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STATE OF ALABAMA)

COUNTY OF MADISON)

RECORDED IN THE OFFICE OF THE JUDGE OF PROBATE
MADISON COUNTY ALABAMA

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PROTECTIVE COVENANTS AND RESTRICTIONS
OF WALTON'S MOUNTAIN, PHASE II

RECORDED IN THE OFFICE OF THE JUDGE OF PROBATE
MADISON COUNTY ALABAMA

JUDGE OF PROBATE

WHEREAS, W.M. Development, L.L.C. an Alabama limited liability company, (herein referred to as the "Developer"), is the owner of all of the real property described and embraced in what is known as Walton's Mountain, Phase II (hereinafter referred to as the "Subdivision") according to the map or plat of said Subdivision dated October 29, 1999 and filed for record in Plat Book 39, page 22, in the Office of the Judge of Probate of Madison County, Alabama (hereinafter referred to as the "Plat"); and

WHEREAS, Regions Bank joins this instrument as first mortgagor and Fleming Properties, Ltd., an Alabama limited partnership, joins as second mortgagor; and

WHEREAS, Developer, as owner of the Subdivision, desires, before any of the lots or parcels of ground in the Subdivision are sold or conveyed to other persons, corporation, entities or firms to establish and fix certain Protective Covenants and Restrictions as to the enjoyment and use of all of the lots and parcels of real property located within the Subdivision as said lots and parcels of real property are laid down and platted in the Plat of the Subdivision, and to make such restrictions a part of the dedication of the streets, alleys, and public ways so dedicated to the public by the filing of the Plat, and thereby protect all persons, corporations, entities or firms that may in the future become owners of said lots and parcels of real property, or any part thereof; and

WHEREAS, the Subdivision is a common and uniform plan and scheme of development of the real property embraced therein, and these Protective Covenants and Restrictions shall provide for orderly sale and development and enjoyment and use of the lots and parcels of real property within the Subdivision;

NOW, THEREFORE, Developer, by these presents, establishes and fixes the following Protective Covenants and Restrictions as to the future development, enjoyment and use of the lots and parcels of real property located in the Subdivision:

1. No lot or lots within the Subdivision (herein referred to as the "Lot") shall be used except for single family residential purposes. No structure shall be erected, altered, placed or permitted to remain on any Lot other than one (1) detached, single-family dwelling not to exceed two and one-half (2 1/2) stories in height and one (1) detached private garage for not more than two (2) vehicles, except for other structures incidental to , and requested for, proper residential use of a Lot, including, by not limited to, necessary outbuildings or storage sheds, as may be approved by the Architectural Review Committee (hereafter "ARC") as provided herein.

2. Developer has engaged the services of the ARC who shall establish exterior architectural standard and guidelines (herein referred to as the "Exterior Architectural Standards and Guidelines") for development of the Subdivision including, but not limited to, dwellings, mailboxes, driveways and other structures located on Lots (herein referred to as the "Improvements") Developer, at its expense, shall cause the ARC to furnish each owner of a Lot (herein referred to as a "Lot Owner") with a copy of the Exterior Architectural Standards and Guidelines which shall be used by Lot Owner and his architect in designing the Improvements to be placed upon his particular Lot. Upon completion of the architectural plans of the Improvements by the Lot Owner's architect, the same shall be approved in writing by the ARC at Developer's Expense. Once so approved, said plans shall not be changed or deviated from without the further written approval of the ARC which further approval shall be paid by the Lot Owner. Upon completion of the Improvements, the ARC, at Developer's expense, shall certify in writing that the same are in accordance with the Exterior Architectural Standards and Guidelines and have been completed according to the plans.

3. No dwelling shall be erected containing less than two thousand five hundred (2500) square feet of living (heated) area for one-story building exclusive of porches, garages and basements. Any 1 ½ story dwelling must contain at least one thousand nine hundred (1900) square feet of living area on the first floor, with no less than a total of two thousand seven hundred (2700) square feet of living (heated) area in the entire building. Any two story dwelling must have at least two thousand nine hundred (2900) square feet of living (heated) area, provided that the first story will in no event be less than one thousand nine hundred (1900) square feet of living (heated) area. On any two story structure, the area used for any vaulted foyer shall be added to the second floor square footage.

No residential dwelling shall be erected or allowed to occupy or remain on any Lot which Lot has an area of less than eighteen thousand (18,000) square feet. Residential dwellings may be erected or placed on Lots as shown on the Plat; however, no more than one residential dwelling shall be allowed per Lot or combined Lots.

No improvements shall be located on any Lot nearer to the front Lot line or nearer to the side street line than the minimum building setback line shown on the Plat and those required by the City of Huntsville slope development restrictions. In any event, no Improvement shall be located on any Lot nearer than thirty-five (35) feet to the front Lot line, and on corner Lots, no Improvement shall be located nearer than thirty-five (35) feet to any side street line. Nor Improvement shall be located nearer than fifteen (15) feet to an interior Lot line and no Improvement shall be located nearer than forty (40) feet to the rear Lot line. Permitted detached rear yard accessory structures shall be set back at least five (5) feet from any utility and drainage easement line.

4. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the Plat and the dedication and granting of said easements shall not prevent the use thereof by any Lot Owner for any permitted purpose except for the erection or location of the of improvements thereon.

Should the owner of two adjacent and contiguous Lots desire to build and maintain one residential dwelling on both Lots, said owner must obtain written approval of the ARC, including approval of any relocation or extension of any easement, in addition to any required vacation of said easement required by any government body. Side Lot restrictions established in these Protective Covenants and Restrictions shall apply to the exterior side Lot lines of the combined Lot.

5. No noxious or offensive activity, or any commerce or trade, shall be carried on upon any Lot, nor shall anything be done thereon which may become an annoyance or nuisance to the neighborhood of which the Subdivision forms a part.

6. No structure of a temporary character, basement, barn, garage, shack, tent, trailer, or other buildings shall be used on any Lot at any time as a residence, either temporarily or permanently.

No temporary structure of any kind, occupied or unoccupied, shall be permitted upon any Lot during construction of a residential dwelling on said Lot without the prior written approval of the ARC.

7. No sign of any kind shall be displayed to the public view on any Lot except (1) professional sign of not more than one (1) square foot, and (b) one sign of not more than five (5) square feet used by a builder or a realtor to advertise that the Lot is for sale or rent.

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

9. No satellite dishes shall be allowed on any Lot or Dwelling. No radio antenna, radio receiver or other similar device or aerial shall be attached to or installed on any Lot or Dwelling or any other of the Development unless the same is contained entirely within the interior of a building or other structure, is not visible from any street or adjacent Lot of Dwelling and is approved the ARC.

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

11. No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

12. Christmas Lights and/or any types of lighting or decorative displays are subject to approval by the Walton's Mountain Homeowner's Association.

13. No Improvement which is not structurally a part of the main dwelling, including, by not limited to, necessary outbuildings or storage sheds, shall be permitted or located on any Lot unless the same first has been approved by the ARC, at the Lot Owner's expense, as to its location and exterior design to ensure harmony with the dwelling on the particular Lot, as well as dwelling and other Improvements on other Lots.

14. Portions of the Subdivision are designated on the Plat as "Common Area" (hereinafter referred to the "Common Area"). The Common Area is required by the Subdivision Regulations of the city of Huntsville, Alabama, to provide for open space, parks, and play-grounds or other recreational purposes, active or passive, relating to the Subdivision, to offer recreational opportunity close to home, to enhance the appearance of neighborhoods through preservation of natural green spaces, and to counteract the effects of urban congestion and monotony, and thus are intended to conserve local spots of natural beauty, to provide structure to neighborhood design, to add to the sense of spaciousness, to help promote the public health, safety and welfare of the persons residing nearby, and to aid in preserving property values.

The following provisions shall apply to the Common Area:

A. The Common Area shall be owned jointly by the Lot Owners, and shall be managed, cared for, maintained, repaired, and Insured by Walton's Mountain Homeowner's Association, Inc., an Alabama non-profit corporation (herein referred to as the "Association") as set forth herein.

B. The Association shall be composed of those persons or entities who hold and own a fee simple title in and to each and every Lot in the Subdivision (the Lot Owner) as reflected by the records on file in the Office of the judge of Probate of Madison County, Alabama, from time to time, by shall not include any person or entity who holds a mortgage or other lien on a Lot.

C. Membership in the Association is an express condition precedent to ownership of a Lot.

D. By acceptance of a deed to a Lot, a Lot Owner is deemed to have accepted membership in the Association.

E. Payment for management, care, maintenance, repair, and insurance of the Common Area is to be paid by the Association from a fund supplied by a mandatory assessment annual contribution from the Lot Owners which shall be secured by a lien on the Lot which lien is hereby made expressly subject to existing restrictions, easements or record, applicable zoning ordinances, liens for ad valorem taxes, as well as expressly subject and subordinate to the lien and title of a lender holding a properly perfected first mortgage on any particular Lot. Said assessment lien may be enforced by any remedy available in law or in equity, including, but not limited to, foreclosure as provided by applicable law, and the Bylaws.

F. Procedure for governance of the Association and for the management, care, maintenance, repair and insurance of the Common Area, shall be as provided by the Articles of Incorporation (herein referred to as the "Articles of Incorporation"), the Bylaws (herein referred to as "Bylaws"), of the Association on record in the office of the Judge of Probate of Madison County, Alabama, as may be amended from time to time, which said Articles of Incorporation and Bylaws are by this reference Incorporated herein and made a part hereof.

G. For the year 1999 the Developer, at its expense, shall be solely responsible for the care and maintenance of the Common Area. Commencing January 1, 2000, and thereafter, said care and maintenance shall be sole responsibility of the Association. Care and maintenance of Individual Lots within the Subdivision shall be the responsibility of Developer until such time as the Lots are sold, at which time the care and maintenance of particularly Lot shall be the responsibility of the Lot Owner.

15. To protect the Subdivision as a common an uniform plan and scheme of development, uniform tree plantings (herein referred to as the "Required Plantings") are required both on individual Lots and the Common Area of the Subdivision as shown a drawing of the Subdivision attached hereto as Exhibit "A" and by this reference incorporated herein. A Lot Owner shall be responsible for the care, maintenance and replacement of all Required Plantings located on his lot; the care, maintenance and replacement of all Required Plantings located in the Common Area being the responsibility of the Association. Nothing in this provision shall be construed to prevent any Lot Owner from placing additional plantings on his Lot; provided however, anything in these Protective Covenants and Restrictions to the contrary notwithstanding, all Required Plantings shall be maintained according to applicable association rules unless waived by a majority vote of the Board of Directors of the Association.

16. These Protective Covenants and Restrictions are to run with the land and shall be binding on all parties and all persons claiming under them for a period of twenty-five (25) years from the date these Protective Covenants and restrictions are filed for record in the office of the Judge of Probate of Madison County, Alabama, after which time said Protective Covenants and Restrictions shall be automatically extended for successive periods of ten (10) years each unless an instrument signed by a majority of the then Lot Owners has been filed for record in the Office of the Judge of Probate of Madison County, Alabama, agreeing to abolish or change said Protective Covenants and Restrictions in whole or in part.

17. Enforcement of these Protective Covenants and Restrictions shall be by legal proceedings against any person, or persons, or entity, of entities, violating or attempting to violate any Protective Covenant and Restriction either to restrain such violation and/or recover damages.

18. Invalidation of any one or more of these Protective Covenants and Restrictions by judgment of court order shall in no wise effect any of the other Protective Covenants or Restrictions which shall remain in full force and effect.

IN WITNESSETH WHEREOF, the said W.M. Development, L.L.C., has caused these presents to be executed by its managers on the 31 day of January, 2001.

Owners:

W.M. DEVELOPMENT, L.L.C. - Developer

By: Ben H. Walker
Ben H. Walker, Manager

By: Walton Fleming, Jr.
Walton Fleming, Jr. Manager

Mortgagors:

REGIONS BANK - First Mortgagor

By: Andrew J. Zutt
Its: President

FLEMING PROPERTIES, LTD. - Second Mortgagor

Gay F. Parker
Gay F. Parker, General Partner

Sally F. Walker
Sally F. Walker, General Partner

Walton Fleming, Jr.
Walton Fleming, Jr., General Partner

Martha C. Fleming,
General Partner

By: Gay F. Parker
Gay F. Parker
Attorney-in-Fact for

Martha C. Fleming

By: *Sally F. Walker*

Sally F. Walker

Attorney-in-Fact for

Martha C. Fleming

By: *Walton Fleming Jr*

Walton Fleming, Jr.

Attorney-in-Fact for

Martha C. Fleming

STATE OF ALABAMA)

COUNTY OF MADISON)

I, the undersigned, a Notary Public in and for said County in said State, do hereby certify that BEN H. WALKER and WALTON FLEMING, JR., whose names as Managers of W. M. DEVELOPMENT, L.L.C, an Alabama limited liability company, are signed to the foregoing instrument, and who are known to me, and known to be such managers, acknowledged before me on this day that being informed of the contents of said instrument, they, as such managers and with full authority, executed the same voluntarily for and as the act of said limited liability company.

Given under my hand and official seal this the 31st day of January, 2001.

Karen R. Smith

Notary Public

My Commission expires: 8/8/04

STATE OF ALABAMA)
)
COUNTY OF MADISON)

I, the undersigned, a Notary Public in and for said County in said State, do hereby certify that ANDREW J. TUTT, whose name as PRESIDENT of Regions Bank, an Alabama banking corporation, is signed to the foregoing instrument, and who is known to me, and known to be such officer, acknowledged before me on this day that being informed of the contents of said instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal this the 1 day of FEBRUARY, 2001.

Amy E. Muzzy
Notary Public
My Commission expires: _____

MY COMMISSION EXPIRES AUGUST 29, 2004

STATE OF ALABAMA)
)
COUNTY OF MADISON)

I, the undersigned, a Notary Public in and for said County in said State, do hereby certify that GAY F. PARKER, whose name as General Partner of FLEMING PROPERTIES, LTD., an Alabama corporation, is signed to the foregoing instrument, and who is known to me, and known to be such general partner, acknowledged before me on this day that, being informed of the contents of said instrument, she, as such general partner and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal this the 31st day of January, 2001.

Karen R. Smith
Notary Public
My Commission expires: 8/8/04

STATE OF ALABAMA)
)
COUNTY OF MADISON)

I, the undersigned, a Notary Public in and for said County in said State, do hereby certify that SALLY F. WALKER, whose name as General Partner of FLEMING PROPERTIES, LTD., an Alabama corporation, is signed to the foregoing instrument, and who is known to me, and known to be such general partner, acknowledged before me on this day that, being informed of the contents of said instrument, she, as such general partner and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal this the 31st day of January, 2001.

Karen R. Smith
Notary Public
My Commission expires: 8/8/04

STATE OF ALABAMA)
)
COUNTY OF MADISON)

I, the undersigned, a Notary Public in and for said County in said State, do hereby certify that WALTON FLEMING, JR., whose name as General Partner of FLEMING PROPERTIES, LTD., an Alabama corporation, is signed to the foregoing instrument, and who is known to me, and known to be such general partner, acknowledged before me on this day that, being informed of the contents of said instrument, she, as such general partner and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal this the 31st day of January, 2001.

Karen R. Smith
Notary Public
My Commission expires: 8/8/04

STATE OF ALABAMA

COUNTY OF MADISON

I, the undersigned Notary Public in and for said County and State, hereby certify that **MARTHA C. FLEMING**, whose name as **General Partner of Fleming Properties, Ltd.**, an Alabama limited partnership, by and through her lawful Attorneys in Fact, namely, **GAY F. PARKER, SALLY F. WALKER, and WALTON FLEMING, JR.**, whose names are signed to the foregoing instrument, and who are known to me, acknowledged before me on this day that, being informed of the contents of said instrument, they executed in their capacity as Attorneys in Fact, with full authority, on the day the same bears date.

Given under my hand and official seal this the 31st day of January, 2001.

Karen R. Smith

Notary Public

My Commission Expires: 8/8/04