

2004 10658

Recorded in the Above

MISC Book & Page

08-16-2004 08:27:24 AM

Bobby Day - Probate Judge

State of Alabama, Morgan County

**Declaration of Covenants and Restrictions  
of**

*Deerfoot Estates*  
*Addition #1*

## Declaration of Covenants and Restrictions for Deerfoot Estates Addition #1

THIS DECLARATION made this 13 day of August, 2004, by BB&P, LLC, (hereinafter "Developer"),

WITNESSETH:

WHEREAS, Developer is the owner of a tract of land containing 10.74 acres, more or less, lying in City of Decatur, Morgan County, State of Alabama, being more particularly described in Article II of this Declaration; and,

WHEREAS, Developer has constructed or will construct upon said property, parks, open spaces and other common area facilities; and,

WHEREAS, Developer desires to provide for the preservation of the values of the development and for the maintenance of said parks, open spaces and other common area facilities and, to this end, desires to subject the real property described in Article II, together with such additions as may hereafter be made thereto (as provided in Article II) to the covenants, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof; and,

WHEREAS, Developer has deemed it desirable, to create an entity to which should be delegated and assigned the powers of maintaining and administering the common area facilities and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created; and,

WHEREAS, Developer has incorporated under the laws of the State of Alabama, as a non-profit corporation, Deerfoot Estates Homeowners Association for the purpose of exercising the aforesaid functions;

NOW THEREFORE, the Developer declares that the real property described in Article II, and such additions thereto as hereafter may be made pursuant to Article II hereof, is and shall be held, transferred, sold, conveyed, used and occupied subject to the covenants, restrictions, easements, charges and liens (herein sometimes referred to as "covenants and restrictions") hereinafter set forth, which are for the purpose of protecting the value and desirability of, and which shall run with the title to, the real property hereby or hereafter made subject hereto, and shall be binding on all persons having any right, title or interest in all or any portion of the real property now or hereafter made subject hereto, their respective heirs, legal representatives, successors, successors-in-title, and assigns and shall insure to the benefit of each and every occupant of all or any portion thereof.

**ARTICLE I  
DEFINITIONS**

**Section 1.** The following words when used in this Declaration or any Supplemental Declaration (unless the context shall prohibit) shall have the following meanings:

- (a) "Association" shall mean and refer to Deerfoot Estates Homeowners' Association, its successors and assigns.
- (b) "Assessments" shall include annual assessments, special assessments and membership fees.
- (c) "Board" shall mean and refer to Board of Directors of the "Association".
- (d) "The Properties" shall mean and refer to all such existing properties, and additions thereto, as are subject to this Declaration or any Supplemental Declaration under the provisions of Article II hereof.
- (e) "Common Properties" shall mean and refer to: 1) those areas of land shown on any recorded subdivision plat of The Properties which are designated as Common Areas; and 2) any easement rights or interests reserved by or granted to the Association, all of which are intended to be devoted to the common use and enjoyment of the owners of the Properties.
- (f) "Lot" shall mean and refer to any tract or parcel of land which is designated by a number upon any recorded subdivision plat of The Properties.
- (g) "Living Unit" shall mean and refer to any portion of a building situated upon The Properties designed and intended for use and occupancy as a residence by a single family.
- (h) "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot situated upon The Properties but, notwithstanding any applicable theory of the mortgage, shall not mean or refer to any mortgagee unless and until such mortgagee has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.
- (i) "Lot Line" shall mean any boundary of a Lot as shown on a subdivision plat duly recorded in the office of the Judge of Probate of Morgan County, Alabama.

- (j) "Member" shall mean and refer to all those Owners who are members of the "Association" as provided in Article IV hereof.
- (k) "Dwelling Lot" shall mean a lot intended for improvement with a dwelling.
- (l) "Dwelling" shall mean any building located on a dwelling lot and intended for the shelter and housing of a single family.
- (m) "Dwelling Accessory Building" shall mean a subordinate building or a portion of a Dwelling, the use of which is incidental to the dwelling and customary in connection with that use.
- (n) "Single Family" shall mean one or more persons each related to the other by blood, marriage or adoption, or a group of not more than three persons, not all so related, together with his or her domestic servants, maintaining a common household.
- (o) "Parkway" shall mean the unimproved strip of land between a Lot Line and the improved portion of the street right-of-way, but shall in no case mean any Common Properties.
- (p) "Structure" shall mean anything erected or constructed, the use of which requires more or less permanent location on or in the ground, or attached to something having a permanent location on or in the ground. Any fence, sign or other advertising device is deemed to be a structure.
- (q) "Architectural Control Committee" shall mean the committee provided for in Article III, Section 2 (b) hereof.
- (r) "Vehicles" shall mean and include, without limitation, boats, boat trailers, motor homes, mobile homes, house trailers, motorcycles, minibikes, scooters, go-carts, trucks, campers, buses, vans, and automobiles.

**ARTICLE II  
PROPERTY SUBJECT TO THIS DECLARATION  
AND  
ADDITIONS THERETO**

Section 1. Existing Property. The real property which is, and shall be held, transferred, sold, conveyed, used and occupied, subject to this Declaration is located in the City of Decatur, Morgan County, Alabama, and is more particularly described as follows:

Lots 1 through 17 inclusive, of Deerfoot Estates Addition #1, Decatur, Alabama

as shown by Plat thereof recorded in the Office of the Judge of Probate of Morgan County, Alabama in Map Book 2004, at Page 23.

all of which real property shall hereinafter be referred to as "Existing Property".

Section 2. Additions to Existing Property. The Developer, BB&P, LLC, its successors and assigns, shall have the right to bring within the plan of this Declaration additional properties in future stages of the development. The additions authorized under this and the succeeding subsection shall be made by filing for record a Supplemental Declaration of Covenants and Restrictions with respect to the additional property which shall extend the plan of the covenants and restrictions of this Declaration to such additional property. Such Supplemental Declaration may contain such complementary additions and modifications of the covenants and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the added properties. In no event, however, shall such Supplemental Declaration revoke, modify or add to the covenants established by this Declaration regarding the Existing Property. The Developer may make and the Association shall accept such additions pursuant to this subsection.

- (a) Other Additions. Upon approval in writing of the Association pursuant to a vote of its members as provided in its Articles of Incorporation, the owner of any property who desires to add it to the plan of this Declaration and to subject it to the jurisdiction of the Association may file for record a Supplemental Declaration of Covenants and Restrictions.

Section 3. Additions to Common Properties. The Developer, his successors and assigns, reserves the right to make additions to the Common Properties including, but not limited to, landscape areas, drainage areas, earth berm areas, jogging and bicycle paths in subsequent phases of the development of The Properties at any time by grant of easement or deed of fee simple to the Association without approval of the Association. The Developer, however, shall not be obligated to make such additions.

### ARTICLE III USE AND ARCHITECTURAL RESTRICTIONS

Section 1. General Provisions. The Properties shall be subject to the following use restrictions:

- (a) Land Use. The Properties shall be used for private residential purposes only, provided, however, that nothing herein contained shall prohibit the development and use of:
  - 1. Common Properties shown on recorded plats, or plats to be

recorded.

2. Areas shown on a recorded plat, or plats to be recorded, which are subject to utility easements, including miscellaneous structures to house machinery and equipment used to furnish such utilities.
  3. Dedicated street rights-of-way.
- (b) Nuisances. No noxious or offensive activity shall be carried on upon any portion of The Properties, nor shall anything be done thereon that may be or become a nuisance or annoyance to the neighborhood.
- (c) Grades. Within any slope control area established by the Developer or drainage easement on any recorded subdivision plat, no structure, planting, or other materials shall be placed or permitted to remain, nor shall any activity be undertaken, which may damage or interfere with established slope ratios, create erosion or earth control problems, or change the direction of flow of drainage channels, or obstruct or retard the flow of water through drainage channels. The slope control areas of each Lot or other parcel and all improvements in them shall be maintained continuously by the Owner, except for those improvements for which a public-authority or utility company is responsible. The finished floor of the dwelling shall be a minimum of 12 inches above the top of the front curb for the lot. It shall be the responsibility of each lot owner to develop proper drainage to comply with City of Decatur drainage requirements and to control water run off so that it does not adversely affect other lots.
- (d) No Commercial Activities. No commercial activity of any kind shall be conducted on any Lot or in any Living Unit, without the written consent of the Board, but nothing herein shall prohibit the carrying on of promotional activities by the Developer or other parties authorized in writing by the Developer.

- (e) Animals and Pets. No animals, livestock, or poultry of any kind may be raised, bred, kept, or permitted on any Lot, with the exception of dogs, cats, or other usual and commons household pets in reasonable number, as determined by the Board; provided however, those pets which are permitted to roam free, or in the sole discretion of the Board, endanger health, make objectionable noise, (including, but not limited to persistent barking dogs) or constitute a nuisance, or inconvenience to the Association members or occupants or the owner of any property located adjacent to The Properties may be removed by the Board. No pets shall be kept, bred, or maintained for any commercial purposes. Dogs which are household pets shall at all times whenever they are outside a Residence be on a leash or otherwise confined in a manner acceptable to the Board. Without prejudice to the Board's right to remove any such household pets, no household pet that has caused damage or injury may be walked in The Properties. Animal control authorities shall be permitted to enter The Properties to patrol and remove pets. Pets shall be registered, licensed and inoculated as required by law.
- (f) Parking of Vehicles. No junk vehicles shall be permitted to be parked or to be stored on The Properties at any time. No vehicle may be left upon any portion of The Properties, except in a garage, driveway, or other area designated by the Board. The following vehicles shall not be allowed to be parked or stored on The Properties at any time: campers, motor homes, buses, mobile homes, house trailers, or trucks, except for standard size and smaller pick-up trucks. All boats and boat trailers must be stored inside garages. No vehicles shall be allowed to park in the public street right of way.
- (g) Outside Clotheslines and Poles. No outside clotheslines or poles for attaching wires or lines for the purpose of hanging clothes or laundry thereupon shall be erected, installed or constructed on The Properties.
- (h) Storage Tanks. No tanks, receptacles or containers

of any nature for the storage of fuel, water or other substances shall be placed, erected, installed, or kept on The Properties, except for containers of five (5) gallons or less used for storing fuel for lawn maintenance equipment.

- (i) Temporary Structures. No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuildings shall be constructed or used on The Properties at any time as a residence, either temporarily or permanently; provided, however, nothing herein contained shall restrict the Developer, or agents assigned by the Developer, from locating, constructing or moving a temporary real estate office or temporary construction field office on The Properties to be used during the period of construction and sale of the property within any phase of the project. The Developer, or builders who acquire Lots or acreage parcels from the Developer, may also erect and maintain model homes for sales purposes and may operate such or models therein for so long as the Developer, or builder, deems necessary for the purpose of constructing and selling property within the project.
- (j) Signs. No signs, advertisements, billboards, campaign signs, or advertising structures of any kind may be displayed, erected or maintained on The Properties except one advertising board for each Lot. The size, style, color, and design of the advertising board shall be determined by the Board of Directors and shall not be more than 6.25 square feet in size and may be used for the sole and exclusive purpose for advertising for sale the Lot to which it refers and except that the Developer and/or builder, designated in writing by the Developer, during the construction and sales period (which shall continue until the last Lot or parcel is sold), and during which the Developer, and/or builders designated in writing by the Developer, expressly reserve the right to place, erect and maintain signs, billboards, or other structures for information, advertising, sales and rental purposes.
- (k) Drilling and Quarrying. No oil drilling, oil development operations, oil refining, quarrying or



mining operations of any kind shall be permitted upon or in The Properties, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in The Properties. No derrick or other structure designed for use in boring oil or natural gas shall be erected, maintained or permitted upon The Properties.

- (l) Dumping of Rubbish. The Properties shall not be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall be kept in sanitary containers. Such containers or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition and shall be placed on the curb or other designated area for collection only on the days designated for pickup.
- (m) Sewage Disposal. No individual sewage treatment or disposal system shall be permitted on The Properties unless such system is first approved by the appropriate governmental authorities, and approved by the Board of Directors.
- (n) Water Supply. No individual water supply system shall be permitted on The Properties unless such system is first approved by the appropriate governmental authorities, and approved by the Board of Directors.
- (o) Utility Easements. Easements for installation and maintenance of utilities and drainage facilities are dedicated on recorded plat(s). Such easements shall include the right of ingress and egress for construction and maintenance purposes. Within these easements, no Structure, planting or other material shall be placed or permitted to remain which may damage any facility installed in accordance with said easement, or interfere with the installation and maintenance of utilities, or which may change the direction of the flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each Lot or of the Common Properties and all improvements in them shall be maintained continuously by the

Owner of the Lot or by the Association (in the case of Common Properties) except for those improvements for which a public authority or utility company is responsible.

- (p) Easements for Plants, Trees and Shrubs. Easements for the installation and maintenance of plants, trees and shrubs are reserved by and dedicated to the Developer, its successors and assigns, on the recorded plat(s). Within these easements, the Developer may (but shall not be required to) install and maintain plants, trees and shrubs for the common enjoyment of all of the Owners of Lots. The easement area of each Lot (including the grass lawn and any other plantings installed by the Owner, but excluding any plants, trees or shrubs installed by the Developer) shall be maintained continuously by the Owner of each Lot and each such Owner shall not disturb, damage or remove any such plants, trees and shrubs installed by the Developer nor install any other plants, trees or shrubs in the easement area which unreasonably interfere with those of the Developer or detract from the overall appearance of the Lot.
- (q) Care and Appearance of Premises. The Structures on and grounds of The Properties will be maintained in a neat and attractive manner prior to, during, and after completion of construction. Such maintenance shall include, but is not necessarily limited to, cutting grass, trimming trees and shrubbery, and removing weeds as required by the Board of Directors.
- (r) Nuisance. It shall be the responsibility of each Owner and Occupant to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on his or her property. No area within The Properties shall be used, in whole or in part, for the storage of any property or thing that will cause such Residence to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or

serenity of the occupants of surrounding property. No noxious or offensive activity shall be carried on within The Properties, nor shall anything be done tending to cause embarrassment, discomfort, annoyance, or nuisance to any Person using any property within The Properties. There shall not be maintained any plants or animals or devise or thing of any sort whose activities or existence is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of The Properties.

- (s) Unsightly or Unkempt Conditions. The pursuit of hobbies or other activities, including specifically, without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken in any part of The Properties.

Section 2. Provisions Applicable to Lots 1 through 17, Deerfoot Estates Addition #1, Decatur, Alabama, as shown by plat thereof recorded in the office of the Judge of Probate of Morgan County, Alabama, in Map Book 2004, at Page 23, shall be subject, in addition to the General Provisions set forth above, to the following restrictions:

- (a) Land Use. None of said Lots may be improved, used or occupied other than for private, Single Family residential purposes (except that model homes used by the Developer or builder designated in writing by the Developer shall be permitted). No Structure shall be erected, placed or maintained on any of said Lots other than one (1) Single Family Dwelling together with usual and customary Dwelling Accessory buildings. No garage, or other Dwelling Accessory Building may be erected prior to construction of the Dwelling itself.
- (b) Review by Architectural Control Committee. No building, fence, wall or other Structure shall be commenced, constructed, erected or maintained upon any of said Lots nor shall any exterior additions to or change or alteration to any existing structure therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall

have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by an Architectural Control Committee composed of five (5) members appointed by the Developer, which power of appointment shall be and remain in the Developer until such time as Dwellings have been constructed on each of Lots 1-15 of Deerfoot Estates and each Lot of any subsequent additions to said Subdivision. Until Developer appoints an Architectural Control Committee, which shall be no later than March 1, 2005, all plans and specifications referred to above shall be submitted to and must be approved by the Developer. Thereafter, such power of appointment shall be vested in the Board of Directors of the Association. The following items shall be submitted to the Architectural Control Committee for new home construction: house plans, site plans, landscaping plans and exterior color and material specifications. In the event said Committee fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, or in any event, if no suit to enjoin the addition, alteration or change has been commenced prior to the completion thereof, approval will not be required and this Article will be deemed to have been fully complied with.

The Architectural Control Committee shall be the sole arbiter of such plans and may withhold approval for any reason, including purely aesthetic considerations, and it shall be entitled to stop any construction in violation of these restrictions. Any member of the Board or its representatives shall have the right, during reasonable hours and after reasonable notice, to enter upon any property to inspect for the purpose of ascertaining whether or not these restrictive covenants have been or are being complied with. Such Person or Persons shall not be deemed guilty of trespass by reason of such entry. In addition to any other remedies available to the Association, in the event of noncompliance with this Section, the Board may, record in the appropriate land records a notice of violation naming the violating Owner.

Plans and specifications are not approved for engineering or structural design or quality of materials, and by approving such plans and specifications neither the Architectural Control Committee, the members thereof, nor the Association assumes liability or responsibility therefore, nor for any defect in any structure constructed from such plans and specifications. Neither the Developer, the Association, the Architectural Control Committee, the Board, nor the officers, directors, members, employees, and agents of any of them shall be liable in damages to anyone submitting plans and specifications to any of them for approval, or to any Owner of property affected by these restrictions by reason of mistake in judgment, negligence, or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such plans or specifications. Every Person who submits plans or specifications and every Owner agrees that he will not bring any action or suit against Declarant, the Association, the Architectural Control Committee, the Board, or the officers, directors, members, employees, and agents or any of them to recover any such damages and hereby releases, remises, quit-claims, and covenants not to sue for all claims, demands, and causes of action arising out of or in connection with any judgment, negligence, or nonfeasance and hereby waives the provisions of any law which provides that a general release does not extend to claims, demands, and causes of action not known at the time the release is given.

The Architectural Review Committee's authority to review and approve any plans and specifications as provided herein is a right not an obligation. Contractors and Owners shall have the sole obligation to oversee and to construct dwellings in accordance with the restrictions hereof and the plans and specifications approved by the Architectural Review Committee.

Neither the Committee nor any architect nor agent thereof nor the developer shall be responsible to

check for any defects in any plans or specifications submitted, revised or approved in accordance with the foregoing provisions, or for any structural or other defects in any work done according to such plans and specifications. It is the sole responsibility of the Owner to make sure that all improvements on each Lot are constructed in accordance with these restrictive covenants.

(c) Architectural Restrictions. The following architectural restrictions shall apply to all construction of buildings, alterations, additions or improvements thereto, and exterior decorating thereof, and shall guide the decisions of and be taken into account by the Developer and by the Architectural Control Committee.

(i) All buildings, Structures and other improvements shall be constructed in full compliance with all applicable ordinances, rules and regulation of the City of Decatur, Alabama. The exterior of all buildings shall be restricted to brick. Other materials may be used for architectural accent as approved by the Architectural Control Committee. Vinyl eaves, soffits, and gables are allowed, as approved by the Architectural Control Committee. Only wood frame or vinyl clad windows will be used on all buildings constructed on the Lots, unless specifications approved in writing by the Architectural Control Committee.

(ii) The ground floor area of the main Dwelling, exclusive of one-story open porches, garages and unheated storage areas, shall not be less than 1,900 square feet for one-story Dwelling nor less than 1,500 square feet for a Dwelling of more than one-story, provided, however, that in no event shall the total floor area, exclusive of one-story open porches,

garages and unheated storage areas,  
be less than 2,500 square feet.

- (iii) Each Dwelling shall have a garage with functioning doors, which must be attached to the Dwelling unless otherwise approved by the Architectural Control Committee. Carports are not permitted. Garage doors shall be kept closed at all times, except during times of ingress and egress from the garage. Accessory structures and buildup of any kind and attached garages must be approved by the Architectural Control Committee and must be the same style and construction as the main building, and be of at least 175 square feet.
- (iv) Swimming pools must be located to the rear of the main dwelling and shall be no nearer than five (5) feet to any Lot line.
- (v) No block foundation wall may be exposed. If a building is faced with brick, the foundation wall shall be faced to grade with brick. If a building is faced with another material for architectural accent, the foundation walls shall be faced to grade with the same material at that location. The Architectural Control Committee must approve this use of material.
- (vi) All roofs shall be shingles of a dark tone and color, as approved by the Architectural Control Committee. Roof pitches must be not less than 8 over 12, unless approved by the Architectural Control Committee.
- (vii) Air conditioning and heating units whether located on building sides

and roofs or on the ground shall be screened so as not to be visible from any street.

- (viii) No fence, wall hedge or mass planting shall be permitted to extend nearer to any street than the front building line. Boundary fences or walls may be erected, provided that the same are set back from the street no closer than ten feet back from the front building line. No walls, other than retaining walls, may be constructed along the front lot line of any Lot. No retaining wall shall extend to a height greater than three (3) feet above the earth being retained. No boundary fence or wall, nor any fence or wall enclosing a patio or courtyard, shall extend to a height greater than eight (8) feet from ground level except with the consent of all adjoining lot Owners and the approval of the Architectural Control Committee. All boundary fences and walls must be of brick, stone, stucco, wrought iron or other material approved by the Architectural Control Committee. No chain-link or wire fences of any kind are permitted. Decorative fences of wood shall be permitted only with the prior approval of the Architectural Control Committee, which shall determine the design, style, height, color, and all other modifications of said fences.

No privacy fencing will be allowed along lot lines that run parallel with and which are contiguous to Shady Grove Lane, and no privacy fencing will be allowed on lots 1, 3, and 4 except where said lots are contiguous to neighboring residential lots. Privacy landscaping will be allowed



in these locations.

- (d) Use and Occupancy Restrictions. The following use and occupancy restrictions shall apply to each Lot:
- (i) The common areas and facilities shall be used only by the Lot Owners and their agents, servants, family members, customers, invitees and licensees for such other purposes incidental to use of the Lots. The use, maintenance and operation of the Common Properties and facilities shall not be obstructed, damaged or unreasonably interfered with by any Lot Owner.
  - (ii) No unlawful, noxious or offensive activities shall be carried on upon any Lot or elsewhere on The Properties, nor shall anything be done therein or thereon which shall constitute a nuisance.
  - (iii) No structure of a temporary character, trailer, tent, shack, garage, barn or other outbuildings shall be permitted on the Property at any time temporarily or permanently, except with the prior written consent of the Architectural Control Committee;
  - (iv) Mail boxes of a type, style and color, as determined by the Architectural Control Committee, shall be provided by the Owner of each Lot and shall be maintained by the Owner at all times.
  - (v) Articles of personal property belonging to any Lot Owner, such as baby carriages, bicycles, wagons, toys, furniture, clothing and other articles, shall only be stored or kept in the residence of the Lot. The parking of boats and boat trailers

shall only be inside the garages of each Lot Owner.

- (vi) Parking in the driveway of any Lot or on the adjacent street shall be permitted only for guests of Lot Owners and visitors as further provided by the Board. Additionally, the Developer may permit the use of certain designated open spaces for the parking of Vehicles on special occasions.
- (vii) Sales of personal property by any Lot Owner on the Lot, "yard sales", "garage sales", "patio sales" and similar sales to the general public are prohibited.
- (viii) The pursuit of hobbies or other inherently dangerous activities, including without limitation, the assembly and disassembly of Vehicles or other mechanical devices of any type or size, and other such activities shall not be pursued or undertaken on any part of any Lot or upon the Common Properties without the consent of the Architectural Control Committee.
- (ix) Construction of the main structure must begin within 12 months of the initial purchase of the lot from the developer and must be completed within 9 months from the date construction is begun. The Developer has the right to extend this schedule at will. Construction shall be considered to have begun on the date a building permit is issued by the City of Decatur Building Department and shall be considered complete on the date a Certificate of Occupancy is issued by the City of Decatur Building Department. In

the event either the commencement or completion deadlines are not met, the owner must pay the association additional monthly assessments in the amount of \$500.00 per month until such deadline is met. Such assessments shall become a lien against the lot, as provided in Article VI. No Dwelling shall be permitted to stand with its exterior in an unfinished condition for longer than nine (9) months after commencement of construction. In the event of fire, windstorm, or other damage, no Dwelling or Dwelling Accessory Building shall be permitted to remain in a damaged condition longer than three (3) months. During construction, the lot shall be maintained free of trash and other debris, except for customary construction materials and all grass, shrubs, and trees on said lot shall be trimmed to provide a neat appearance.

- (x) Every Dwelling shall front or present a good frontage on the street on which it is located. No Dwelling shall face Deerfoot Way, and no driveway shall enter from Deerfoot Way. Dwellings located on a corner lot shall front or present a good frontage on both streets.

Each dwelling shall be set back not less than 35 feet from the front lot line and shall be set back from the side and rear lot lines as provided by the City of Decatur Zoning Ordinance.

- (xi) No fence, wall, hedge, or shrub planting shall be permitted to obstruct sight lines at elevations between three and six feet above the

streets and roadways in such a fashion as to create a danger to vehicular traffic on any of said lots which is a corner Lot.

- (xii) The Owner of each of said lots shall be responsible for the maintenance of Parkway(s) located between his Lot and the concrete curb(s) on which said Lot borders.
- (xiii) No permanent electric service line, telephone line, cable television line, or any other service connection line of any nature (except those serving The Properties in general) located between a source of power or a source of distribution and a Dwelling erected, maintained or relocated above the surface of the ground on any Lot.
- (xiv) Unless first approved by the Architectural Control Committee, no outside radio or television antenna or satellite receiver or dish shall be erected, installed or permitted on any Lot and in no event shall any such antenna or dish be in excess of 18" in diameter or visible from the street.
- (xv) Automatic underground sprinkler systems will be encouraged on each lot to adequately provide a source of water for all lawns, shrubs and plantings, including the Parkway located between the lot line and concrete curb.
- (xvi) The use of firearms on The Properties is prohibited. The term "firearms" shall not include "B-B" guns or pellet guns.
- (xvii) All garbage cans, woodpiles, swimming pool pumps, filters and

related equipment, air conditioning compressors and other similar items shall be located or screened so as to be concealed from view of neighboring streets and property. All rubbish, trash, and garbage shall be regularly removed and shall not be allowed to accumulate.

- (xviii) Except as may be permitted by the Architectural Control Committee or its designee, no window air-conditioning units may be installed.
- (xix) Except for approved lighting as originally installed on a Residence, exterior lighting visible from the street shall not be permitted, except for (a) two (2) decorative post lights; (b) landscape lighting, (c) seasonal decorative lights at Christmas; or (d) front house illumination of model homes.
- (xx) No artificial vegetation shall be permitted on the exterior of any property. Exterior sculpture, fountains, flags, and similar items must be approved by the Architectural Control Committee or its designee. No limestone or other stone riprap or other similar treatment for architectural features, bank or berm enhancement, drainage ditch lining or like features will be allowed without the approval of the Architectural Control Committee.
- (xxi) No solar energy collector panels or attendant hardware or other energy conservation equipment shall be constructed or installed unless they are in an integral and harmonious part of the architectural design of a structure, as determined in the sole discretion of the Architectural

Control Committee or its designee.

- (xxii) Except as may be permitted by the Architectural Control Committee or its designee, above ground swimming pools shall not be erected.
- (xxiii) Except as may be permitted by the Architectural Control Committee or its designee, driveways shall be constructed with concrete.
- (xxiv) The portion of all window coverings visible from the exterior of any Residence shall be white or off-white or neutral unless otherwise prior approved by the Architectural Control Committee or its designee. Aluminum foil on windowpanes, mirrored or reflective glass is not allowed.
- (xxv) The owner of each lot shall be required to plant and maintain two 3" caliber deciduous canopy trees, as approved by the Architectural Control Committee, per lot, planted in the front yard. Examples of such trees include but are not limited to: ash, maple, oak, tulip, poplar, willow oak and red oak.
- (xxvi) Upon the completion of a residence, all front and side yards will be landscaped entirely with sod. The rear yard may, at builder's or owner's option, be sprigged.
- (xxvii) Each Lot owner must, not later than completion of the residence, construct all sidewalks shown on the plat of the Lot, and said construction shall be in compliance with the requirements and standards specified in the City of Decatur Subdivision Regulations.

**ARTICLE IV  
MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION**

Section 1. Membership. Every person or entity who is a record owner of a fee or undivided fee interest in any Lot which is subject by this Declaration to assessment by the Association shall be a Member of the Association, provided that any such person or entity who holds such interest merely as a security for the performance of an obligation shall not be a Member.

Section 2. Voting Rights.

Members shall be all those owners as defined in Section I with the exception of the Developer and with the exception of any builder or builders designated in writing by the Developer. Members shall be entitled to one vote for each Lot in which they hold the interests required for membership by Section 1. When more than one person holds such interest or interests in any Lot all such persons shall be members, and the vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any such Lot.

The Developer, or such builder or builders as are designated by the Developer in writing. The Class B member shall be entitled to five (5) votes for each Lot in which it holds the interest required for membership by Section 1.

**ARTICLE V  
PROPERTY RIGHTS IN THE COMMON PROPERTIES**

Section 1. Members' Easements of Enjoyment. Subject to the provisions of Section 3, every Member shall have a right and easement of enjoyment in and to the Common Properties and such easement shall be appurtenant to and shall pass with the title to every Lot.

Section 2. Title to the Common Properties. The Developer may retain the legal title to the Common Properties until such time as he has completed improvements thereon and until such time as, in the opinion of the Developer, the Association is able to manage and operate the same but, notwithstanding any provision herein, the Developer hereby covenants, for himself, his successors and assigns, that he shall convey not later than January 1, 2012, the Common Properties to the Association, free and clear of all liens and encumbrances, except for the right of

the Developer set forth in Section 3 (f) of this Article V, except for existing utility and drainage easements, and except for the right reserved by the Developer to place utilities over, under and across said Common Properties to serve other areas being developed by the Developer.

Section 3. Extent of Members Easements. The rights and easements of enjoyment created hereby shall be subject to the following:

- (a) The right of the Developer (prior to the conveyance of the Common Properties to the Association) and of the Association, in accordance with its Articles and By-Laws, to borrow money for the purpose of improving the Common Properties and in aid thereof to mortgage said Common Properties. In the event of a default upon any such mortgage the lender's rights hereunder shall be limited to a right, after taking possession of such Common Properties, to charge admission and other fees as a condition to continued enjoyment by the Members and, if necessary, to open the enjoyment of such Common Properties to a wider public until the mortgage debt is satisfied, whereupon the possession of such Common Properties shall be returned to the Association and all rights of the Members hereunder shall be fully restored; and,
- (b) The right of the Association to take such steps as are reasonably necessary to protect the Common Properties against foreclosure; and,
- (c) The right of the Association, as provided in its Articles and By-Laws, to suspend the enjoyment rights of any Member for any period during which any assessment remains unpaid, and for any period not to exceed thirty (30) days for any infraction of its published rules and regulations; and,
- (d) The right of the Association to charge reasonable admission and other fees for the use of the Common Properties; and,
- (e) The right of the Association to dedicate or transfer all or any part of the Common Properties to any public agency, authority, utility or other entity for such purposes and subject to such conditions as may be agreed to by the members, provided that no such dedication or transfer, determination as to the



purposes or as to the conditions thereof, shall be effective unless an instrument signed by members entitled to cast two-thirds (2/3) of the votes of each class of membership has been recorded in the Office of the Judge of Probate of Morgan County, Alabama, agreeing to such dedication, transfer, purpose of condition, and unless written notice of the proposed agreement and action thereunder is sent to every Member at least sixty (60) days in advance of any action taken.

- (f) The right of the Developer or a builder or builders designated in writing by the Developer to use portions of The Properties as a sales and informational center until the last Lot is sold.

## **ARTICLE VI**

### **COVENANT FOR ASSESSMENTS AND MEMBERSHIP FEES**

Section 1. Creation of the Lien and Personal Obligation of Assessments. Each Owner of any Lot, excluding the Developer, by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association: (1) annual assessments or charges; (2) special assessments for capital improvements, such assessments to be fixed, established, and collected from time to time as hereinafter provided; (3) membership fees; (4) delinquency assessments as provided in Section 2 (d) (ix). The annual and special assessments and membership fees, together with such interest thereon and costs of collection thereof as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with such interest thereon and cost of collection thereof as hereinafter provided, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment became due.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the residents in The Properties and in particular for the improvement and maintenance and operation of the Common Properties and for the services related to the use and enjoyment of the Common Properties, including but not limited to, the payment of taxes and insurance thereon and repair, replacement, and additions thereto, and for the cost of labor, equipment, materials, management and supervision thereof.

Section 3. Basis and Maximum of Annual Assessments. Until the year beginning January 1, 2008, the annual assessment shall be a maximum of \$480.00 per Lot which may be assessed in twelve equal monthly installments, if the Board of Directors determines that such monthly assessment is in the best interest of the Association. The initial amount of assessments shall be determined by the Board and shall be increased by the Board up to said maximum amount of

\$480.00 per year as amenities are completed. From and after January 1, 2008, the annual assessment may be increased by vote of the Members, as hereinafter Provided, for the next succeeding one (1) year and at the end of each such period of one (1) year for each succeeding period of one (1) year.

The Board of Directors of the Association may, after consideration of current maintenance costs and future needs of the Association, fix the actual assessment for any year at a lesser amount.

**Section 4. Special Assessments for Capital Investments.** In addition to the annual assessments authorized by Section 3 hereof, the Association may levy in any assessment year a special assessment, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or placement of a described capital improvement upon the Common Properties, including the necessary fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of Members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all Members at least thirty (30) days in advance and shall set forth the purpose of the meeting.

**Section 5. Change in Basis and Maximum of Annual Assessments.** Subject to the limitations of Section 3 hereof, and for the periods therein specified, the Association may change the maximum and basis of the assessments filed by Section 3 hereof prospectively for any such period, provided that any such change shall have the assent of two-thirds (2/3) of the votes of Members who are voting in person or by proxy, at a meeting duly called for this purpose, written notice of which shall be sent to all Members at least thirty (30) days in advance and shall set forth the purpose of the meeting.

**Section 6. Quorum for Any Action Authorized Under Sections 4 and 5.** The quorum required for any action authorized by Sections 4 and 5 hereof shall be as follows:

At the first meeting called, as provided in Sections 4 and 5 hereof, the presence at the meeting of Members, or of proxies, entitled to cast sixty percent (60) of all the votes of the membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement set forth in Sections 4 and 5, and the required quorum at any such subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting, provided that no such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

**Section 7. Date of Commencement of Annual Assessments; Due Dates.** The annual assessments provided for herein shall commence on the date (which shall be the first day of a month) fixed by the Board of Directors of the Association to be the date of commencement.

The first annual assessments shall be made for the balance of the calendar year and shall become due and payable on the day fixed for commencement. The assessments for any year, after the first year, shall become due and payable on the first day of January of said year, or in the case of monthly installments, on the first day of each month.

The amount of the annual assessment which may be levied for the balance remaining in the first year of assessment shall be an amount which bears the same relationship to the annual assessment provided for in Section 3 hereof as the remaining number of months in that year bear

to twelve. The same reduction in the amount of the assessment shall apply to the first assessment levied against any property which is hereafter added to the properties now subject to assessment at a time other than the beginning of any assessment period.

The due date of any special assessment under Section 4 hereof shall be fixed in the resolution authorizing such assessment.

Assessments shall begin to accrue on each lot on the date title is first transferred from the Developer.

Section 8. Duties of the Board of Directors. Subject to the provisions to Section 5 hereof, the Board of Directors of the Association shall fix the date of commencement and the amount of the assessment against each Lot for each assessment period of at least thirty (30) days in advance of such date or period and shall, at that time, prepare a roster of the properties and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Owner.

Written notice of the assessment shall thereupon be sent to every Owner subject thereto. The Association shall upon demand at any time furnish to any Owner liable for said assessment a certificate in writing signed by an officer of the Association, setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 9. Effect of Non-Payment of the Assessment; The Personal Obligation of the Owner; The Lien; Remedies of Association. If the assessments are not paid on the date when due (being the dates specified in Section 7 hereof), then such assessment shall become delinquent and shall, together with interest thereon and costs of collection thereof as hereinafter provided, thereupon become a continuing lien on the Lot which shall bind such Lot in the hands of the then Owner, his heirs, devisees, personal representatives and assigns. The personal obligation of the then Owner to pay such assessment, however, shall remain his personal obligation and shall not pass to his successors in title unless expressly assumed by them.

If the assessment is not paid within thirty (30) days after the delinquency date, the assessment shall, bear interest from the date of delinquency at the rate of ten percent (10) per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same or to foreclose the lien against the property, and there shall be added to the amount of such assessment the costs of preparing and filing the complaint in such action, and in the event a judgment is obtained, such judgment shall include interest on the assessment as above provided and a reasonable attorney's fee to be fixed by the court together with the costs of the action.

Section 10. Subordination of the Lien of Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any mortgage or mortgages now or hereinafter placed upon the properties subject to assessment; provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to any mortgage foreclosure sale or decree of mortgage foreclosure. Such sale or transfer shall not relieve such property from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessment.

Section 11. Exempt Property. The following property subject to this Declaration shall be exempted from the assessments, charge and lien created herein: (a) all landscape easements

dedicated on recorded plat(s) and (b) all Common Properties.

Notwithstanding any provisions herein, no land or improvements devoted to Dwelling use shall be exempt from said assessments, charges or liens.

Section 12. Membership Fees. An association membership fee in the amount of \$100.00, or any other amount as designed by the Board, shall be due 30 days after the initial Certificate of Occupancy is issued by the City of Decatur Building Department for the Dwelling. Each time title of a lot is transferred, said membership fee shall also be payable by each subsequent owner upon the transfer of title.

## **ARTICLE VII GENERAL PROVISIONS**

Section 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 the Association or the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of twenty-five (25) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for excessive periods of ten (10) years unless an instrument signed by the then owners of three-quarters (3/4) of the Lots has been recorded, agreeing to change said covenants and restrictions in whole or in part provided, however, that no such agreement to change shall be effective unless written notice of the proposed agreement is sent to every Owner at least ninety (90) days in advance of any action taken.

Section 2. 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, postage postpaid, to the last known address of such Member or Owner as shown on the records of the Association at the time of such mailing.

Section 3. Enforcement. Each Lot Owner shall comply strictly with the provisions of this Declaration, the By-Laws and the rules and regulation of the Association, all as may be amended or modified from time to time. The Board of Directors may impose fines or other sanctions, which shall be collected as provided herein for the collection of assessments. Failure to comply with this Declaration, the By-Laws or the rules and regulation of the Association shall be grounds for an action to recover sums due for damages or injunctive relief, or both, maintainable by the Board of Directors of the Association on behalf of the Association, or in a proper case, by an aggrieved Lot Owner. The failure of the Board of Directors or of any Owner to enforce any provision of this Declaration or any By-Law, rule or regulation of the Association shall in no event be deemed a waiver of the right to do so thereafter. The Board or Directors shall have the right to record in the office of the Judge of Probate of Morgan County, Alabama a notice of the violation by any Lot Owner of the Declaration, Bylaws, rules and regulations, and to assess the cost of recording and removing such notice against such Lot Owner, including a reasonable attorney's fee.

Section 4. Rights Granted to Mortgagee. Any right, special status, authority, exemption, option, privilege, discretion or power of appointment herein granted to Developer or its

successor and assigns, or consent herein required by Developer or its Successor and assigns, shall be deemed hereby also granted to Mortgagee provided, however, that such Mortgagee shall have acquired title to any part or all of The Properties pursuant to foreclosure or any proceeding, deed or conveyance in lieu of foreclosure.

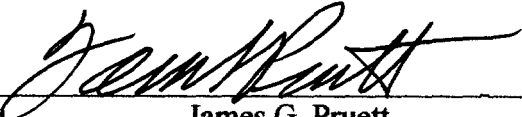
Section 5. Severability. Invalidation of any one of these covenants or restrictions by judgment of any court shall in no wise affect any other provision contained herein which shall remain in full force and effect.

Section 6. Amendment. This Declaration may be amended during the first twenty-five (25) years after its recordation by an instrument signed by the then Owners of not less than seventy-five percent (75%) of the Lots. Any such amendment must be recorded in the office of the Judge of Probate of Morgan County, Alabama. Prior to the sale of the last Lot no such amendment of the terms and conditions of this Declaration shall be effective unless the Developer joins in the signing of the instrument amending this Declaration and consents to such amendment.

Term/Cashier: RECORD2 / TessG  
Tran: 4888.117155.163007  
AFF Special Fee (Act 95-424) 5.00  
FIL Filing Fee 1.00  
REC Recording Fee 87.00  
Total Fees: \$ 93.00

Dated this 13 day of August, 2004.

BB&P, LLC

BY: , Its Managing Member  
James G. Pruett

STATE OF ALABAMA §  
§  
COUNTY OF MORGAN §

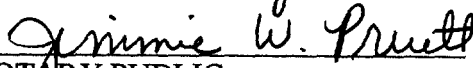
State of Alabama, Morgan County  
I certify this instrument was filed on  
08-16-2004 08:27:24 AM  
and recorded in MISC Book  
2004 at pages 10658 - 10686  
Bobby Day - Probate Judge

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify that James G. Pruett, whose name as Managing Member of BB&P, LLC, a limited liability company, is signed to the foregoing conveyance and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he, as such Managing Member and with full authority, executed the same voluntarily for and as the act of said Deerfoot Estates.

GIVEN under my hand and official seal this the 13 day of August, 2004.

(NOTARY SEAL)

My Commission Expires: 1/2/06

  
NOTARY PUBLIC