the Developer and that those streets will be private streets and become a part of the Common Property. However the Developer shall be the sole judge as to when such streets shall be constructed and extended from time to time. The Developer shall also be the sole judge as to the extent the streets will be improved although it is anticipated that same will be constructed and paved in any Construction Phase within 12 months after completion of the utility systems in such

COVENANTS & RESTRICTIONS  
JULY 1997



Construction Phase. SHOA may elect, at some time in the future, to dedicate the Swan Harbour streets to local government and, if this event should be contemplated, it would be effected in accordance with the SHOA bylaws.

**6.4 Recreational Facilities.** It is contemplated that the Developer shall construct as Common Property certain recreational facilities. These amenities may consist of tennis courts, picnic facilities, parking, gazebos, dock facilities to accommodate existing Owners' needs as well as public demand, walking trails along the Improved roadways, an entry amenity and ponds. The Developer shall have the right, but not the obligation, to construct such recreational facilities as it may decide in its sole discretion.

**6.5 Other Common Property.** It is contemplated that the Developer will initially construct utilities, and other common areas. As these areas are constructed, it is envisioned that each will be dedicated to SHOA, or a public or private utility, upon completion. It is anticipated that Swan Harbour may be a private, gated community. The expense of providing security personnel, if required, to monitor ingress and egress will be an expense of SHOA. The initial expense for these services may be paid by the Developer though it is anticipated that these early accrued expenses will be reimbursable items to the Developer from SHOA.

## **ARTICLE VII - Plan for Construction and Maintenance of Limited Common Property**

The Developer shall construct as Limited Common Properties such streets, public or private, utility systems, recreational facilities, docks and other facilities as it shall in its sole discretion decide. Limited Common Property will include any common area or construction that is intended to be used solely by one Owner or by a defined group of Owners.

## **ARTICLE VIII - Property Rights in Common Property**

**8.1 SHOA Powers and Duties.** The operating entity for the Common Properties within the Property shall be SHOA. SHOA shall have all powers and duties set forth therefor in this Declaration, its Articles of Incorporation and Bylaws, applicable laws, statutes, ordinances and governmental rules and regulations, and all other lawful powers and duties deemed by its Board of Directors as advisable or necessary to carry out its functions. Every Owner shall be bound by this Declaration, the SHOA Articles of Incorporation, Bylaws and Rules and Regulations, and the above referenced laws, statutes, ordinances and governmental rules and regulations.

**8.2 Interest of SHOA.** All property acquired by SHOA, whether real, personal or mixed, whether owned or leased, shall be held, utilized and disposed of by SHOA as Common Property for the use and benefit of the Owners within the Property. Except as otherwise specifically provided in this Declaration, any expense of SHOA for acquisition, ownership, leasing, administration, maintenance, operation, repair or replacement of the Common Properties shall be treated as and paid for as part of the Common Expense of SHOA.

COVENANTS & RESTRICTIONS  
JULY 1997

**8.3 Title to Common Property.** The water system distribution infrastructure and sewer system infrastructure serving the Property and the water distribution system within the Property constructed by the Developer as a part of the Common Properties shall be transferred by the Developer to SHOA, or to a public or private utility, as the same is completed. It is anticipated that significant portions of the water/sewer system will be dedicated to appropriate utility authorities. SHOA may acquire additional lands and improvements as Common Properties at its own expense, from the Developer or otherwise.

**8.4 Members easement of enjoyment.** Every Member of SHOA, so long as such Membership shall continue, shall have a right and easement of enjoyment in and to the Common Properties. Such easements of enjoyment shall, however, be subject to the provisions and limitations thereon as set forth in this Declaration or any Supplemental Declaration, including, but not limited to, the following:

(A) the right of SHOA, in accordance with its Articles and Bylaws to borrow money for the purpose of constructing, maintaining and improving the Common Properties and in aid thereof to mortgage said property or use any leasehold interest therein as security therefor, provided the rights of such mortgages in said properties shall be subordinate to the rights of the Owners hereunder until there shall be a default under said mortgage; and

(B) the right of SHOA to take such steps as are reasonably necessary to protect the Common Properties against foreclosure; and

(C) the right of SHOA to suspend the enjoyment rights of any Member other than the Developer as provided in this Declaration; and

(D) the right of SHOA to charge reasonable admission and other fees for the use, service and enjoyment of any recreational facility or other improvements situated upon the Common Properties; and

(E) except as to the Developer, Membership in SHOA shall entitle only one Household to the benefit of the easement of enjoyment as to the Common Properties, provided, however, SHOA may enlarge the limitation aforesaid by a majority vote of its Board of Directors and further provided, this limitation shall not apply to Private Streets; and

(F) the right of the Developer, so long as any Homesite or Residential Unit is being held by the Developer for sale in the ordinary course of business, to use such portions of the Common Properties as the Developer shall determine in its sole discretion for the purpose of aiding in such sales including the right to freely determine its sales tour route through the Property even though traffic is increased in a specific area thereby and to use portions of the Common Properties for parking for prospective purchasers and such other parties as the Developer determines. Notwithstanding any provisions of this Declaration to the contrary the Developer shall further have the right to use any Residential Unit owned by it for Model Home purposes in the furtherance of its sales program. The foregoing rights shall include the right to display and erect signs, billboards and placards and to store, keep and exhibit same and to exhibit and

COVENANTS & RESTRICTIONS  
JULY 1997

distribute audio and visual promotional materials upon the Common Properties or in Model Homes; and

(G) the right of SHOA to dedicate or transfer all or any part of the Common Properties to any public agency, authority, or utility of such purposes and subject to such conditions as may be agreed to by the Owners. No such dedication or transfer shall be effective unless the transfer is approved by Members entitled to cast a majority or all votes, agreeing to sale, dedication or transfer, and unless written notice of the proposed action is sent to every Member not less than thirty (30) days nor more than sixty (60) days in advance thereof. Notwithstanding the above, the Developer retains the right, at its sole discretion, to transfer utilities or other Common Properties to public utilities or other public agencies as these Common Properties are constructed as set forth in Article VI.

**8.5 Guests and Delegation of Easement of Enjoyment.** SHOA shall, upon the request of an Owner, issue temporary guest cards for the use of the Common Properties of SHOA by guests and invitees of such Owner, provided, however, such temporary quest cards shall be limited to periods not in excess of thirty (30) days and, except as to Developer, guests shall be subject to such other reasonable limitations and rules and regulations as provided therefor by SHOA. Notwithstanding anything herein to the contrary, the easement of enjoyment of an Owner may be transferred to a tenant or lessee who shall occupy such Residential Unit of such Owner under a written lease agreement for a term of not less than six (6) months, provided (1) that a copy of such lease agreement is provided to SHOA, (2) the Owner shall remain jointly and severally liable with the lessee for any breach of the duties and responsibilities of an Owner under this Declaration, (3) during the period of such lease delegation, the lessee shall have such easement of enjoyment in lieu of the Owner, and (4) such delegation shall be otherwise subject to such reasonable rules and regulations as the Board of Directors of SHOA shall from time to time determine.

**8.6 Easement of Enjoyment Limited.** Unless expanded by SHOA as provided in this Article, Members other than the Developer are limited in their easement of enjoyment of the Common Properties to one Household, with the exception of usage of the Private Streets. When more than one Household holds Membership in a single Residential Unit, the Household entitled to the easement of enjoyment shall be designated in accordance with and subject to the provisions and restrictions set forth therefor in the Bylaws of SHOA.

**8.7 Access to private streets.** Each owner shall have a right of ingress and egress and passage over all Private Streets which are Common Properties for himself, members of his Household, and his guests and invitees, subject to such limitations (except such limitations shall not apply to Developer) as SHOA may impose from time to time as to guests and invitees. Such right in the Private Streets shall further be subject to a right-of-way for the agents, employees and officers of Roane County (and other counties when applicable), State of Tennessee, and any other governmental or quasi-governmental agency having jurisdiction in Swan Harbour to permit the performance of their duties, including, but not limited to, school buses, mail vehicles, emergency vehicles and law enforcement vehicles.

COVENANTS & RESTRICTIONS  
JULY 1997



**8.8 TVA and Corp restrictions.** The marginal strip and the facilities placed thereon, the dock and marina facilities, and areas designated as wetlands, will be subject to the rules and regulations promulgated by the Tennessee Valley Authority and the U. S. Army Corps of Engineers. Owners, by virtue of the event whereby they take possession of a Homesite or Residential Unit within Swan Harbour, implicitly agree to abide by and fully observe the rules set forth by these agencies. Without limitation, Owners agree to abide by and observe the restrictions and regulations set forth in the Shoreline Management Plan and to comply with all rules published by these agencies as to the use and protection of the Marginal Strip, the shoreline, and the plant and wildlife habitat zones thereon.

## **ARTICLE IX - Property Rights in Limited Common Property**

Lands so designated from time to time by the Developer shall be devoted to the common use and enjoyment of the Owners of specifically designated Homesites and Living Units to the exclusion of the common use and enjoyment of other Owners. The Owners of the specifically designated Homesites or Living Units, subject to ARTICLE II hereof, shall have a right and easement of enjoyment in and to the particular Limited Common Properties and such easement shall be appurtenant to and shall pass with every such specifically designated Homesite or Residential Unit.

## **ARTICLE X - Marginal Strip Use under the Shoreline Management Plan**

**10.1 Ownership and use of Marginal Strip.** TVA owns the fee interest and has granted to Developer a recreational license to use the property adjacent to Swan Harbour residential areas below the 750 foot contour. Developer will assign its recreational license to SHOA and has applied for a permanent recreational easement which, if granted, will be assigned to SHOA. This land area is referred to as "The Marginal Strip". It is expected that TVA will maintain ownership of the Marginal Strip indefinitely. Certain uses of this land are allowed under an existing license/permanent easement agreement and these uses may be modified and revised under future agreements between SHOA and TVA. No portion of the Marginal Strip will be transferred to an individual Owner.

**10.2 Administration and enforcement of Marginal Strip.** SHOA will be charged with the responsibility of administering the approved uses of the Marginal Strip. Owners may not remove or destroy vegetation or, in any manner, alter the character of the Marginal Strip. No structure or facility may be built on the Marginal Strip without the express approval of TVA and, in some cases, additional approval by the Corps of Engineers and/or other regulatory entities. Docks may only be constructed by the Developer or SHOA and the maintenance of the docks will rest solely with SHOA. Docks may not be sold or otherwise transferred to purchasers of Homesites or Residential Units. SHOA administration of the Marginal Strip will be subject to the provisions of the Swan Harbour Shoreline Management Plan and the TVA 26a Permit, copies of which may be reviewed and copied at the SHOA administrative offices.

COVENANTS & RESTRICTIONS  
JULY 1997

## ARTICLE XI - Architectural and Building Restrictions

11.1 The Swan Harbour Architectural Review Board (SHARB). The function of SHARB is to enforce the aesthetic aspects of this Declaration and these Protective Covenants. The performance of its duties with respect thereto shall be on a best efforts basis in an effort to reasonably protect the aesthetics and property values of the Property and the health, safety and welfare of all of the Owners therein as a community of interest. No warranty or representation is made to or should be implied by any Individual Owner that the actions of SHARB in the issuance of permits, inspection and approval of construction, or otherwise, is intended as a tacit approval of the quality, safety, desirability, or suitability of such design or construction.

11.2 Structure and Responsibilities of SHARB. The SHARB shall consist of three (3) to seven (7) members appointed by Developer, who is empowered to appoint their successors should a vacancy occur, or may remove members and replace them at the Developer's sole discretion until termination of the Developer Membership, and their names shall be maintained at Developer's offices. By supplement to this Declaration the Developer may delegate to SHOA the authority and duty to appoint SHARB members, and upon termination of the Developer Membership, the authority to appoint SHARB members shall automatically be vested in SHOA. Except as to original construction by the Developer, plans and specifications, including proposed siting, for any Building or improvements of any kind whatsoever on any Homesite must conform to all requirements of this Declaration and the then current Architectural Guidelines and Standards for Swan Harbour. SHARB shall be the sole judge or arbitrator of such conformance or non-conformance. Further, SHARB may disapprove building plans and/or specifications when SHARB in its sole discretion and judgment determines that the proposed improvements or any feature of the plans are not architecturally or aesthetically compatible with the Swan Harbour development. SHARB may establish its own internal procedures for review and approval of plans and specifications and may change such procedures from time to time in its sole discretion. Until termination of the Developer Membership, the Developer may, in its sole discretion, overrule any decision of the SHARB. SHARB shall have the right to set reasonable charges and fees within their discretion necessary to offset expenses incurred by them in connection with the performance of their duties hereunder and the failure to pay same shall be grounds for withholding approval hereunder. SHARB, through its members or duly authorized agents or employees, shall have the right, after reasonable notice to the owner, to enter upon any Homesite, Residential Unit or the Marginal Strip at reasonable hours for the purpose of the performance of its functions hereunder. Review of plans and specifications will be in accordance with the Architectural Guidelines and Standards for Swan Harbour, attached hereto as Exhibit C.

11.3 Completion of Construction. Except as to original construction by the Developer, the Owner and any contractor, builder, person or entity constructing a structure upon the Property shall, prior to beginning the construction of any such structure furnish SHARB proof that builders' risk and appropriate workmen's compensation insurance will be in effect for the construction period.

COVENANTS & RESTRICTIONS  
JULY 1997

19

382



**11.4 Time for Completion of Construction.** Except as to the original construction by the Developer, the following shall apply to the construction of a Single Family Detached Structure, as well as garage and approved outbuildings:

(a) The exterior of any Single Family Detached Structure, garage, or permitted outbuilding shall be completely finished within six months of start of construction;

(b) The interior of any Single Family Detached Structure, garage or permitted outbuildings shall be completely finished within twelve months of start of construction.

The Owner, contractor and builder will subject all structures to inspection by SHARB as required to determine compliance with completion dates as herein provided or as may be provided by SHARB. In the event of non-compliance with completion dates as herein provided, SHOA shall have the right, but not the obligation, to hire one or more contractors to perform the work and furnish the materials necessary for compliance and to bill the Owner for the amount expended plus 10% for administration. In the event the Owner does not pay same, SHOA shall have the legal right to file a statutory lien against the property involved and proceed in law or equity to sell the property to obtain said charges. All money received over and above said charges and court cost, including a reasonable attorney's fee, shall be paid over to the Owner.

**11.5 Governmental Restrictions.** Each Owner shall observe all governmental building codes, health regulations, zoning restrictions and other regulations applicable to his Residential Unit. In the event of any conflict between any provision of any such governmental code, regulation or restriction and any provisions of this Declaration, the more restrictive provision shall apply.

**11.6 Exclusive Contractors.** In order to minimize confusion and complications which may result from the construction of a number of Residential Units upon the Property at the same time, and in order to ensure the maintenance of high quality of construction, the Developer, in its sole discretion, reserves the right to approve contractors authorized and permitted to construct Buildings or other improvements upon or within the Property as long as Developer Membership continues.

**11.7 Actions Required During Construction.**

**11.7.1 Construction Site.** All contractors and subcontractors must review and satisfy all guidelines for conservation during construction of Buildings or other improvements as established by the SHARB. All proposed construction must be accurately staked out on the site, including all building corners, outbuildings, major decks, terraces and driveways. A set of SHARB approved plans and specifications must be on site at all times. The Owner is responsible for obtaining all required local building permits. All alterations to the approved plans and specifications must be submitted to SHARB for approval before construction of those alterations can begin except for alterations which involve only the interior portion of a building. The construction site must be kept clean and orderly. Only the construction sign, in the sign format approved by SHARB, will be permitted on a Homesite during construction. Contractors must obtain sign approval from SHARB.

COVENANTS & RESTRICTIONS  
JULY 1997



11.7.2 Clearing. No sites are to be cleared of trees or scrub by burning methods.

11.7.3 Storage, Refuse and Temporary Structures. No lumber, brick, stone, block, concrete or other building material, nor any other material used for building purposes, shall be stored on any Residential Unit or the Common Areas, unless prior written approval of SHARB has been received and for such length of time as is reasonably necessary for the construction of the improvements then in progress. No burning of construction materials or fires shall be permitted on any Homesite or upon Common Areas. No trailers, mobile homes nor temporary structures shall be permitted on any Homesite or Common Area during construction or otherwise unless prior written approval of SHARB is obtained; provided, however, each contractor shall be required to provide one portable rest room facility for any Homesite or contiguous Homesites upon which a Residential Unit is being constructed but only during the period of construction. The Developer may erect one or more temporary structures on any Homesite or Common Area for the purpose of maintaining a sales and construction office. During the construction period, there shall be no encroachment onto any adjacent Homesite by any of the work being done on any Homesite. During the construction period, the contractor shall, as much as is reasonably practical, keep and maintain the construction site free and clear of debris and rubbish.

11.8 Obligation to Clean Site upon Destruction. Obligation to Clean Site Upon Destruction. In the event of the total destruction of any Residential Unit, the Owner shall promptly clear the Residential Unit of debris and leave the same in a neat and orderly condition until such time as reconstruction of the residence shall be commenced. In the event the Owner shall not clear the Residential Unit of debris and leave the same in a neat and orderly condition, and reconstruction shall not have commenced within forty-five (45) days after the destruction occurs, SHOA shall have the right, but not the obligation, to promptly clear the Homesite of debris and leave the same in a neat and orderly condition, the cost and expense for which shall be borne by the Owner and shall be a lien upon said Homesite.

11.9 Maintenance of Undeveloped Site. Regardless of the circumstances under which possession of a Homesite should occur, if an Owner has not commenced construction of the Building and other improvements to be located on a Homesite within one hundred, eighty (180) days following the date owner took possession of the Homesite, the Owner shall cause his Homesite to be improved so the same may be maintained as a completed lawn in condition satisfactory to SHARB and shall so maintain his Homesite until construction commences. In the event an Owner fails to so improve said Homesite within said period or to maintain the same, and such failure is not cured within thirty (30) days after written notice from SHARB, then SHOA may cause said Homesite to be so improved or maintained and the Owner shall pay the cost thereof to SHOA upon demand. In the event the Owner fails to pay the same upon demand, such sum shall be and become a lien upon his Homesite which may be collected from said Owner as an assessment or charge pursuant to Article V hereof.

COVENANTS & RESTRICTIONS  
JULY 1997

21

384



## ARTICLE XII - Protective Covenants

**12.1 Protective Covenants in General.** These Protective Covenants shall apply to all of the Existing Property. Same shall also apply to additions to Existing Property unless the Developer shall specifically except from these Protective Covenants such additions or a portion thereof in the Supplemental Declaration by which the Developer subjects such additions to this Declaration. In the event of conflict between these Protective Covenants and the Declaration, the Declaration shall prevail.

The goal of the Swan Harbour Covenants, Easements, and Restrictions will be to protect and enhance the Owners' property without unduly restricting the owners' enjoyment of living in Swan Harbour. Generally, it shall be a goal to establish rules and restrictions that are based upon common sense, the preservation of property values, and the respect of privacy and courtesy.

**12.2 Application.** These Protective Covenants shall apply to all of the Existing Property. Same shall also apply to additions to Existing Property unless the Developer shall specifically except from these Protective Covenants such additions or a portion thereof in the Supplemental Declaration by which the Developer subjects such additions to this Declaration. In the event of conflict between these Protective Covenants and the Declaration, the Declaration shall prevail.

When the Architectural Review Board, herein referred to as the Swan Harbour Architectural Review Board, (SHARB), is mentioned in these Protective Covenants, it shall mean the architectural control committee of SHOA as more particularly described in Exhibit C of the Declaration. Except as to original construction by the Developer, SHARB permits shall be required for any construction activity within the Property as set forth in Article XI of the Declaration and within the Marginal Strip as set forth in ARTICLE X of the Declaration. SHARB shall further have the authority, in connection with the issuance of such permits, to adopt such rules, regulations and standards and to adopt such standard building or other codes (or any portion thereof) as it shall deem appropriate or necessary for the proper performance of its function and duties. The Owner, contractor and builder will subject all permitted activities to such inspections as required by SHARB to determine compliance with such SHARB permits, the Declaration, these Protective Covenants, the Shoreline Management Plan and the TVA 26a Permit. In the event of any conflict between the provisions of the Declaration, these Protective Covenants and those of SHARB, same shall prevail in that order. In the event of any conflict between the provisions of the Shoreline Management Plan and the TVA 26a Permit with SHARB rules, regulations and standards, the Shoreline Management Plan and the TVA 26a Permit shall prevail. All actions of SHARB shall be subject to review by the Board of Directors of SHOA and appeals may be taken thereto under such terms and conditions as such Board of Directors may set from time to time.

**12.3 Amendment, Rescissions or Additions.** The Developer, its successors and assigns, may amend, rescind or add to the Protective Covenants from time to time, provided, however, unless the Homesites are specifically exempted from the Protective Covenants by the Declaration or a Supplemental Declaration at the time the Homesites are subjected to the plan of the Declaration, such amendment, rescission

COVENANTS & RESTRICTIONS  
JULY 1997

385



or additions shall not make the Protective Covenants as to those Homesites zoned as residential less restrictive for construction of residential buildings than as provided in the standards herein.

**12.3.1      Deleted**

**12.3.2      Re-subdivision.** No Homesite shall be re-subdivided except upon written approval of SHARB. In the event more Homesites are created by any such SHARB approval than originally existed, SHOA assessments shall apply to such newly created Homesites as if such had been contained upon the original plat of such lands. SHARB may permit the construction of a single residence upon two or more Homesites by waiver of the 5 foot utility easement and side yard setback on the appropriate interior lot lines, provided, however, such action by SHARB shall not be construed as a waiver of other matters affecting such Homesites.

**12.3.3      Building Size.** The minimum living area (heated and air conditioned) of the main structure upon any Homesite, exclusive of the open porches, patios, garages, carports, and breeze ways, shall be determined by SHARB on a case by case basis and shall be within the sole discretion of SHARB.

**12.3.4      Temporary structures.** No structure of a temporary character, trailer, tent, shack, garage, or other out-building shall be used on any Homesite at any time as a residence, either temporarily or permanently.

**12.3.5      Excavation.** No Owner shall excavate or extract earth from any of the Homesites, or any portion of the Property subject to this Declaration for any business or commercial purpose. No elevation changes shall be permitted which will materially affect the surface grade of surrounding sites except to the extent that fill may be required on certain Homesites. All fill shall be subject to the approval of the SHARB, as to the nature of the fill employed and as to the manner and methods of installation.

**12.3.6      Setbacks.** No building shall be placed closer to the front or back Homesite lines than the setback restrictions noted on a recorded subdivision plat, provided, however, where such requirements create an undue hardship upon the Owner, such setbacks may be modified by SHARB to the extent necessary to prevent the hardship.

**12.3.7      Side yards.** Where Homesites are zoned for residential purposes, the following shall apply.

(a) A Single Family Detached Structure or any building incident thereto shall not be closer to a side lot line than 10 feet, which restrictions may be extended in excess of 10 feet when necessary for drainage, utility, or screening purposes and the extent thereof is reflected on the recorded subdivision plat, provided, however, where such restrictions create an undue hardship upon the Owner, such restrictions may be modified by SHARB to the extent necessary to prevent the hardship.

COVENANTS & RESTRICTIONS  
JULY 1987

(b) A Single Family Attached Structure shall not be required to have a side yard and a common or party wall may be constructed upon the dividing lines between Homesites so that the wall may be partially upon one Homesite and partially upon the other, or said common wall may be entirely upon one of the two Homesites involved.

(c) Multi-family structures shall not be required to have a side yard and may be constructed up to or upon the dividing lines between Homesites where approved by SHARB.

**12.3.8 Pools.** All pool plans must be approved by SHARB. No above ground pools will be permitted. No pool may have a high diving board. SHARB shall determine the permissible height of diving boards. All pool and equipment enclosures must relate to the Residential Unit and other structures in terms of architectural style, placement, mass and detail. Lighting for pools must not be directed toward any adjacent Property. Owners shall be responsible for complying with all building codes in constructing swimming pools.

**12.3.9 Garage Sales.** Sales of personal property on the premises by "garage sales", "patio sales" or similar events made available to the general public are prohibited, unless approved by the SHOA Board of Directors.

**12.3.10 Electric Wiring and Plumbing.** Electric wiring and plumbing installed in any structure erected upon or moved upon the Property shall be in accordance with standards prescribed by these Covenants, and in no event shall such standards be less restrictive than those provided by the Federal Housing Administration or the State of Tennessee.

**12.3.11 Lighting.** No exterior Lighting may be directed off a Homesite. Flood lighting is not permitted where adjacent Property or common Property would be illuminated. Illumination necessary for evening activities must be directed downward and be only bright enough to provide for the safe traverse of steps and paths.

**12.3.12 Signage.** Address markers and mail boxes are restricted to those designated by the SHARB.

**12.3.13 Utilities.** No overhead utility lines may be installed or built on a Homesite. No building or outbuilding may be cooled or heated by window air conditioning units. Heat pumps, compressors, and other utilities must be screened with plant material, fences, or walls. Clotheslines are not permitted. Incinerators for garbage, trash or other refuse shall not be erected on any Homesite.

**12.3.14 Satellite Dishes and Solar Panels.** Except for SHOA installations, no satellite dish may be installed on any Homesite. Solar panels or solar collectors will be subject to SHARB approval.

**12.3.15 Pets and Pet Facilities.** Pet facilities are restricted to the rear yard, consistent with the setback requirements. Electronic fencing may be approved by SHOA if Owner can establish the effectiveness of such a system. Chain link



fences will only be approved to enclose pen areas for household pets. If utilized, the entire fence must be sufficiently screened by informal plantings to block views from adjacent Property or streets. The chain link must be painted black or be covered by black vinyl or be otherwise approved by SHARB. All pet facilities must be maintained and must be kept clean and free of offensive odors. Pets or pet facilities that create disturbances of any kind to adjoining Homesites or Common Areas will not be approved, and for ensuing adverse circumstances following approval by SHOA and/or SHARB, SHOA or SHARB shall have the authority to determine the particular pet facility's acceptability, or lack thereof, and the ultimate determination of the appropriate entity shall be final.

12.3.16 Water Supply. No privately owned well or other water system shall be permitted upon any Homesite or Parcel of Land of the Property unless approved by SHOA or unless SHOA has indicated it will not make its water system available and then not unless such system is designed, located and constructed in accordance with requirements, standards and recommendations of the Tennessee Department of Health and Environment and approved by SHARB.

12.3.17 Outbuildings. Outbuildings or accessory buildings for residence purposes such as servants' quarters or guest houses, shall be permitted on Homesites upon which a Single Family Detached Structure has been constructed or is under construction, provided the building and/or buildings are occupied by servants employed on the premises or by guests and are not occupied otherwise as rental units by non-servant or non-guest occupants, and provided SHARB shall approve the design, plans, and specifications of such buildings.

12.3.18 Protective Screening. There shall be compliance with all protective screening areas as reflected upon any recorded subdivision plat of the Property. Except as otherwise provided herein regarding street intersections under "Sight Distance at Intersections", shrub plantings, fences or walls will be maintained throughout the entire length of such areas by the Owner or Owners of such areas at their own expense to form an effective screen in order to protect and beautify the area. No building or structure except a screening fence or wall approved by SHARB or utility or drainage facilities shall be placed or permitted to remain in such areas. No vehicular access over the area shall be permitted except for the purpose of installation and maintenance of screening, utility and drainage facilities.

12.3.19 Sight Distance at Intersections. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between 2 and 6 feet above the roadways shall be placed or permitted to remain on any corner Homesite within the triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection of the street property lines, or in the case of a rounded property corner from the intersection of the street property lines extended. The same sight line limitations shall apply on any Homesite within 10 feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

COVENANTS & RESTRICTIONS  
JULY 1997

388



**12.3.20     Signs.** All signs are prohibited except:

(a) Signs erected by SHOA or Developer for identification of streets, neighborhoods, recreational amenities, traffic control and directional purposes;

(b) Signs erected by Developer in connection with its sales program.

Notwithstanding the above, all signs must be approved by SHARB.

**12.3.21     Model Homes.** No provision of these Protective Covenants shall restrict the Developer from erecting and maintaining Model Houses in furtherance of its sales effort.

**12.3.22     Business in Swan Harbour.** The practice of any business is prohibited within any area zoned as residential except for the business of the Developer in the furtherance of its sales program and any home occupation which does not create any extraordinary traffic within the subdivision. It will be the policy of SHOA to allow any home business that does not conflict with the intent of this restriction and/or zoning or other regulations. All home occupations must, however, first be approved by SHOA and a permit issued therefor.

**12.3.23     Utility and Drainage Easements.** Easements of installation and maintenance of utilities and drainage facilities are reserved in the Declaration and will be reserved in any Supplemental Declaration and also will be reserved as indicated upon any recorded subdivision plat of The Property. Within these easements, 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, which may change the direction of flow of drainage channels with the easements. The easement area of each Homesite and all improvements in it shall be maintained continuously by the Owner of the Homesite, except for those improvements for which SHOA, a public authority or a utility company is responsible.

**12.3.24     Nuisances.** No obnoxious or offensive activity shall be carried on upon any Homesite or Parcel or land of The Property.

**12.3.25     Livestock and Poultry.** No animals, livestock, or poultry of any kind shall be raised, bred, pastured or maintained on any Homesite, except household pets which shall be kept in reasonable numbers for the sole pleasure of the occupants. Owners shall use reasonable efforts to ensure that their pets at all times remain inside the boundaries of the Owner's Homesite unless accompanied by their Owners and on a leash and ensure that their pets are not a noise nuisance to others. For repeated violations of this restriction, SHOA may take appropriate measures to ensure compliance with this provision up to, and including, the instigation of procedures whereby the pet might be taken into custody by animal control authorities.

**12.3.26     Garbage and Refuse Disposal.** No Homesite or Parcel of Land of The Property shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall be kept in a clean and sanitary container and disposition of same shall be prompt.

COVENANTS & RESTRICTIONS  
JULY 1997

12.3.27 Speeding and Reckless Driving. Any vehicle moving in excess of the posted speed on streets within the Property or being driven in a reckless manner, shall be considered to be in violation of this covenant and the owner and/or operator of said vehicle will be subject to fines as determined and levied by SHOA.

12.3.28 Firearms. The discharge of firearms within the Property is prohibited. The term "firearms" shall include "bb guns" and pellet guns, as well as firearms of all types, regardless of size.

12.3.29 Burning. No outside fires, other than grills, shall be permitted within Homesites.

12.3.30 Lawns. All yards shall be seeded or sodded as appropriate and maintained in a neat and managed state.

12.3.31 Salvage Yards. No automobile wrecking, junk, or salvage yards are permitted on any Homesite or on any other Parcel of Land within the Property.

12.3.32 Oil and Mining Operations. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or on any Homesite or Parcel of Land of the Property. No derrick or other structure designed for use in boring for oil or natural gas, nor any oil wells, tanks, tunnels, mineral excavations or shafts shall be erected, maintained or permitted.

12.3.33 Failure to Maintain by Owner. In the event the Owner of any Homesite or Residential Unit shall fail to properly provide for exterior maintenance thereof, SHOA may, but shall not be obligated to, provide such exterior maintenance as follows: cut, trim, care for and maintain trees, shrubs and grass, or repair, replace and care for walls, roofs, gutters, downspouts, exterior building surfaces, windows, fascia, doors, decks and other exterior improvements, including repainting or staining as needed, and the cost of such maintenance shall be charged to the owner under the provisions described herein..

12.4 Enforcement. Protective Covenants may be enforced in the same manner as any violation or threatened violation of the Declaration of which these Protective Covenants are a part, including, but not limited to the lien rights of SHOA for any costs or charges incurred in connection therewith.

## ARTICLE XIII - General Provisions

13.1 Duration. The covenants and restrictions of this Declaration shall run with and bind the land and shall inure to the benefit of and be enforceable by SHOA or the Owners subject to this Declaration, their respective legal representative, heirs, successors and assigns, for a term of 26 years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of 10 years unless an instrument signed by the then Owners having two-thirds of the total number of qualified votes in SHOA has been recorded, agreeing to

COVENANTS & RESTRICTIONS  
JULY 1997



change said covenants and restrictions in whole or in part, provided, however, that no such agreement to change shall be effective unless made and recorded three (3) years in advance of the effective date of such change and unless written notice of the proposed agreement is sent to every Owner at least 90 days in advance of any action taken.

**13.2 Owner Liability.** Any violations of the Declaration, any Supplemental Declaration, SHOA Articles of Incorporation, Bylaws and Rules and Regulations, or any laws, statutes, ordinances, or governmental authority rules and regulations by a family member, guest, lessee, licensee or invitee of any Owner other than the Developer shall be the responsibility of the Owner and all enforcement rights or penalties therefor shall be applicable to said Owner, except as specifically provided to the contrary in such documents or laws, statutes, ordinances, or governmental authority rules and regulations.

**13.3 Abatement.** In the event that any Owner violates any of the terms or conditions of these restrictions and fails to cure the same within ten (10) days after written notice thereof, the Developer and/or SHOA, in addition to the other rights and remedies provided for herein, shall have the express right, privilege and license to enter upon any Homesite to take any reasonable action to cure such violation, and all reasonable cost thereof shall be at the expense of the Owner of such Homesite and shall be payable upon demand of the Developer and/or SHOA.

**13.4 Exoneration of Developer, SHARB, Directors and Officers.** Each Owner of any Homesite, Residential Unit or any other party with an interest in the Property expressly agrees that:

No duty or obligation is imposed upon Developer to enforce or attempt to enforce any of the covenants or restrictions contained herein, nor shall Developer be subject to any liability of any kind or nature whatsoever to any third party from failing to enforce the same; and

SHARB's approval of any building plans, specifications, site or landscape plans or elevations, or any other approvals or consents given by SHARB pursuant hereto or otherwise, shall not be deemed a warranty, representation or covenant that any such Residential Units, improvements, landscaping or other action taken pursuant thereto or in reliance thereon complies with any or all applicable laws, rules, building codes, requirements, or regulations, the sole responsibility for all of same being upon the respective Owner; and Developer and SHARB are expressly released and relieved of any and all liability in connection therewith. Each Owner with respect to the improvements on said Owner's Homesite agrees to indemnify and hold the Developer and SHARB harmless from all loss and/or damage, including reasonable attorneys' fees, incurred by Developer or SHARB as a result of any suit or claim made by any party concerning any feature of construction or any improvements made on said Owners' Homesite, the non compliance thereof with such laws, rules, building codes requirements or regulations, or further, any suit or claim made by any injured or alleged injured party claiming to have been damaged or injured by any failure in the structure of any completed improvement or any negligence

COVENANTS & RESTRICTIONS  
JULY 1997



in design or workmanship of any component of such completed improvements on such Homesite; and

The SHOA Board of Directors, the officers of SHOA, and members of SHARB shall not be personally liable to the Owners for any mistake of judgment or for any acts or omissions of any nature undertaken in the performance of their respective duties with regard to SHOA, except for acts or omissions found by a court of competent jurisdiction to constitute gross or willful negligence or fraud; and

In the event an Owner violates or threatens to violate any of the provisions hereof, SHOA shall have the right to proceed in any appropriate Court for an injunction to seek compliance. In lieu thereof, or in addition thereto, SHOA shall have the right to levy a Personal Charge, enforceable in the same manner as Assessments, against the Owner and his Homesite or Residential Unit for such sums as are necessary to enjoin any violation or to remove any unauthorized addition or alteration and to restore the affected property to good condition and repair.

**13.5 Invalidity.** If any of the provisions of this Declaration, any Supplemental Declaration, the Articles of Incorporation or Bylaws of SHOA, or any section, clause, phrase, word, or the application thereof, in any circumstance, is held invalid, the validity of the remainder of such instruments and the application of any such provisions, action, sentence, clause, phrase or word, in other circumstances, shall not be affected thereby.

**13.6 Notices.** Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as Member or Owner on the records of SHOA at the time of such mailing.

**13.7 Genders and Plurals.** Whenever the context so requires, use of any gender shall be deemed to include all genders, use of the singular shall include the plural, and use of the plural shall include the singular. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of the Property.

**13.8 Captions.** The captions used in this Declaration are inserted solely as a matter of convenience and shall not be relied upon or used in construing the effect or meaning of any of the text.

**13.9 Enforcement.** Enforcement of this Declaration shall be by any proceeding at law or in equity against any person or entity violating or attempting to violate any covenant, condition or restriction herein, either to restrain violation or to recover damages against the party in violation, and/or against the land to enforce any lien created by these covenants. Failure by SHOA, the Developer or any Owner to enforce any covenant, condition or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

COVENANTS & RESTRICTIONS  
JULY 1987



**13.10 Assignment, Transfer or Conveyance by Developer.** The Developer reserves and shall have the right to assign, transfer or convey any reservations, rights or obligations of the Developer hereunder, and upon such assignments, transfer or conveyance the Developer shall immediately be released and discharged as to any and all liability incident to such reservations, rights or obligations.

**13.11 Applicability.** All provisions set forth herein shall extend to and be binding on the respective legal representatives, heirs, successors and assigns of all parties mentioned herein where consistent with the context hereof.

## **ARTICLE XIV - Amendments**

The Terms, provisions, conditions, covenants and restrictions of this Declaration may be amended by the Developer, without joinder of any Homesite or Residential Unit Owner, for a period of ten (10) years from the date hereof; thereafter by agreement signed by at least two-thirds (2/3) of the Owners whose Homesites/Residential Units are then subject hereto. Any such amendment shall not become effective until the instrument evidencing such change has been filed of record. Every purchaser or subsequent grantee of any interest in any property now or hereafter made subject to this Declaration by acceptance of a deed or other conveyance therefor, thereby agrees that the terms, provisions, conditions, covenants, and restrictions of the Declaration may be amended as provided herein. For so long as Developer owns all or any portion of the Property, no amendment may remove, revoke, or modify any right or privilege of Developer without the written consent of Developer or the assignee of such right or privilege.

## **ARTICLE XV - Annexation of Additional Property and Further Development of Property**

**15.1 Additions of Property.** Annexation of Additional Property. Developer shall have the unilateral right, privilege, and option, from time to time and at any time until twenty (20) years from the first anniversary of the filing of this Declaration to subject to the provisions of this Declaration and the jurisdiction of SHOA all or any portion of the real property as described in Exhibit A by reference made a part hereof, by filing in the Roane County, Tennessee, Register's Office a document annexing such additional property and submitting it to the terms of this Declaration. Such document shall not be deemed to be an amendment to this Declaration requiring the vote of Members or the agreement of Owners and, to this extent, the requirements of Article XIV above shall not be applicable to the rights of Developer set forth herein. Any such annexation shall be effective upon the filing for record of such document unless otherwise provided therein.

**15.2 Further Development of the Property.** The Property will be developed in several phases which may include various types of residential Property, including single family detached houses, townhouses, cluster homes, and condominiums. This Declaration applies to all the Property made subject to this Declaration, but nothing contained in this Declaration shall be construed to prevent additional covenants, conditions and restrictions from being imposed upon any portion of the Property as

COVENANTS & RESTRICTIONS  
JULY 1997

are not inconsistent with the scheme of this Declaration, including but not limited to the submission of any portion of the Property to the Horizontal Property Act of the State of Tennessee for the purpose of creating and establishing a horizontal property regime. Developer may designate land anywhere within the Property as common area, construct recreational facilities or other improvements thereon, and convey such land and facilities to any such additional associations. Developer may designate land anywhere within the Property as a Condominium Site so that the same may be submitted to the provision of the Tennessee Horizontal Property Act for the purpose of creating and establishing a horizontal property regime, condominium units and other improvements may be constructed thereon, and condominium associations may be established for the maintenance of common elements. The formation of such additional associations, however, shall not relieve any Owner from his obligation to pay assessments as provided in this Declaration to SHOA; provided, SHOA may arrange for the additional associations to collect the assessments due SHOA as provided for in this Declaration.

**15.3 Additional Lands of Developer.** Additional lands of the Developer situated in Roane County, Tennessee, as well as any other lands hereafter acquired by the Developer may become subject to this Declaration in the following manner:

(A) The Developer, its successors and assigns, shall have the right, but not the obligation, to bring additional Property within the plan of this Declaration in future stages of development regardless of whether said Property are presently owned by the Developer. Any additions to the Property shall be compatible with the previous additions and the covenants thereto. Such proposed additions, if made, shall become subject to Assessments as hereinafter provided.

(B) The additions authorized hereunder shall be made by filing of record a Supplemental Declaration with respect to the additional property which shall extend the plan of this Declaration to such property, and the Owners, including the Developer, in such property, and the Owners, including the Developer, in such additions shall immediately be entitled to all privileges herein provided.

(C) Such Supplemental Declarations, if any, may contain such complementary additions and modifications of the covenants, conditions and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the added Property as are not inconsistent with the plan of this Declaration. In no event, however, shall such Supplemental Declaration revoke, modify or add to the covenants, conditions and restrictions established by this Declaration or any Supplemental Declaration with respect to the then existing Property.

**15.4 Limitation on Additions.** No one other than the Developer, its successors and assigns, shall have the right to subject additional lands to this Declaration unless the Developer, its successors and assigns, shall indicate in writing to SHOA that such additional lands may be included hereunder.

COVENANTS & RESTRICTIONS  
JULY 1997

394

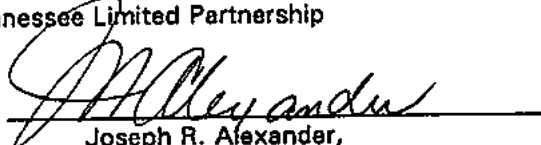


15.5 Other Lands of Developer. Nothing contained within these restrictions shall be held or construed to impose any restrictions, covenants, or easements on any other land of the Developer, except for the land contained within the description of the Property, unless specifically submitted to and included with this Declaration as provided in Article XV hereof.

IN WITNESS WHEREOF, Developer has caused this instrument to be executed and its name to be signed by its general partner.

SWAN HARBOUR L.P.  
A Tennessee Limited Partnership

By:

A handwritten signature in dark ink, appearing to read "J. Alexander", is written over a horizontal line.

Joseph R. Alexander,  
President of the General Partner

Address: 606 Swan Pond Circle  
Harriman, Tennessee 37748-0758

COVENANTS & RESTRICTIONS  
JULY 1997



STATE OF TENNESSEE  
COUNTY OF ROANE

Before me, Dinia Buennette, of the state and county aforesaid, personally appeared Joseph R. Alexander, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, swore to and acknowledged himself to be the President of SANDPIPER PROPERTIES, INC., the General Partner of SWAN HARBOUR L.P., the within named bargainor, and that he as such President of the General Partner, executed the foregoing instrument for the purpose therein contained, by signing the name of the corporation by himself as President of the General Partner.

WITNESS my hand and seal this 30 day of July, 1997.

Dinia Buennette  
Notary Public



My Commission Expires:

12/20/98

COVENANTS & RESTRICTIONS  
JULY 1997

33

396



## EXHIBITS

EXHIBIT A - Legal Description of Property

EXHIBIT B - Bylaws of Swan Harbour Owners Association (SHOA)

EXHIBIT C - Architectural Guidelines and Standards for Swan Harbour

The TVA Shoreline Management Plan/TVA 26a permit referenced herein and dated July 28, 1993, may be viewed and copied at the administrative offices of SHOA.

COVENANTS & RESTRICTIONS  
JULY 1997

397



## EXHIBIT A

### SWAN HARBOUR LEGAL DESCRIPTION

Being a parcel of land lying in the First Civil District of Roane County, Tennessee and being more particularly described as:

Being on the North and West shores of the Emory River Arm of Watts Bar Lake approximately one mile South of the mouth of the Little Emory River Arm of said lake, and being all of the land lying above the 750-foot contour and situated on the lakeward side of a line; Beginning at an iron pipe (Coordinates: North 560993.58; East 2446652.03) in the 750-foot contour on the shore of an inlet of said lake, said point being the most Northeasterly corner of the Jackie Lee and Patricia Sampson Property, which is of record in Deed Book M., Volume 17, Page 467 of said register's office; thence leaving the said 750-foot contour with the common line of the aforementioned Sampson Property South 40° 19' 45" West a distance of 144.43 feet to an iron pin, said point being the most Southeasterly corner of the retained portion of the Albert P. and Mattie B. Ahler Property, which is of record in Deed Book B, Volume 8, Page 284 of said register's office; thence with the common line of the aforementioned Albert P. and Mattie B. Ahler Property North 1° 54' 35" East a distance of 130.41 feet to an iron pin set; thence continuing North 12° 29' 58" West a distance of 34.40 feet to an iron pin set; thence continuing North 29° 52' 15" West a distance of 270.78 feet to an iron pin set, said point being on the most Southeasterly line of the Dunevant D. Andrews, Jr. Property, which is of record in Deed Book A, Volume 18, Page 151 of said register's office; thence with the common line of the aforementioned Dunevant D. Andrews, Jr. Property North 41° 37' 46" East a distance of 12.55 feet to a point, said point being the most Southeasterly corner of the aforementioned Dunevant D. Andrews, Jr. Property, which is of record in Deed Book V, Volume 8, Page 164 of said register's office; thence with the common line of the aforementioned Wesley C. and Dorothy Williams Property and crossing a 30-foot ingress and egress easement North 41° 37' 46" East a distance of 30.46 feet to an iron pin set, said point being the most Southeasterly corner of the aforementioned Wesley C. and Dorothy Williams Property; thence continuing with the common line of the aforementioned Wesley C. and Dorothy Williams Property and along the Eastern margin of the said 30-foot easement North 38° 23' 22" West a distance of 348.75 feet to an iron pin set; thence continuing North 30° 04' 57" West a distance of 145.00 feet to a 1 inch iron pin, said point being the most Northerly corner of the aforementioned Wesley C. and Dorothy Williams Property and being on the Southeasterly margin of Circle Road; thence with the said Southeasterly margin of Circle Road the following chords:

North 42° 04' 52" East a distance of 185.17 feet to a point; thence continuing  
 North 58° 25' 00" East a distance of 312.20 feet to a point; thence continuing  
 North 51° 21' 00" East a distance of 125.74 feet to a point; thence continuing  
 North 43° 05' 00" East a distance of 136.57 feet to a point; thence continuing  
 North 27° 24' 21" East a distance of 231.586 feet to a 1 inch iron pin,

said point being the most Westerly corner of the Danny R. Ramsey Property, which is of record in Deed Book E, Volume 19, Page 468 of said register's office; thence leaving the said Southeasterly margin of Circle Road with the common line of the aforementioned Danny R. Ramsey Property the following calls:

398

South 65° 37' 18" East a distance of 235.00 feet to an iron pin set; thence continuing North 16° 52' 45" East a distance of 262.00 feet to an iron pin set; thence continuing North 65° 37' 18" West a distance of 235.00 feet to an iron pin set;

said iron pin lying on the easterly margin of Swan Pond Circle Road and being the most Northerly corner of lands owned by Danny R. Ramsey as recorded in Deed Book E-19, Page 468 of said register's office; thence with said easterly margin North 16° 52' 45" East a distance of 341.63 feet to an iron pin; thence continuing North 10° 46' 51" East a distance of 274.98 feet to an iron pin, said point being the most Southwesterly corner of the Nell Adkisson Property, which is of record in Deed Book C, Volume 14, Page 429 of said register's office; thence leaving the said Southeasterly margin of Circle Road with the common line of the aforementioned Nell Adkisson Property South 81° 31' 13" East a distance of 200.12 feet to an iron pin, said point being the most Southeasterly corner of the aforementioned Nell Adkisson Property, thence continuing North 0° 28' 04" East a distance of 125.09 feet to an iron pin, said point being the most Northeasterly corner of the aforementioned Nell Adkisson Property; thence continuing North 81° 25' 10" West a distance of 199.86 feet to an iron pin, said point being the most Northwesterly corner of the aforementioned Nell Adkisson Property and being on the said Southeasterly margin of Circle Road; thence again with the said Southeasterly margin of Circle Road North 13° 08' 07" West a distance of 137.24 feet to an iron pin set, said point being the most Southwesterly corner of the Jackie R. and Judy A. Cox Property which is of record in Deed Book Q, Volume 14, Page 111 of said register's office; thence leaving the said Southeasterly margin of Circle Road with the common line of the aforementioned Jackie R. and Judy A. Cox Property North 89° 58' 02" East a distance of 143.66 feet to an iron pin, said point being the most Southeasterly corner of the aforementioned Jackie R. and Judy A. Cox Property; thence continuing North 3° 58' 43" East a distance of 108.73 feet to an iron pin, said point being the most Northeasterly corner of the aforementioned Jackie R. and Judy A. Cox Property and being a common corner to the Judy Adkisson Cox Property, which is of record in Deed Book S, Volume 17, Page 411 of said register's office; thence with the common line of the aforementioned Judy Adkisson Cox Property the following calls:

South 73° 35' 25" East a distance of 324.24 feet to an iron pin; thence continuing North 3° 18' 02" East a distance of 19.07 feet to an iron pin; thence continuing South 84° 05' 21" East a distance of 417.87 feet to a blazed 14" cherry; thence continuing South 79° 19' 36" East a distance of 311.19 feet to an iron pin; thence continuing North 10° 05' 52" East a distance of 20.10 feet to a metal fence post,

said point being the most Southeasterly corner of the aforementioned Judy Adkisson Cox Property and being a common corner to the Tennessee Valley Authority Property; thence South 78° 56' 41" East a distance of 85.23 feet to a metal fence post (Coordinates: North 563443.55; East 2448316.84) in the 750-foot contour on the shore of said lake; thence with the 750 contour as it meanders Southerly along the Tennessee Valley Authority Property to the Point of Beginning. Containing 101 acres more or less.

Property is subject to an outparcel standing in the name of Sharon G. Ashbrook as described in Deed Book D, Volume 19, Page 217 of the said register's office and further described as follows:

Commencing at an iron pin, said pin lying on the easterly margin of Swan Pond Circle

399



Road and being the most Northerly corner of lands owned by Danny R. Ramsey as recorded in Deed Book E-19, Page 468 of the said register's office and maintaining Tennessee State Plane Coordinates of North 562648.70 East 2446924.12; thence with said easterly margin North 16° 52' 45" East a distance of 341.63 feet to an iron pin; thence leaving said easterly margin South 78° 57' 38" a distance of 414.67 feet, said line being the southern margin of a 14 foot utility and access easement in favor of Sharon G. Ashbrook to the Point of Beginning; said point being a PK nail in a asphalt driveway, said PK nail lying on the westerly line of a parcel of land owned by Sharon G. Ashbrook as recorded in Deed Book D-19, Page 217 in the said registers office; thence with the line of said Ashbrook property the following calls and distances:

South 09° 53' 19" West a distance of 52.00 feet to an iron pin; thence  
South 63° 52' 35" East a distance of 230.50 feet to an iron pin; thence  
North 27° 38' 42" East a distance of 184.00 feet to an iron pin; thence  
North 64° 45' 04" West a distance of 287.70 feet to an iron pin; thence  
South 09° 53' 19" West a distance of 135.00 feet to the Point of Beginning.

Containing 1.082 acres.



*Kevin A. King*

400

## EXHIBIT B

### BYLAWS of SWAN HARBOUR OWNERS' ASSOCIATION (SHOA)

#### ARTICLE I Members

Section 1. Members. Every person or entity who is an Owner shall be a Member of SHOA. Membership shall be appurtenant to and may not be separated from ownership of any Residential Unit.

Section 2. Classes of Membership. SHOA shall have three classes of Membership:

(a) Owner Membership. Owner Members shall be all Owners, except for the Developer prior to termination of Developer Membership. If, however, Developer owns one or more Residential Units upon or after the termination of the Developer Membership, then Developer shall become an Owner Member.

(b) Developer Membership. Developer Members shall be the Developer, its successors or assigns. Developer membership shall cease at the time all Homesites and/or Residential Units have been the subject of initial completed sale for each such Homesite and/or Residential Unit, or Developer shall have voluntarily surrendered such membership, whichever shall first occur.

(c) Associate Membership. Associate Members will consist exclusively of those members who are neither Owner Members nor Developer Members.

Section 3. Succession. The Membership of each Owner shall terminate when he ceases to be an Owner, and upon the sale, transfer or other disposition of his ownership interest in a Residential Unit, his Membership in SHOA shall automatically be transferred to the new Owner succeeding to such ownership interest.

Section 4. Regular Meetings. The first regular annual meeting of Owners (the "First Meeting"), subject to the terms hereof, shall be held within one hundred twenty (120) days after Developer has sold and delivered its deed for at least one hundred (100) Homesites or three (3) years following the recording date of the Declaration, whichever shall first occur. Subsequent to the First Meeting, there shall be a regular annual meeting of Owners within thirty (30) days after the end of each fiscal year of the Association. All such meetings of Owners shall be held at such place in Roane County, Tennessee, and at such time as specified in the written notice of such meeting which shall be delivered to all Owners at least ten (10) days prior to the date of such meeting.

Section 5. Special Meetings. Special meetings of all Owners may be called by the President or by a majority of the Members of the Board, or by Owners having at least three-fifths (3/5) of the votes entitled to be at such meeting. Said special meetings shall be called by delivering

written notice to all Owners not less than ten (10) days prior to the date of said meeting, stating the date, time and place of said special meeting and the matters to be considered.

**Section 6. Delivery of Notice of Meetings.** Notices of meetings may be delivered either personally or by mail to an Owner at the address given to the Board by said Owner for such purpose. Such notices shall be considered to have been delivered when postmarked by the Postal Service.

**Section 7. Voting.** Members shall vote in person or by proxy executed in writing by the Member. No proxy shall be valid after eleven (11) months from the date of its execution or upon conveyance by the Member of his Homesite or Residential Unit. No proxy shall be valid unless promulgated by the Board of Directors as an official proxy. A corporate Member's vote shall be cast by the President of the Member corporation or by any other officer or proxy appointed by the President or designated by the Board of Directors of such corporation.

(a) **Owner Members.** Owner Members shall be entitled to one vote for each Homesite or Residential Unit owned in the Property. The vote for any one Homesite or Residential Unit owned by more than one person or entity shall be exercised as they among themselves shall determine, but in no event shall the vote or votes with respect to any jointly owned Residential Unit be cast separately. When voting for assessments, Owner Members will have one vote for each Homesite or Residential Unit owned.

(b) **Developer Members.** The Developer Member shall be entitled to one vote for each Homesite or Residential Unit owned in the Property when voting on all matters other than assessments and will be entitled to four votes for each Homesite or Residential Unit when voting for assessments. The Developer Member shall be entitled to vote in the Association until such time as the Developer Membership shall cease.

(c) **Associate Members.** Associate members will not be entitled to vote on Association issues. However, the Association may create an advisory to the Board of Directors for consideration.

**Section 8. Quorum.** A quorum of Members for any meeting shall be constituted by Members represented in person or by proxy and holding a majority of the votes entitled to be cast at such meeting.

## ARTICLE II Board of Directors

**Section 1. Number, Election and Term of Office.** The Board of Directors of the Association (referred to herein as the "Board") shall consist of five (5) members (herein referred to as "Directors" or "Members of the Board"). Prior to the First Meeting, the Developer shall appoint five (5) interim Members of the Board (the "Interim Board") to hold office until the First Meeting. Thereafter, until Developer Membership has ceased, the Developer shall be entitled, at its option, to elect three (3) Board Members who do not have to be Owners and Owner Members shall be afforded the opportunity of electing two (2) Board Members. The Interim Board during its existence shall have all powers of the Board as contained in these Bylaws. Those candidates for election as Director receiving the greatest number of votes cast either in

(2)

402

person or by proxy at the meeting shall be elected. Members of the Interim Board shall hold office until the First Meeting. The Directors elected by the Developer shall hold office at the pleasure of the Developer. In the event the Developer waives the right to elect a Director or Directors, such director shall be elected by the Owners to hold office for one (1) year or until the next annual meeting of the Association.

**Section 2. Qualification.** Except for members of the Interim Board, and the Directors elected by the Developer, each Director shall be an Owner. If a Director shall cease to meet such qualifications during his term, he shall thereupon cease to be a Director and his place on the Board shall be deemed vacant.

**Section 3. Vacancies.** Any vacancy occurring among the Directors elected by the Members shall be filled by majority vote of the remaining members entitled to vote and the replacement Director shall hold office for a term equal to the unexpired term of the Director whom he succeeds. A vacancy occurring among the Directors appointed by the Developer shall be filled by appointment by the Developer.

**Section 4. Board Meetings.** A regular annual meeting of the Board shall be held within thirty (30) days following the regular annual meeting of Owners. Special meetings of the Board shall be held upon a call by the President or by a majority of the Board on not less than forty-eight (48) hours' notice in writing to each Director, delivered personally, by mail, by telegram or by facsimile. Any Director may waive notice of a meeting, or consent to the holding of a meeting without notice, or consent to any action proposed to be taken by the Board without a meeting. A Director's attendance at a meeting shall constitute his waiver of notice of said meeting. Board meetings may be held in part or totally by conference call.

**Section 5. Removal.** Any Director may be removed from office, with or without cause, by the vote of three-fifths (3/5) of the total vote of the Members entitled to vote on Association matters. Directors elected by the Developer serve at the pleasure of the Developer and may be removed from office, with or without cause, at any time by the Developer.

**Section 6. Compensation.** Directors shall receive no compensation for their services as Directors, unless expressly provided by resolution duly adopted by the Members.

**Section 7. Quorum.** Three (3) Directors shall constitute a quorum.

**Section 8. Powers and Duties.** The Board shall have the following powers and duties:

- (a) to elect and remove the Officers of the Association as hereinafter provided;
- (b) to administer the affairs of the Association and the Common Areas, including the purchasing of casualty and liability insurance covering the Common Areas, the Association, the Board and officers;
- (c) to formulate policies for the administration, management and operation of the Common Areas;
- (d) to adopt rules and regulations, with written notice thereof to all Members, governing the administration, management, operation and use of the Common Areas;

(3)

403



(e) to provide for the maintenance, repair, and replacement of the Common Areas and other expenses authorized by the Covenants and payments therefor, and to approve payment vouchers or to delegate such approval to the officers;

(f) to provide for the designation, hiring and removal of employees and other personnel, including accountants and attorneys, and to engage or contract for the services of others, and to make purchases for the maintenance, repair, replacement, administration, management and operation of the Common Areas and other expenses authorized by the Covenants;

(g) to appoint committees of the Board and to delegate to such committees the Board's authority to carry out certain duties of the Board;

(h) to determine the fiscal year of the Association and to change said fiscal year from time to time as the Board deems advisable;

(i) to estimate the amount of the annual budget, and to provide the manner of assessing and collecting from the Owners their respective shares of such estimated expenses, as hereinafter provided;

(j) unless otherwise provided herein or in the Covenants and Restrictions, to comply with the instructions of a majority of the Owners, as expressed in a resolution duly adopted at any annual or special meeting of the Owners;

Section 9. Non-Delegation. Nothing in this Article or elsewhere in these Bylaws shall be considered to grant to the Board, the Association or to the officers of the Association any powers or duties which, by law, have been delegated to the Owners.

## ARTICLE III Officers

Section 1. Designation. At each regular annual meeting, the Directors present at said meeting shall elect the following officers of the Association by a majority vote:

(a) a President, who shall be a Director and who shall preside over the meetings of the Board and of the Owners, and who shall be the chief executive officer of the Association;

(b) a Secretary, who shall keep the minutes of all meetings of the Board and of the Owners, and who shall, in general, perform all the duties incident to the office of Secretary;

(c) a Treasurer, who shall be responsible for financial records and books of account and the manner in which such records and books are kept and reported; and

(d) such additional officers as the Board shall see fit to elect.

404

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Section 2. Powers. The respective officers shall have the general powers usually vested in such officers; provided that the Board may delegate any specific powers to any other officer or impose such limitations or restrictions upon the powers of any officer as the Board may see fit.

Section 3. Term of Office. Each officer shall hold office for the term of one (1) year and until his successor shall have been appointed or elected and qualified.

Section 4. Vacancies. Vacancies in any office shall be filled by the Board by a majority vote of the remaining members thereof at a special meeting of said Board. Any officer so elected to fill a vacancy shall hold office for a term equal to the unexpired term of the officer he succeeds. Any officer may be removed, with or without cause, at any time by vote of three-fifths (3/5) of the total members of the Board.

Section 5. Compensation. The officers shall receive no compensation for their services as officers.

## ARTICLE IV Assessments

Section 1. Annual Budget. The Board shall cause to be prepared an estimated annual budget for each fiscal year of the Association, said fiscal year to be determined by the Board. Such budget shall take into account the estimated expenses and cash requirements for the year, including but not limited to salaries, wages, payroll taxes, legal and accounting fees, working capital fund, supplies, materials, parts, services, maintenance, repairs, replacements, landscaping, insurance, fuel, power, and all other expenses for carrying out the duties of the Association. To the extent that the assessments and other cash income collected from the Owners during the preceding year shall be more or less than the expenditures for such preceding year, the surplus or deficit, as the case may be, shall also be taken into account. The annual budget shall provide for a reserve for contingencies for the year and a reserve for replacements, in reasonable amounts as determined by the Board.

Section 2. Assessments. The estimated annual budget for each fiscal year shall be approved by the Board, and copies thereof shall be furnished by the Board to each Owner, not later than thirty (30) days prior to the beginning of such year, together with a notice designating the method of payment of the annual assessments. In the event the Board determines monthly or quarterly installments are to be paid, on or before the first day of the first month (or third month if quarterly) and of each succeeding month (or third month if quarterly) of the year covered by the annual budget, each Owner shall pay, as his respective monthly assessment for the common expenses, one-twelfth (1/12) [or one-third (1/3) if quarterly] of his proportionate share of the expenses for such year as shown by the annual budget. Such proportionate share for each Owner shall be determined by the number of Residential Units eligible for assessment payments subject to any exemptions or reductions provided for in the Declaration. In the event that the Board shall not approve an estimated annual budget or shall fail to determine new monthly or quarterly assessments for any year, or shall be delayed in doing so, each Owner shall continue to pay each month the amount of his respective monthly assessment as last determined, and shall be obligated to pay any difference owed as soon as the new assessments are determined. Each Owner shall pay his monthly or quarterly assessment on or before the first day of each applicable month to the Association or as may be otherwise directed by the Board. 405

(5)

Section 3. Partial Year or Month. For the first fiscal year and thereafter until the First Board is elected, the annual budget shall be approved by the Interim Board. If such first fiscal year, or any succeeding fiscal year, shall be less than a full year, then the monthly or quarterly assessments for each Owner shall be proportionate to the number of months and days in such period covered by such budget. Commencing with the date of delivery of a deed to a Residential Unit, each Owner shall pay his assessment for the following month or fraction of a month or following quarter or fraction of a quarter.

Section 4. Annual Report. Within ninety (90) days after the end of each fiscal year covered by an annual budget, or as soon thereafter as shall be practicable, the Board shall cause to be furnished to each Owner a statement for such year so ended, showing the receipts and expenditures and such other information as the Board may deem desirable.

Section 5. Supplemental Budget. In the event that during the course of any year, it shall appear to the Board that the monthly or quarterly assessments, determined in accordance with the estimated annual budget for such year are insufficient or inadequate to cover the estimated expenses for the remainder of such year, then the Board shall prepare and approve a supplemental budget covering the estimated deficiency for the remainder of such year, copies of which supplemental budget shall be furnished to each Owner, and thereupon a supplemental assessment shall be made to each Owner for his proportionate share of such supplemental budget.

Section 6. Records and Statements of Account. The Board shall cause to be kept detailed and accurate records in chronological order of the receipts and expenditures of the Association, specifying and itemizing the common expenses and limited common expenses incurred. Payment vouchers may be approved in such manner as the Board may determine.

## ARTICLE V Amendments

These Bylaws may be amended or modified from time to time by action or approval of the vote of a majority of the Owners casting votes as described in Article I, Section 7 hereof, and by written approval thereof noted on the amendment by Developer with respect to amendments enacted during the term of Developer Membership. Such amendments shall be recorded in the Office of the Register of Deeds for Roane County, Tennessee.

406

(6)



ARCHITECTURAL GUIDELINES AND STANDARDS  
FOR  
SWAN HARBOUR  
EXHIBIT C

PURPOSE

Swan Harbour is a carefully planned community. These guidelines have been prepared to establish material, detail and quality standards to create a harmonious community of homes within a variety of architectural styles. It is, therefore, the purpose of these guidelines to ensure, maintain, and protect the aesthetic character of Swan Harbour in order to enhance the community lifestyles of its residents. It is not the intent of these guidelines to inhibit, nor restrict creativity in any manner, but rather provide general parameters thereby creating an architecturally harmonious community. In this regard these guidelines are intended to assist the property owner in the planning of, and the implementation of, the design of their home.

DESIGN REVIEW PROCEDURE

Every property owner shall submit plans, and specifications as outlined in these guidelines for approval by the Swan Harbour Architectural Review Board (SHARB) for all structures erected, and improvements made to any homesite within Swan Harbour. An approval must be obtained from SHARB before any homesite is cleared or any construction is begun.

**PRELIMINARY REVIEW:**

Property owners are encouraged to meet with SHARB to discuss and review preliminary plans for any construction within Swan Harbour. Those persons seeking a preliminary review must schedule an appointment with a SHARB representative. At that time the property owner is requested to bring preliminary plans, materials, or any other information relative to the proposed construction.

**FINAL PLAN SUBMISSION REQUIREMENTS:**

Two copies of the appropriate exhibits are required for submission, review, and final approval. Incomplete submissions will not be considered or approved. The following information must be submitted at the time of the submission for final approval:

- A. SHARB Application
- B. Color and material selection sheet.
- C. A site plan drawn at 1"=20' indicating the property boundaries, building setbacks, the location of the proposed home or improvements, driveways, retaining walls, and all existing physical structures.

407



D. Front elevation drawings shall be drawn at a scale of  $1/4" = 1'$  indicating all proposed materials, building heights, roof pitches, and shall include sufficient notation to indicate details of the proposed construction.

E. Side and rear elevations drawn at a minimum scale of  $1/8" = 1'$  indicating exterior materials and roof lines.

F. Dimensioned floor plans.

G. Other plans and specifications relative to other special construction or improvement.

Upon approval of the plans the property owner will receive formal notification by the return of an approved set of all submitted documents.

#### LANDSCAPE APPROVAL:

Each property owner must submit two copies of the proposed landscape plan for approval by SHARB prior to the installation of any plant materials. The submission must include the following.

A. A landscape plan drawn at a minimum scale of  $1" = 10'$  indicating the location, quantity, and patterns of all proposed planting and lawn areas.

B. A plant material list indicating all plant materials and their intended size at the time of installation.

#### LETTER OF COMPLIANCE:

Upon the satisfactory completion of all approved construction, SHARB will issue a Letter of Compliance to the property owner indicating that the construction is in compliance with the approved plans and consistent with the standards established in these guidelines.

#### VARIANCES:

SHARB may in its sole discretion deviate from these written guidelines if a determination is made that such a variance is consistent with the general intent of the guidelines, and where a condition exists that would otherwise make it impossible to comply without creating an unreasonable hardship for the property owner. All variances shall be requested and approved in writing. It is understood that any such variation from these guidelines granted to a property owner does not create a precedent, nor otherwise, an obligation on the part of SHARB to extend a similar variance to another property owner.

408

## GENERAL SITE AND PLANNING CONSIDERATIONS

### **GARAGES:**

Unless approved otherwise, all garages shall be side entry or motor court plans so that the garage doors do not face the street. Where homesite size or other conditions require a front entry garage the doors shall be a maximum of 9' in width and special design consideration shall be given to ensure that the garage becomes an integral part of, and blends with, the home's architectural motif. Where front facing garages are approved additional landscape screening, and specific driveway design may be required.

Driveways shall be curvilinear in design with a maximum width of 14 feet unless otherwise approved by SHARB. Vertical face curbs shall be saw cut (not broken) and flared to a maximum width of 20 feet. A landscape buffer as specified, but not less than 3 feet in width shall be maintained between the edge of driveways and property lines.

### **DRAINAGE:**

Excess drainage from new impervious surfaces shall drain into recorded drainage easements or to the street. Natural surface drainage may continue to drain across homesite lines provided that the run-off is not concentrated, is not in excess of previous natural flows, nor otherwise causes the erosion of, or damage to, adjoining properties. Each builder shall be responsible for the proper grading and drainage of his homesite.

### **RETAINING WALL:**

All retaining walls exceeding 3 feet in height from finish grade must be shown on the site plan and approved prior to construction. All retaining walls located within the front building line shall require prior SHARB approval relative to height, materials, and location on the property. Treated timbers and creosote railroad ties shall not be used within the front setback line, or when otherwise visible from the street. Retaining walls located near rear property lines may be of any approved material provided that the wall can be satisfactorily screened with landscaping. Walls located on, or within 3 feet of a front or side property line must be constructed with stone, stucco, or brick veneers as directed by SHARB. Any builder who disrupts an existing grade, through either cut or fill, shall be responsible for the construction and cost of the required walls.

### **SCREENING:**

All air conditioning units, and trash receptacles visible from the street shall be screened behind an enclosure or with landscaping. Basketball goals, play structures of any kind, and similar recreational equipment shall not be placed in the front yard of any home. The location, design, color, and materials of all such structures must be approved by SHARB prior to their installation or construction. Satellite dishes shall not be permitted on any homesite.

409

## ARCHITECTURAL STANDARDS

### **WALL MATERIALS:**

Acceptable finish wall materials will include face brick veneers, cement plaster (stucco), simulated stucco systems ("dryvit", stowe, etc.), wood or other approved horizontal siding materials, natural stone veneers, and cedar shingles.

Unacceptable materials include, but are not limited to, exposed concrete or concrete block, artificial stone veneers, and sheet plywood or sheet hardboard siding materials.

Exterior elevations with brick veneers shall be bricked on at least three sides, and to the first floor of the rear elevation. The rear elevation above the first floor may be finished with horizontal siding or other approved material. Stucco is not an acceptable material for the rear of a brick home except where stucco elements are incorporated into the front motif, and approved by SHARB.

Exterior elevations utilizing siding materials will be required to provide brick or stone veneers (water tables) on the exposed foundation face of the front and side elevations. Chimneys shall be veneered with brick or stone (siding shall not be permitted).

Stucco elevations shall be finished with the same material on all four sides.

When stone veneers are used, the veneer shall not terminate on an outside corner, but shall return and terminate at an inside corner to prevent the thickness of the veneer to be exposed.

### **ROOFS AND ROOFING MATERIALS:**

All roof pitches visible from the street shall be a minimum of 10:12 unless specifically approved by SHARB. Shed roofs not visible from the street may be a minimum of 4:12. Flat roofs shall not be permitted. Acceptable roof materials shall include fiberglass reinforced "Dimensional" asphalt composition shingles, simulated slats roofing and tile roofs. Other materials will not be permitted, unless approved by SHARB.

Mechanical and plumbing vents will be located behind ridge lines facing the street, and shall be painted to match the roof color. Vents visible from the street will not be permitted.

### **WINDOWS:**

All windows shall be constructed and painted, or clad with a factory finish. Decorative surrounds, brick work, backboards, etc. will be required. When windows do not incorporate decorative surrounds, the minimum trim will consist of a 1 x 4 exterior casing and backband. Metal windows, and wood windows with metal or vinyl cladding will be permitted with approval. Windows shall be of traditional design with divided lites. The use of radius and segmented windows, transoms, and radius heads are appropriate for the community and will be encouraged.

410

## FRONT STOOPS AND PORCHES:

Front stoops and porches shall be finished with a material compatible to the finished materials on the building. Acceptable materials will include face brick, stone, slats, and ceramic tile. Stucco may be used on the face of stoops but will not be permitted as a walking surface.

Exposed concrete, exposed concrete masonry, and raised wood platforms and steps will not be permitted.

## ARCHITECTURAL FEATURES AND DETAIL:

All chimneys on the front and side elevations shall extend to grade. On rear elevations the chimney may terminate into a permanent deck. Chimney caps shall be terminated with a decorative sheet metal shroud to conceal the metal flue, and painted. Bay window caps shall be copper, pre-finished steel, or pre-finished aluminum sheet metal. Field painted galvanized sheet metal caps shall be permitted when an electrostatic "paint grip" type material is used.

All bay window projections facing the street, and exceeding a horizontal projection of twelve inches shall extend to finish grade. Projections less than twelve inches will be permitted conditionally subject to the final design treatment of the projection. The use of corbels, brackets, ledges, trim, etc. is encouraged to terminate all projections.

Water tables, or a horizontal band at the first floor line will be required when the distance between the finished first floor elevation and the finish grade elevation exceeds 4 feet. When required the approved treatment will extend to the sides and terminate at a point approved by SHARB. All fascia boards shall be a 1x8 minimum. Rake boards shall be a minimum 1x8 with rake molding or other approved trim on the face of the board.

Frieze boards beneath the eaves shall be a minimum 1x10 with 5" minimum crown moulding, decorative milled dentil blocks, or other approved trim. Frieze boards shall extend a minimum of twelve inches below the bottom of the fascia line and shall terminate with basecap, panel molding, or other approved trim. Dentil board shall not be permitted. Frieze boards located on street facing gable ends shall be a minimum 1x10 with 3" minimum crown molding, or other approved trim.

All street facing gable returns shall be "Queen Anne" returns with copper closures (caps). "Bird box" returns visible from the street shall not be permitted.

Five inch "Ogee" gutters and downspouts shall be required on all homes.

Driveways and front walks shall be curvilinear in design. A decorative apron shall be provided at each driveway the full width of the drive and extending twelve feet from the back of the curb. The paving material for this apron will conform to the neighborhood standard specified elsewhere.

A standard decorative mailbox, specified elsewhere, will be installed for each home.

411



NEW CONSTRUCTION APPLICATION  
FOR  
SWAN HARBOUR

DATE: \_\_\_\_\_

APPLICANT NAME: \_\_\_\_\_

-

ADDRESS: \_\_\_\_\_

\_\_\_\_\_

BUILDER: (If Different)

COMPANY \_\_\_\_\_

NAME \_\_\_\_\_

NAME OF \_\_\_\_\_

PRINCIPAL \_\_\_\_\_

STREET \_\_\_\_\_

CITY/STATE \_\_\_\_\_

/ZIP \_\_\_\_\_

HOMESITE NO: \_\_\_\_\_ TOTAL FINISHED AREA: \_\_\_\_\_

SHARP USE ONLY BELOW THIS LINE

CHECK ONE:     ( )   PRELIMINARY REVIEW

                  ( )   FINAL SUBMISSION

                  ( )   APPROVED AS SUBMITTED

                  ( )   APPROVED AS NOTED

                  ( )   DENIED - RESUBMIT AS NOTED:

COMMENTS: \_\_\_\_\_

\_\_\_\_\_ 412

SWAN HARBOUR  
MATERIAL AND COLOR SCHEDULE

HOMESITE NO: \_\_\_\_\_

WALL MATERIAL	COLOR:	MFG:
( ) STUCCO	_____	_____
( ) STONE	_____	_____
( ) BRICK	_____	_____
( ) SIDING	_____	_____
( ) OTHER	_____	_____

ROOFING

( ) ASPHALT SHINGLE	_____	_____
( ) PAINTED GALVANIZED	_____	_____
( ) COPPER	_____	_____

STOOP MATERIAL

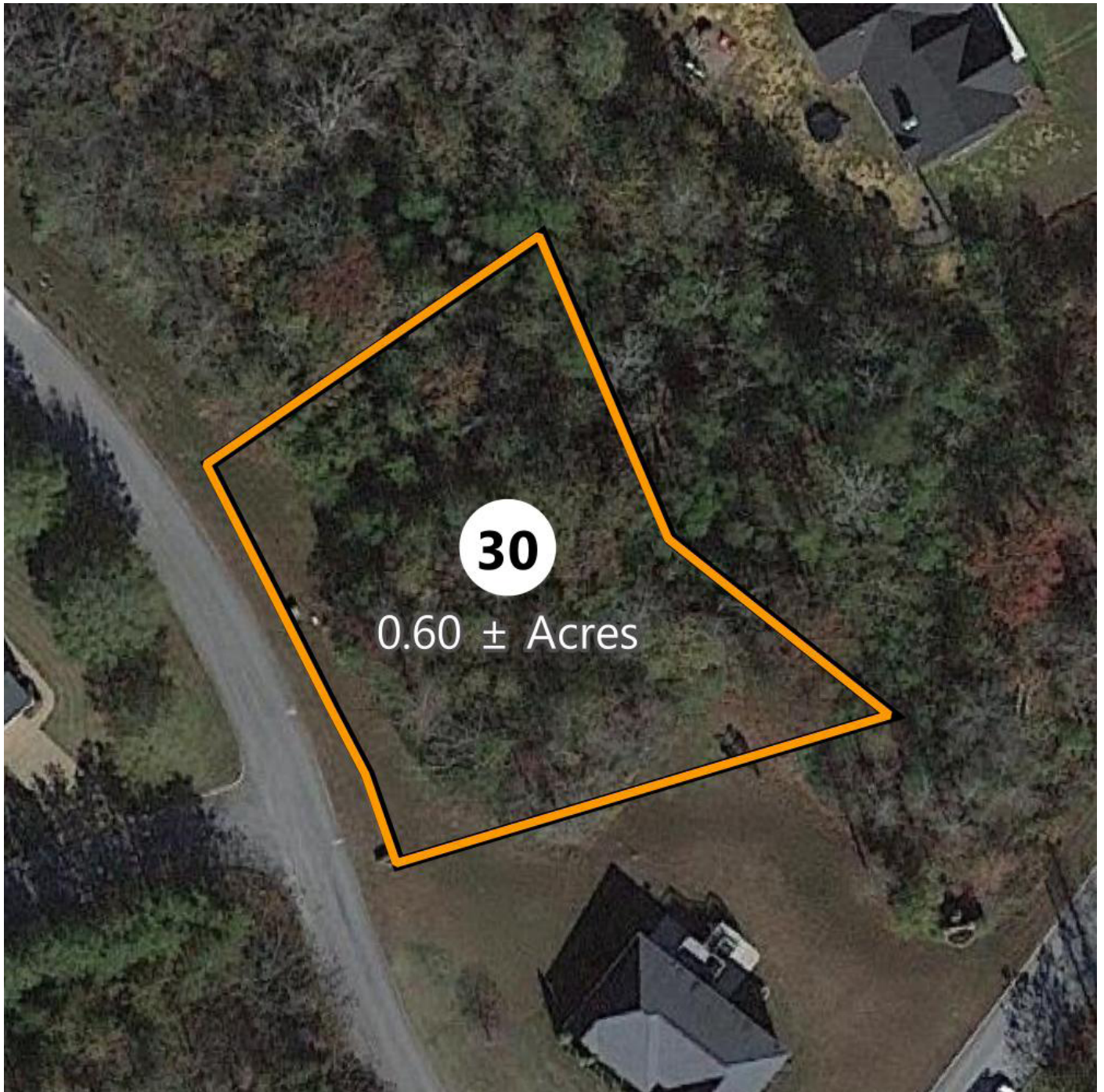
( ) STONE	_____	_____
( ) BRICK	_____	_____
( ) CERAMIC TILE	_____	_____
( ) SLATE	_____	_____
( ) OTHER	_____	_____

TRIM

( ) STUCCO	_____	_____
( ) SHUTTER	_____	_____

413

# Lot 30 on Indigo Bunting Drive



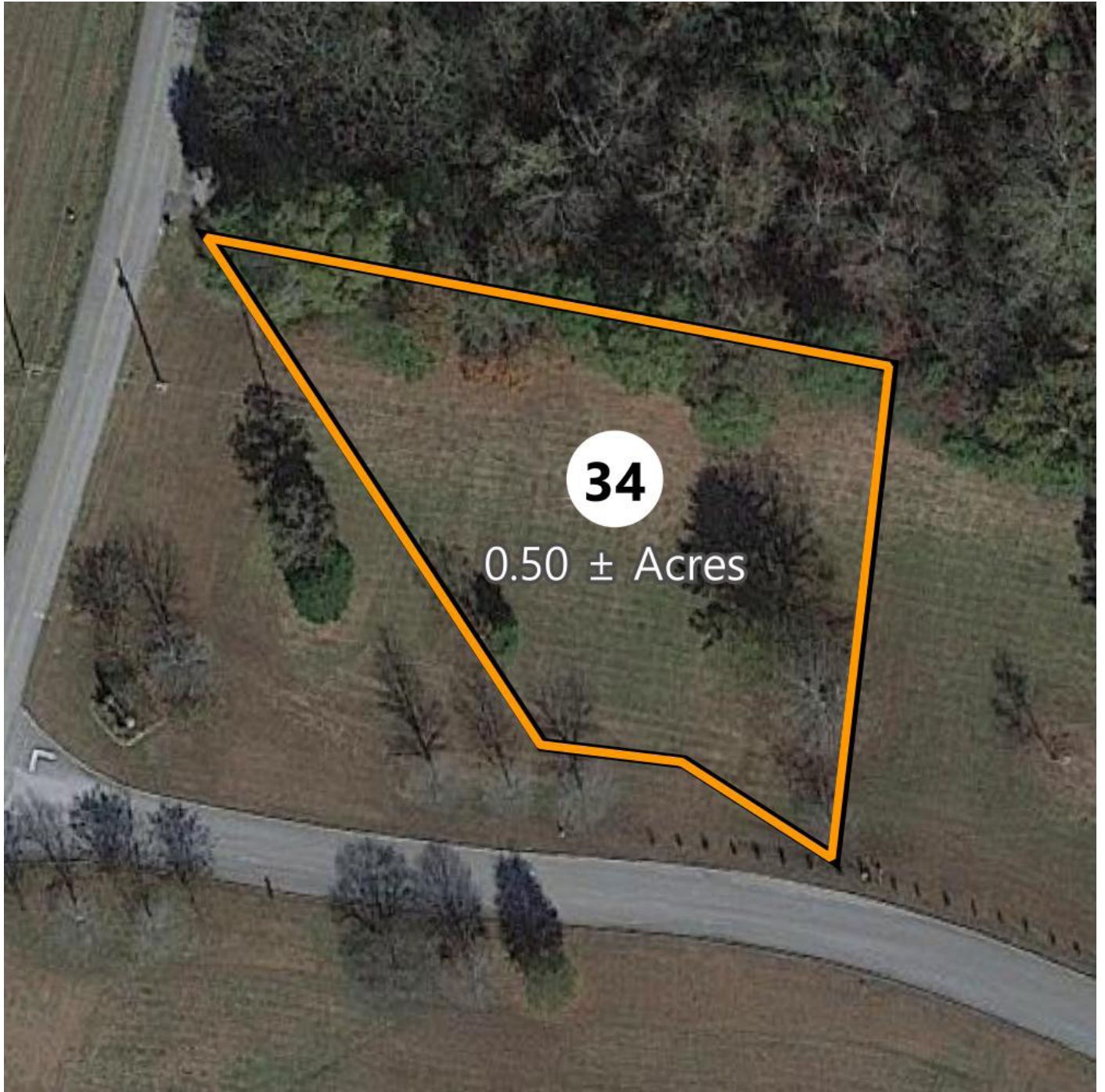


# Lot 33 on Indigo Bunting Drive

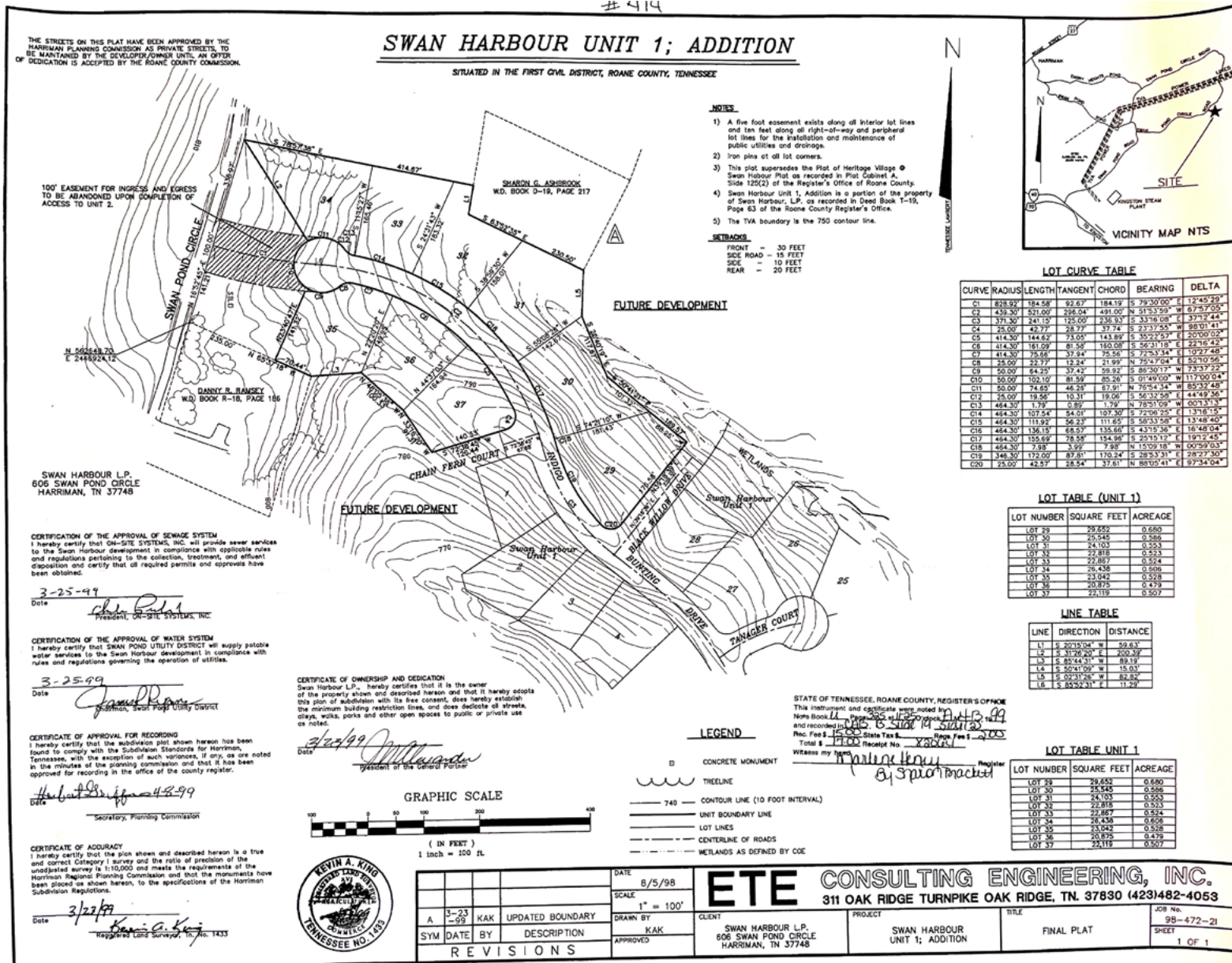




# Lot 34 on Indigo Bunting Drive

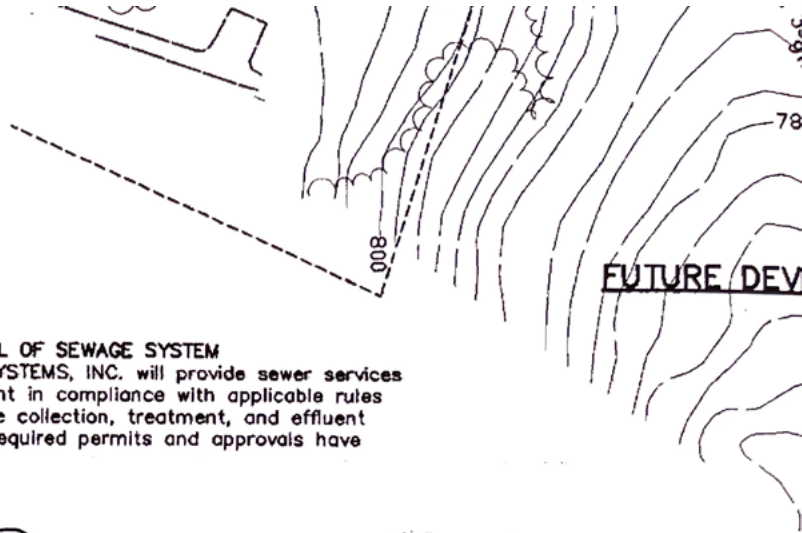


# Subdivision Plat





SWAN HARBOUR L.P.  
606 SWAN POND CIRCLE  
HARRIMAN, TN 37748



**CERTIFICATION OF THE APPROVAL OF SEWAGE SYSTEM**  
I hereby certify that ON-SITE SYSTEMS, INC. will provide sewer services to the Swan Harbour development in compliance with applicable rules and regulations pertaining to the collection, treatment, and effluent disposition and certify that all required permits and approvals have been obtained.

3-25-99  
Date  
Charles Butler  
President, ON-SITE SYSTEMS, INC.

**CERTIFICATION OF THE APPROVAL OF WATER SYSTEM**  
I hereby certify that SWAN POND UTILITY DISTRICT will supply potable water services to the Swan Harbour development in compliance with rules and regulations governing the operation of utilities.

3-25-99  
Date  
James R. Ramey  
Chairman, Swan Pond Utility District

**CERTIFICATE OF APPROVAL FOR RECORDING**  
I hereby certify that the subdivision plat shown hereon has been found to comply with the Subdivision Standards for Harriman, Tennessee, with the exception of such variances, if any, as are noted in the minutes of the planning commission and that it has been approved for recording in the office of the county register.

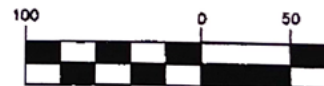
Herbert Griffin 4-8-99  
Date  
Secretary, Planning Commission

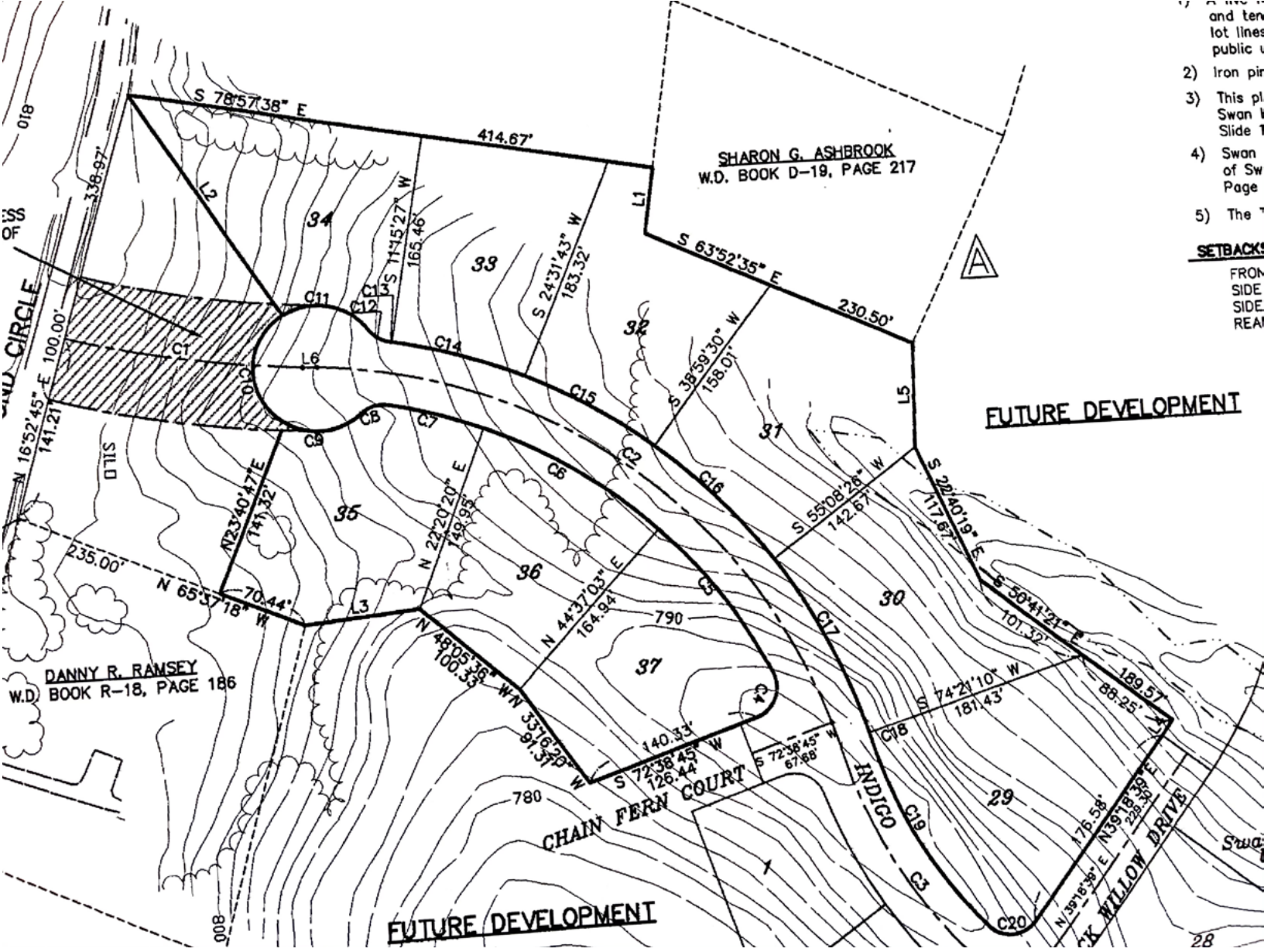
**CERTIFICATE OF OWNERSHIP AND**  
Swan Harbour L.P., hereby certifies of the property shown and described in this plan of subdivision with its minimum building restriction, alleys, walks, parks and other open spaces as noted.

3/23/99  
Date  
[Signature]  
President of the

**CERTIFICATE OF ACCURACY**  
I hereby certify that the plan shown and described hereon is a true and correct Category I survey and the ratio of precision of the unadjusted survey is 1:10,000 and meets the requirements of the Harriman Regional Planning Commission and that the monuments have been placed as shown hereon, to the specifications of the Harriman Subdivision Regulations.

3/23/99  
Date  
Kevin A. King  
Registered Land Surveyor, Tn. No. 1433





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REAL





# Tax Information - Lot 30



## LOCATION

<b>Property Address</b>	Indigo Bunting Dr TN
<b>Subdivision</b>	Swan Harbour
<b>County</b>	Roane County, TN

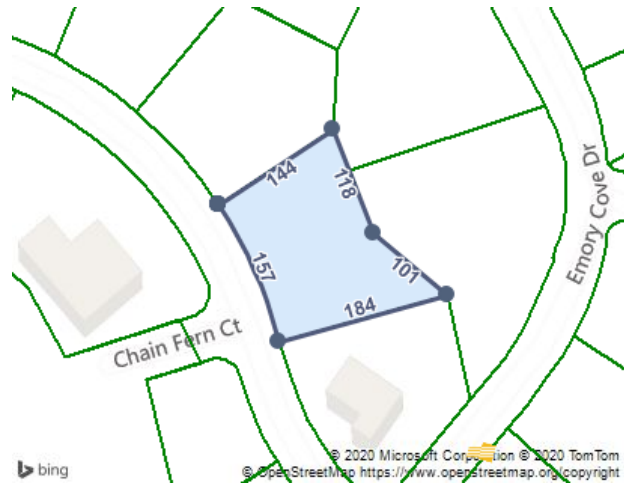
## PROPERTY SUMMARY

<b>Property Type</b>	Residential
<b>Land Use</b>	
<b>Improvement Type</b>	
<b>Square Feet</b>	

## GENERAL PARCEL INFORMATION

<b>Parcel ID/Tax ID</b>	027L B 037.00
<b>Special Int</b>	000
<b>Alternate Parcel ID</b>	
<b>Land Map</b>	027L
<b>District/Ward</b>	01
<b>2010 Census Trct/Blk</b>	307/1
<b>Assessor Roll Year</b>	2019

Tuesday, January 05, 2021



## CURRENT OWNER

<b>Name</b>	Lrb Holdings Inc
<b>Mailing Address</b>	Po Box 874 Warsaw, IN 46581-0874

## SALES HISTORY THROUGH 12/14/2020

Date	Amount	Buyer/Owners	Seller	Instrument	No. Parcels	Book/Page Or Document#
6/24/2020	\$771	Lrb Holdings Inc		Tax Sale Deed		1748/380 20005173
5/23/2019	\$3,101	Lrb Holdings Inc	Farnham William J	Tax Sale Deed		1695/984 19004351
5/21/2014		Farnham William J		Court Order	15	1563/347
11/15/2002		Q/C			50	K22/317
11/14/1994		Swan Harbour Lp			12	T19/585
10/17/1994					39	T19/159
10/17/1994					39	T19/66
10/17/1994					39	T19/63

## TAX ASSESSMENT

Appraisal	Amount	Assessment	Amount	Jurisdiction	Rate
<b>Appraisal Year</b>	2019	<b>Assessment Year</b>	2019		
<b>Appraised Land</b>	\$20,000	<b>Assessed Land</b>		<b>Roane</b>	2.685
<b>Appraised Improvements</b>		<b>Assessed Improvements</b>			
<b>Total Tax Appraisal</b>	\$20,000	<b>Total Assessment</b>	\$5,000		
		<b>Exempt Amount</b>			
		<b>Exempt Reason</b>			

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## Property Report for INDIGO BUNTING DR. cont.

### TAXES

Tax Year	City Taxes	County Taxes	Total Taxes
2019		\$134.25	\$134.25
2018		\$251.06	\$251.06
2017		\$251.06	\$251.06
2016		\$251.06	\$251.06
2015		\$251.06	\$251.06
2014		\$218.00	\$218.00
2013		\$218.00	\$218.00

### MORTGAGE HISTORY

No mortgages were found for this parcel.

### PROPERTY CHARACTERISTICS: BUILDING

No Buildings were found for this parcel.

### PROPERTY CHARACTERISTICS: EXTRA FEATURES

No extra features were found for this parcel.

### PROPERTY CHARACTERISTICS: LOT

<b>Land Use</b>		<b>Lot Dimensions</b>	155.69 X 181.43 IRR
<b>Block/Lot</b>	/30	<b>Lot Square Feet</b>	
<b>Latitude/Longitude</b>	35.927975°/-84.488040°	<b>Acreage</b>	

### PROPERTY CHARACTERISTICS: UTILITIES/AREA

<b>Gas Source</b>		<b>Road Type</b>	Curb/Gutter Paved
<b>Electric Source</b>	Public	<b>Topography</b>	Rolling
<b>Water Source</b>	Public	<b>District Trend</b>	Z
<b>Sewer Source</b>	Public	<b>Special School District 1</b>	
<b>Zoning Code</b>		<b>Special School District 2</b>	
<b>Owner Type</b>			

### LEGAL DESCRIPTION

<b>Subdivision</b>	Swan Harbour	<b>Plat Book/Page</b>	PCB/19
<b>Block/Lot</b>	/30	<b>District/Ward</b>	01
<b>Description</b>			

### FEMA FLOOD ZONES

Zone Code	Flood Risk	BFE	Description	FIRM Panel ID	FIRM Panel Eff. Date
X	Minimal		Area of minimal flood hazard, usually depicted on FIRMs as above the 500-year flood level.	47145C0115F	09/28/2007

# Tax Information - Lot 33



Tuesday, January 05, 2021

## LOCATION

<b>Property Address</b>	Indigo Bunting Dr TN
<b>Subdivision</b>	Swan Harbour
<b>County</b>	Roane County, TN

## PROPERTY SUMMARY

<b>Property Type</b>	Residential
<b>Land Use</b>	
<b>Improvement Type</b>	
<b>Square Feet</b>	

## GENERAL PARCEL INFORMATION

<b>Parcel ID/Tax ID</b>	027L B 040.00
<b>Special Int</b>	000
<b>Alternate Parcel ID</b>	
<b>Land Map</b>	027L
<b>District/Ward</b>	01
<b>2010 Census Trct/Blk</b>	307/1
<b>Assessor Roll Year</b>	2019



## CURRENT OWNER

<b>Name</b>	Lrb Holdings Inc
<b>Mailing Address</b>	Po Box 874 Warsaw, IN 46581-0874

## SALES HISTORY THROUGH 12/14/2020

Date	Amount	Buyer/Owners	Seller	Instrument	No. Parcels	Book/Page Or Document#
5/23/2019	\$4,000	Lrb Holdings Inc	Farnham William J	Tax Sale Deed		1695/990 19004354
5/21/2014		Farnham William J		Court Order	15	1563/347
11/15/2002		Q/C			50	K22/317
11/14/1994		Swan Harbour Lp			12	T19/585
10/17/1994				Affidavit Of Affixation	39	T19/159
10/17/1994					39	T19/66
10/17/1994					39	T19/63

## TAX ASSESSMENT

Appraisal	Amount	Assessment	Amount	Jurisdiction	Rate
<b>Appraisal Year</b>	2019	<b>Assessment Year</b>	2019		
<b>Appraised Land</b>	\$20,000	<b>Assessed Land</b>		<b>Roane</b>	2.685
<b>Appraised Improvements</b>		<b>Assessed Improvements</b>			
<b>Total Tax Appraisal</b>	\$20,000	<b>Total Assessment</b>	\$5,000		
		<b>Exempt Amount</b>			
		<b>Exempt Reason</b>			

## TAXES

Tax Year	City Taxes	County Taxes	Total Taxes
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# Tax Information - Lot 33



## Property Report for INDIGO BUNTING DR. cont.

2019	\$134.25	\$134.25
2018	\$193.13	\$193.13
2017	\$193.13	\$193.13
2016	\$193.13	\$193.13
2015	\$193.13	\$193.13
2014	\$163.50	\$163.50
2013	\$163.50	\$163.50

### MORTGAGE HISTORY

No mortgages were found for this parcel.

### PROPERTY CHARACTERISTICS: BUILDING

No Buildings were found for this parcel.

### PROPERTY CHARACTERISTICS: EXTRA FEATURES

No extra features were found for this parcel.

### PROPERTY CHARACTERISTICS: LOT

<b>Land Use</b>		<b>Lot Dimensions</b>	107.54 X 183.32 IRR
<b>Block/Lot</b>	/33	<b>Lot Square Feet</b>	
<b>Latitude/Longitude</b>	35.928814°/-84.489066°	<b>Acreage</b>	

### PROPERTY CHARACTERISTICS: UTILITIES/AREA

<b>Gas Source</b>		<b>Road Type</b>	Curb/Gutter Paved
<b>Electric Source</b>	Public	<b>Topography</b>	Rolling
<b>Water Source</b>	Public	<b>District Trend</b>	Z
<b>Sewer Source</b>	Public	<b>Special School District 1</b>	
<b>Zoning Code</b>		<b>Special School District 2</b>	
<b>Owner Type</b>			

### LEGAL DESCRIPTION

<b>Subdivision</b>	Swan Harbour	<b>Plat Book/Page</b>	PCB/19
<b>Block/Lot</b>	/33	<b>District/Ward</b>	01

### Description

### FEMA FLOOD ZONES

Zone Code	Flood Risk	BFE	Description	FIRM Panel ID	FIRM Panel Eff. Date
X	Minimal		Area of minimal flood hazard, usually depicted on FIRMs as above the 500-year flood level.	47145C0115F	09/28/2007





# Tax Information - Lot 34



Tuesday, January 05, 2021

## LOCATION

<b>Property Address</b>	Indigo Bunting Dr TN
<b>Subdivision</b>	Swan Harbour
<b>County</b>	Roane County, TN

## PROPERTY SUMMARY

<b>Property Type</b>	Residential
<b>Land Use</b>	
<b>Improvement Type</b>	
<b>Square Feet</b>	

## GENERAL PARCEL INFORMATION

<b>Parcel ID/Tax ID</b>	027L B 041.00
<b>Special Int</b>	000
<b>Alternate Parcel ID</b>	
<b>Land Map</b>	027L
<b>District/Ward</b>	01
<b>2010 Census Trct/Blk</b>	307/1
<b>Assessor Roll Year</b>	2019



## CURRENT OWNER

<b>Name</b>	Lrb Holdings Inc
<b>Mailing Address</b>	Po Box 874 Warsaw, IN 46581-0874

## SALES HISTORY THROUGH 12/14/2020

Date	Amount	Buyer/Owners	Seller	Instrument	No. Parcels	Book/Page Or Document#
5/23/2019	\$6,400	Lrb Holdings Inc	Farnham William J	Tax Sale Deed		1695/992 19004355
5/21/2014		Farnham William J		Court Order	15	1563/347
11/15/2002		Q/C			50	K22/317
11/14/1994		Swan Harbour Lp			12	T19/585
10/17/1994					39	T19/159
10/17/1994					39	T19/66
10/17/1994					39	T19/63

## TAX ASSESSMENT

Appraisal	Amount	Assessment	Amount	Jurisdiction	Rate
<b>Appraisal Year</b>	2019	<b>Assessment Year</b>	2019		
<b>Appraised Land</b>	\$18,000	<b>Assessed Land</b>		<b>Roane</b>	2.685
<b>Appraised Improvements</b>		<b>Assessed Improvements</b>			
<b>Total Tax Appraisal</b>	\$18,000	<b>Total Assessment</b>	\$4,500		
		<b>Exempt Amount</b>			
		<b>Exempt Reason</b>			

## TAXES

Tax Year	City Taxes	County Taxes	Total Taxes
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# Tax Information - Lot 34



## Property Report for INDIGO BUNTING DR. cont.

2019	\$120.83	\$120.83
2018	\$193.13	\$193.13
2017	\$193.13	\$193.13
2016	\$193.13	\$193.13
2015	\$193.13	\$193.13
2014	\$163.50	\$163.50
2013	\$163.50	\$163.50

### MORTGAGE HISTORY

No mortgages were found for this parcel.

### PROPERTY CHARACTERISTICS: BUILDING

No Buildings were found for this parcel.

### PROPERTY CHARACTERISTICS: EXTRA FEATURES

No extra features were found for this parcel.

### PROPERTY CHARACTERISTICS: LOT

<b>Land Use</b>		<b>Lot Dimensions</b>	106 X 200.39 IRR
<b>Block/Lot</b>	/34	<b>Lot Square Feet</b>	
<b>Latitude/Longitude</b>	35.928943°/-84.489556°	<b>Acreage</b>	

### PROPERTY CHARACTERISTICS: UTILITIES/AREA

<b>Gas Source</b>		<b>Road Type</b>	Curb/Gutter Paved
<b>Electric Source</b>	Public	<b>Topography</b>	Rolling
<b>Water Source</b>	Public	<b>District Trend</b>	Z
<b>Sewer Source</b>	Public	<b>Special School District 1</b>	
<b>Zoning Code</b>		<b>Special School District 2</b>	
<b>Owner Type</b>			

### LEGAL DESCRIPTION

<b>Subdivision</b>	Swan Harbour	<b>Plat Book/Page</b>	PCB/19
<b>Block/Lot</b>	/34	<b>District/Ward</b>	01

### Description

### FEMA FLOOD ZONES

Zone Code	Flood Risk	BFE	Description	FIRM Panel ID	FIRM Panel Eff. Date
X	Minimal		Area of minimal flood hazard, usually depicted on FIRMs as above the 500-year flood level.	47145C0115F	09/28/2007



