

BATTLE FOREST SUBDIVISION

PROTECTIVE COVENANTS

AND

BY LAWS

APRIL 15, 1993

AMENDMENT TO
OUTLINE OF PROTECTIVE COVENANTS
FOR BATTLE FOREST SUBDIVISION

STATE OF GEORGIA
COUNTY OF COBB

GEORGIA, OFFICE OF COBB SUPERIOR COURT CLERK
FILED AND RECORDED 3-31-86 4:18 O'CLOCK 5 M
JAY C. STEPHENSON, CLERK

THIS AMENDMENT, made and published this 14th day of March, 1986, by NEAL C. PEAUVY and ROBERT D. GIBSON of Cobb County, Georgia (hereinafter "Developer") and the undersigned Owners (hereinafter "Owners"), said parties constituting all the owners of the property described herein.

W I T N E S S E T H:

THAT, WHEREAS, Developer published its Outline of Protective Covenants concerning the subdivision known as BATTLE FOREST, UNIT 1, being a subdivision of all those certain lots, tracts or parcels of land situated, lying and being in Land Lot 329 of the 20th District, 2nd Section, Cobb County, Georgia, as per plat of survey prepared by Gaskins Surveying Company dated November 9, 1985, and recorded in Plat Book 105, Page 19, Records of Cobb County, Georgia; said Outline of Protective Covenants being dated January 10, 1986 and recorded in Deed Book 3789, Page 236-244, Records of Cobb County, Georgia; and

WHEREAS, Developer and Owners desire to amend said Outline of Protective Covenants in order that the same may comply more fully with their intentions and desires;

NOW, THEREFORE, for and in consideration of the premises, said Outline of Protective Covenants is hereby amended as follows:

1.

Said Outline of Protective Covenants shall be stricken in its entirety, and the following shall be substituted in lieu thereof:

A. The name of the instrument shall be "DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR BATTLE FOREST SUBDIVISION."

B. The provisions of said instrument shall be as follows:

"THIS DECLARATION, made this 14th day of March, 1986, by NEAL C. PEAVY and ROBERT D. GIBSON, of Cobb County, Georgia (hereinafter the "Developer") and the undersigned Owners (hereinafter the "Owners"), as follows:

W I T N E S S E T H:

WHEREAS, Developer and Owners are the owners of certain real property lying and being in Land Lot 329 of the 20th District, 2nd Section, Cobb County, Georgia and being known as BATTLE FOREST SUBDIVISION, and being more particularly described on Exhibit "A" attached hereto and made a part hereof by reference (hereinafter referred to as the "Property");

WHEREAS, Developer and Owners desire to provide for the preservation and enhancement of the property values in BATTLE FOREST SUBDIVISION and for the maintenance of property and improvements thereon, and to this end desire to subject the Property to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, each and all of which are for the benefit of said property and each owner thereof; and

WHEREAS, Developer and Owners have deemed it desirable, for the efficient preservation of the values in BATTLE FOREST SUBDIVISION, to create an agency to which should be delegated and assigned the powers of owning, maintaining and administering the common area and improvements thereon and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, Developer and Owners will cause to be incorporated under the laws of the State of Georgia the Battle Forest Homeowners Association, Inc., a non-profit corporation, for the purpose of exercising the aforesaid functions.

NOW, THEREFORE, Developer and Owners declare that the real property described above is and shall be held, transferred, sold, mortgaged, conveyed, leased, occupied and used subject to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth.

ARTICLE I
DEFINITIONS

Section 1. "Architectural Control Committee" shall mean and refer to the following persons:

NEAL C. PEAVY
2022 Powers Ferry Road, Suite 180
Atlanta, Georgia 30339

ROBERT D. GIBSON
2022 Powers Ferry Road, Suite 180
Atlanta, Georgia 30339

DAN MATTHEWS
4744 Olde Village Lane
Dunwoody, Georgia 30338

CHARLES ELSEY
5-L Cedar Run
Atlanta, Georgia 30338

or to such other individuals as Developer and Owners may appoint, until all lots in Battle Forest shall have been fully developed and permanent improvements constructed thereon and sold to permanent residents.

Section 2. "Association" shall mean and refer to Battle Forest Homeowners Association, Inc., its successors and assigns.

Section 3. "Board" shall mean and refer to the Board of Directors of the Association.

Section 4. "Common Area" shall mean all real and personal property now or hereafter owned by the Association for the common use and enjoyment of the owners.

Section 5. "Common Exchange" shall mean and refer to the actual and estimated expenses of operating the Association, including any reasonable reserve, all as may be found to be necessary and appropriate by the Board pursuant to the Declaration and the By-laws and Articles of Incorporation of the Association.

Section 6. "Declaration" shall mean the covenants, conditions, restrictions and easements and all other provisions herein set forth in this entire document, as may from time to time be amended.

Section 7. "Developer" shall mean and refer to Neal C. Peavy and Robert G. Gibson, their heirs, executors, administrators, successors or assigns.

Section 8. "Lot" shall mean and refer to residential lots, as well as any future lots subject to the within covenants, conditions, restrictions and easements by the Developer in Battle Forest Subdivision or any expansion thereof by Developer.

Section 9. "Owner" shall mean and refer to the record owners, whether one or more persons, of the fee simple title to any lots which is part of the Property, but excluding those having such interest merely as security for the performance of an obligation.

Section 10. "Person" shall mean and refer to a natural person, corporation, partnership, association, trust or other legal entity, or any combination thereof.

Section 11. "Property" shall mean and refer to that certain real property described in the above referenced plat.

Section 12. "Structure" shall mean and refer to:

(i) any thing or object the placement of which upon any Lot may affect the appearance of such Lot, including by way of illustration and not limitation, any building or part thereof, garage, porch, gazebo, shed, greenhouse or bathhouse, coop or cage, covered or uncovered patio, swimming pool, tennis court, fence, curbing, paving, wall, tree, shrub, sign, signboard, mailbox, driveway, temporary or permanent living quarters (including any house trailer) or any other temporary or permanent improvement to such Lot;

(ii) any excavation, grading, fill ditch, diversion dam or other thing, object or device which affects or alters the natural flow of surface waters from, upon or across any Lot, or

which affects or alters the flow of any waters in any natural or artificial creek, stream, wash or drainage channel from, upon or across any Lot; and

(iii) any change in grade at any point on a Lot of more than six (6) inches, whether or not subsection (ii) of this Section 12 applies to such change.

ARTICLE II ARCHITECTURAL CONTROL COMMITTEE

Section 1. Purpose, Powers and Duties of the Architectural Control Committee.

(a) The purpose of the Architectural Control Committee is to assure that the installation, construction or alteration of any Structure on any Lot is in accordance with the standards determined by the Architectural Control Committee. To the extent necessary to carry out such purpose, the Architectural Control Committee shall have all of the powers and duties to do each and every thing necessary, suitable, convenient or proper for, or in connection with or incidental to, the accomplishment of such purpose, including, without being limited to, the power and duty to approve or disapprove plans and specifications for any installation, construction or alteration of any structure on any Lot.

(b) To preserve the architectural appearance of the neighborhood, no construction or placement of improvements of any nature whatsoever shall be commenced or maintained by any owner, his family, tenants, visitors, guests, servants, and agents with respect to the exterior of any house or with respect to any other portion of any lot or other parcel of land, including without limitation, the construction or installation of sidewalks, driveways, decks, patios, swimming pools, tennis courts, greenhouses, playhouses, garages, guest or servants' quarters, or other outbuildings, nor shall any exterior addition to or change or alteration therein be made, unless and until the plans and specifications showing the nature, color, type, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to the harmony of external design, location, and appearance in relation to surrounding structures and topography by the Architectural Control Committee. The Architectural Control Committee shall have the sole discretion to determine whether the plans and specifications submitted for approval are acceptable and in compliance with the total scheme of the neighborhood. If same are not approved or disapproved within thirty (30) days from date submitted, then same shall be approved by default.

ARTICLE III MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership. Every owner of a Lot which is subject to this Declaration shall be a mandatory member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to this Declaration and shall pass automatically to an Owner's successor-in-title to the Lot.

Section 2. Voting Rights. The Association shall have three classes of voting membership, as follows:

Class A: Initially, the Class A members shall be all owners, with the exception of the Developer, and shall be entitled to one vote for each Lot owned. When more than one Person holds an interest in any Lot, all such Persons shall be members. 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 Lot. If multiple owners of a lot cannot unanimously decide how to cast their vote, then no vote may be cast regarding the ownership by that particular Lot.

Class B: The Class B member is voluntary and includes the right to the use and enjoyment of the swimming pool, tennis courts and ancillary facilities, subject to the rules therefor hereinafter set forth. Class B members are also Class A members and entitled to all rights and privileges thereof.

Class C: The Class C member shall be the Developer and shall be entitled to three (3) votes for each Lot owned. The Class C membership shall cease and be converted to Class A membership on the happening of any of the following events:

- (a) seven (7) years from the date of this Declaration; or
- (b) when, in its discretion, the Developer so determines.

ARTICLE IV PROPERTY RIGHTS

Section 1. Member's Easement of Enjoyment. Subject to the provisions herein, every member of the Association shall have a right and easement of use and enjoyment in and to the Common Area [including, without limitation, the right of pedestrian (but not vehicular) access, ingress and egress to and from his Lot over those portions of the Common Area from time to time designated for such purposes], which right and easement shall be appurtenant to and shall pass with the title to every Lot, subject to the following:

- (a) the right of the Association to adopt and publish rules and regulations governing the use of the Common Area.
- (b) the right of the Association to borrow money for the purpose of improving the Common Area or any portion thereof, or constructing, repairing or improving any facilities located or to be located thereon, and, upon the assent of two-thirds of the Class A and B members and the Class C member, if any, to give as security a mortgage conveying all or any portion of the Common area. The lien and encumbrance of any such mortgage, however, shall be subject and subordinate to all rights, interests, easements and privileges herein reserved or established for the benefit of Developer, any Owner, or the holder of any mortgage, irrespective of when executed, given by Developer.
- (c) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the

members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of each class of members, agreeing to such dedication or transfer, has been recorded.

- (d) the easements reserved in Article VII of this Declaration.

Section 2. Declaration of Use. Any owner may delegate, in accordance with the By-laws, his right of use and enjoyment in and to the Common Area and the improvements thereon to the members of his family, his tenants, guests and invitees, subject to such regulations and fees as may be established from time to time by the Association.

Section 3. Title to Common Area. Title to the Common Area will be conveyed to the Association by the Developer, and accepted by the Association, after all lots placed for sale by the Developer have been sold or at such earlier time as the Developer may elect, and only at such time shall the Association have the right to control said property subject to the terms herein.

Section 4. No Partition. There shall be no judicial partition of the Property or any part thereof, nor shall any Person acquiring any interest in the Property or any part thereof seek any such judicial partition unless the Property has been removed from the provisions of this Declaration.

ARTICLE V
COVENANT FOR MAINTENANCE
AND CAPITAL IMPROVEMENT ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Each owner of a Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments, and (2) special assessments for capital improvements, such assessments to be established and collect as hereinafter provided. The annual and special assessments, together with interest thereon and costs of collection thereof, as hereinafter provided, including reasonable attorney's fees, shall be a charge and a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest thereon and costs of collection thereof, including reasonable attorney's fees, shall also be the personal obligation of the person who was the owner of such Lot at the time when assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for promoting the health, safety, pleasure and welfare of the owners of the Lots and the costs and expenses incident to the operation of the Association, including without limitation the maintenance and repair of the Common Area and improvements thereon, the maintenance of services furnished by the Association, the purchase of insurance by the Association, the repair and replacement of improvements on the Common Area, payment of all taxes, insurance premiums and all costs and expenses incidental to the operation and administration of the Association, and establishment and maintenance of a reasonable reserve fund or funds.

Section 3. Computation of Annual Assessments. It shall be the duty of the Board at least thirty (30) days prior to the Association's annual meeting to prepare a budget covering the

estimated Common Expenses of operating the Association for the coming year, such budget to include a capital contribution or reserve account in accordance with the capital needs of the Association. This budget shall be divided into two (2) categories, as follows:

- (a) expenses relating to the Common Area excluding swimming pool, tennis courts and ancillary facilities which shall be assessed against all Class A and Class B members in the manner hereinafter provided.
- (b) expenses relating to the upkeep, repair, maintenance and operation of the swimming pool, tennis courts and ancillary facilities which shall be assessed against Class B members in the manner hereinafter provided.

The budget and the proposed annual assessments to be levied against each Lot shall be delivered to each owner no later than ten (10) days prior to such annual meeting. The annual assessments shall be equally divided among the Lots occupying the appropriate category so that the annual assessments shall be the same for each Lot dependent upon the category which each Lot occupies. The budget and the annual assessments shall become effective unless disapproved at the annual meeting by either (i) Developer, so long as there is a Class C member, or (ii) a vote of a majority of the owners voting in person or by proxy at such meeting on the date when there is no longer a Class C member. In the event the proposed budget is not approved or the Board fails for any reason to determine the budget for the succeeding year, then until a budget has been determined as provided herein, the budget and annual assessments in effect for the then current year shall continue for the succeeding year. If any budget at any time proves inadequate for any reason, the Board may call a meeting of the Association for the approval of a special assessment.

Section 4. Special Assessments. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, special assessments for Common Expenses, applicable to that year only, provided that any such assessment shall have the assent of a majority of the votes of the members of each class voting in person or by proxy at a meeting duly call for such purpose, and so long as such assessment applies to the appropriate category therefor.

Section 5. Notice for Any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 above shall be sent to all members not less than ten (10) days nor more than thirty (30) days in advance of the meeting.

Section 6. Rate of Assessment. Annual and special assessments must be fixed at a uniform rate for all Lots within the special categories set forth hereinabove.

Section 7. Date of Commencement of Annual Assessments; Due Dates. The annual assessments provided for herein shall commence as to all Lots on April 1, 1986. Anything contained herein to the contrary notwithstanding, Developer, on behalf of itself and its successors and assigns, covenants and agrees to pay the annual assessment for each Lot owned by Developer which contains an occupied residence; provided, however, Developer shall not be responsible for assessments on Lots not containing an occupied residence. Developer shall, however, fund any deficit which may exist between assessments and the annual budget for as long as there is a Class C member of the Association. The due dates shall be established by the

Developer until there is no longer a Class C member and then by the Board. The Association shall, upon demand, and for a reasonable charge, not to exceed Ten Dollars (\$10.00), furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a specified Lot is binding upon the Association as of the date of its issuance. If the Association fails to respond to any such request within ten (10) days after receipt of such request, any lien then outstanding shall be deemed to have been extinguished. All such requests shall be sent to the Association in the same manner as provided for notices in Section 6 hereof.

Section 8. Effect of Nonpayment of Assessments; Remedies of the Association. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the maximum legal rate per annum. In such case, the Association may accelerate, at its option, the entire unpaid balance of the assessment and may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against such Owner's Lot, and interest, costs and reasonable attorney's fees of any such action shall be added to the amount of such assessment. Each such Owner, by his acceptance of a deed to a Lot, hereby expressly vests in the Association, or its agents, the right and power to bring all actions against such Owner personally for the collection of such charges as a debt and to enforce the aforesaid lien by all methods available for the enforcement of liens against real property. The lien provided for in this Section shall be in favor of the Association and shall be for the benefit of all other Owners. The Association, acting on behalf of the Owners, shall have the power to purchase any lot at any sale and convey the same for the purpose of protecting its lien. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area, abandonment of his Lot or by renunciation of membership in the Association. An Owner may give to the Association, nevertheless, subject to acceptance thereof by the Association, a deed in lieu of action on lien.

Section 9. Subordination of the Lien to First Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage, first purchase money security deed or security deed representing a first lien on said property. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to foreclosure or any proceeding in lieu thereof shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 10. Exempt Property. The following property subject to this Declaration shall be exempted from the assessments, charges and liens created herein: (a) all properties to the extent of any easement or other interest therein dedicated and accepted by the local public authority and devoted to public use; (b) all Common Area; and (c) all properties exempted from taxation by state or local governments upon the terms and to the extent of such legal exemption. Notwithstanding any provisions herein, no land or improvements devoted to dwelling use shall be exempt from said assessments, charges or liens except as set forth in Article V, Section 8, pertaining to the Developer.

Section 11. Effect of Delinquency on Class B Members. Notwithstanding all of the foregoing rights of the Association, the Association shall have the further right to prohibit a delinquent Class B member, such delinquency being as hereinafter defined, from using in any manner the swimming pool, tennis courts and related facilities.

ARTICLE VI MAINTENANCE

Section 1. Association's Responsibility. Except as otherwise provided for herein, the Association shall maintain and keep in good repair all portions of the Common Area and improvements thereon. The Association's responsibility with respect to the Common Area shall be deemed to include the maintenance, repair and replacement of (i) all roads, driveways, walks, parking areas and buildings and other improvements situated within the Common Area, (ii) such utility lines, pipes, plumbing, wires, conduits and systems which are a part of the Common Area, and (iii) all lawns, trees, shrubs, hedges, grass and other landscaping situated within or upon the Common Area.

ARTICLE VII EASEMENTS

Section 1. Utility Easements. There is hereby created in favor of the Association an easement upon, across, over, through and under all of the Common Area for ingress, egress, installation, replacement, repair and maintenance of all utility and service lines and systems, including but not limited to water, sewers, gas, telephones, electricity, television cable or communication lines and systems. An easement is further granted to the Association, its officers, agents, employees and any management company retained by the Association, to enter in or to cross over the Common Area and the Lots, to inspect and to perform the duties of maintenance and repair of the Common Area and the Lots, as provided herein. Notwithstanding anything to the contrary contained in this Section, no sewers, electrical lines, water lines or other utilities may be installed or relocated on the Property except as initially programmed and approved by the Developer or thereafter approved by Developer or the Board. Should any utility furnishing a service covered by the general easement herein provided request a specific easement by a separate recordable document, Developer or the Association shall have the right to grant such easement on the Common Area without conflicting with the terms hereof.

Section 2. Easement for Developer. Developer hereby reserves for itself, its successors and assigns, the following easements and rights-of-way in, on, over, under and through any part of the Property owned by Developer and the Common Area for so long as Developer owns any Lot primarily for the purpose of sale:

- (a) For the erection, installation, construction and maintenance of wires, lines and conduits, and necessary or proper attachments in connection with the transmission of electricity, gas, water, telephone, community antenna, television cables and other utilities;
- (b) For the construction of improvements on the Lots;
- (c) For the installation, construction and maintenance of storm-water drains, public and private sewers, and for any other public or quasi-public utility facility;

- (d) For the use of the Common Area and any sales offices, model units and parking spaces in connection with its efforts to market Lots;
- (e) For the maintenance of such other facilities and equipment as in the sole discretion of Developer may be reasonably required, convenient or incidental to the completion, improvement and sale of Lots.

Section 3. Easements for Association. There shall be a general right and easement for the benefit of the Association, its directors, officers, agents and employees, including any management company retained by the Association, to enter upon the Common Area and the Lots to perform their respective duties.

ARTICLE VIII GENERAL COVENANTS AND RESTRICTIONS

The following covenants and restrictions shall apply to all Lots and to all Structures erected or placed thereon:

Section 1. Residential Use. All Lots shall be restricted exclusively to single-family residential use; provided, however, that nothing herein shall be construed to prohibit or prevent Developer or any builder of residences in Battle Forest from using any Lot owned by Developer or such builder for the purpose of carrying on business related to the development, improvement and sale of Lots and/or new homes in Battle Forest.

Section 2. Common Area. The Common Area shall be used by the Owners and their agents, servants, tenants, family members, invitees and licensees for such other purposes as may be authorized by the Association.

Section 3. Lot Area and Width. No dwelling shall be erected or placed on any lot having a width of less than 85 feet at the minimum building setback line, nor shall any dwelling be erected or placed on any lot having an area of less than 15,000 square feet.

Section 4. Resubdivision of Property. No Lot may be split, divided, or subdivided for sale, resale, gift, transfer or otherwise without the prior written approval of the Architectural Control Committee of plans and specifications for such split, division or subdivision.

Section 5. Temporary Buildings. No temporary building, trailer, garage or building under construction shall be used, temporarily or permanently, as a residence on any Lot except as temporary sleeping or living quarters required or desired for security purposes in accordance with plans and specifications approved by the Architectural Control Committee. No contractor or builder shall erect on any Lot any temporary building or shed for use in connection with construction on such Lot without the prior written consent of the Architectural Control Committee.

Section 6. Style of Residences. All single-family residences constructed on the Lots shall be "traditional" or "European" in style. The determination of whether or not a residence is "traditional" or "European" shall be decided by the Architectural Control Committee in its sole and uncontrolled discretion.

Section 7. Debris. No rubbish or debris of any kind shall be dumped, placed or permitted to accumulate upon any portion of an Owner's Lot so as to render the same unsanitary, unsightly or

offensive. No nuisance shall be permitted to exist upon any portion of the Property.

Section 8. Erosion Control. No activity which may create erosion or siltation problems shall be undertaken on any Lot except for the initial construction of residences and development of the Property.

Section 9. Signs.

(a) No signs whatsoever shall be installed, altered or maintained on any Lot, or on any portion of a Structure visible from the exterior thereof, except:

- (i) such signs as may be required by legal proceedings.
- (ii) not more than one "For Sale" or "For Rent" sign, provided, however, that in no event shall any such sign be larger than four (4) square feet in area; and
- (iii) directional signs for vehicular or pedestrian safety;
- (iv) entry signs used to identify subdivision, marketing signs used to advertise subdivision by Developer and in conjunction therewith brochure holders

(b) Following the consummation of the sale of any Lot, the sign located thereon shall be removed immediately.

Section 10. Fences. No chain link or cyclone fences may be placed on the Property.

Section 11. Recreational Vehicles, Trailers, etc. Recreational vehicles, trailers, campers, trucks (except pickups and vans), travel buses or any such equipment must be parked in extreme rear of property and sufficient natural cover erected to shield same from visibility. No inoperative vehicle shall be parked on any lot for any period of time in excess of fourteen (14) days. No owners or occupants of any lot or parcel of land shall repair or restore any vehicle of any kind upon any lot or upon any parcel of land, except for emergency repairs, and then only to the extent necessary to enable the movement thereof to a proper repair facility.

Section 12. Recreational Equipment. No recreational and playground equipment shall be placed or installed on any Lot which is visible from the street abutting such Lot.

Section 13. Accessory Structures. A detached accessory structure may be placed on a Lot to be used for a playhouse, a swimming pool, tennis court, a tool shed, a mailbox, a dog house or a garage; a garage may also be an attached accessory structure. Such accessory structures shall not exceed twenty (20) feet in height and shall conform in exterior design and quality to the dwelling on the same Lot. With the exception of a garage that is attached to a dwelling, an accessory structure placed on a Lot shall be located only behind the dwelling as such dwelling fronts on the street abutting such Lot. Such accessory structures shall also be located with such side and rear setback lines as may be required hereby or by applicable zoning law. However, there shall be no lighting for tennis courts or any other outside lighting except as may be approved by the Architectural Control Committee. Any such accessory structure must be approved, in advance, in writing by the Architectural Control Committee.

Section 14. Building Location. No building shall be located on any lot nearer to the front lot line or nearer to the side street line than the minimum building setback lines shown on the recorded plat. In any event, no building shall be located on any lot nearer than 35 feet to the front lot line, or nearer than 35 feet to any side street line. No building shall be located nearer than 10 feet to an interior lot line or more from the minimum building setback line. No dwelling shall be located on an interior lot nearer than 30 feet to the rear lot line. For the purposes of this covenant, eaves, steps, carports and open porches shall not be considered as a part of a building; provided, however, that this shall not be construed to permit any portion of a building on a lot to encroach upon another lot.

Section 15. Improvement of Lots. All construction of dwellings, accessory structures and all other improvements in Dorsett shall be undertaken and completed in accordance with the following conditions:

(a) All construction shall be carried out in compliance with the laws, code, rules, regulations and orders of all applicable governmental agencies and authorities.

(b) Concrete block or cinder block shall not be used as a building material for the exposed exterior surface of any dwelling or accessory structure constructed or placed on any Lot.

(c) Only one mailbox shall be located on any Lot, which mailbox shall be selected to be consistent with the quality and design of surrounding dwellings and mailboxes and shall be placed and maintained to complement the dwelling to which it is appurtenant to the extent such mailbox is permitted to be located and maintained by the United States Postal Service, its successors and assigns.

(d) No lumber, bricks, stones, cinder blocks, scaffolding, mechanical devices, or any other materials or devices used for building purposes shall be stored on any Lot except for purposes of construction of a dwelling of accessory structure on such Lot nor shall any such building materials or devices be stored on any Lot for longer than the length of time reasonably necessary for the construction in which such materials or devices are to be used.

(e) No exposed above-ground tanks for the storage of fuel or water or any other substance shall be located on any Lot other than apparatus relating to solar energy, the location and design of which must first be approved by the Architectural Control Committee.

(f) Adequate off-street parking shall be provided for each Lot.

(g) All garages must have doors, and each garage door must be coordinated in design and color with the dwelling to which it is appurtenant.

(h) Any construction on a Lot shall be at the risk of the Owner of such Lot and the Owner of such Lot shall be responsible for any damage to any curbing or street resulting from construction on such Lot; repairs of such damage must be made within thirty (30) days after completion of such construction.

(i) The enclosed, heated living area (exclusive of garages, carports, porches, terraces, bulk-storage and basement) shall contain not less than one thousand five hundred (1,500) square feet. No dwelling shall be constructed exceeding two and one-half (2-1/2) stories in height, including basement, on any Lot.

(j) Exterior TV or radio receiving equipment shall not be permitted.

(k) Clotheslines. No outside clotheslines shall be placed on any Lot.

(l) Screened Porches. Any screened porch which is a part of any dwelling or accessory structure must have a dark color screen, and no bright color silver finish screens may be used.

Section 16. Animals. No animals, including birds, insects and reptiles, may be kept on any Lot unless kept thereon solely as household pets and not for commercial purposes. No animal shall be allowed to become a nuisance.

Section 17. Accessory Structures Installed by Developer. Entry signs, fences, walls and landscaping installed by Developer on the Property shall be and are hereby dedicated to the use and benefit of all owners, and shall not be removed or altered without a two-third (2/3) of the Association Class A members.

Section 18. Miscellaneous Fixtures. To provide a neat, attractive and harmonious appearance throughout the neighborhood, no awnings, shades or window boxes shall be attached to, or hung or used on the exterior of, any window or door of any house; and no railings, fences, walls, antennae or satellite dishes shall be installed or constructed upon any lot or parcel of land without the prior written consent of the Architectural Control Committee. Further, no foil or other reflective materials shall be used on any windows or sunscreens, blinds, shades or for any other purpose, nor shall any window-mounted heating, air-conditioning or fan units be permitted. Outside clotheslines or other outside facilities for drying or airing clothes are specifically prohibited and shall not be erected, placed or maintained upon any lot or parcel of land, nor shall any clothing, rugs or other items be hung on any railing, fence, hedge or wall.

Section 19. Oil and Mining Operations. 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, or tunnels.

Section 20. Water Supply. No individual water supply system shall be permitted on any Lot without the prior written approval of the Architectural Control Committee. If such approval is given, such system must be located, constructed and equipped in accordance with the requirements, standards and recommendations of federal, state and local public health authorities, and all necessary approvals of such system as installed shall be obtained from such authorities at the sole cost and expense of the Owner of the Lot to be served by such system.

Section 21. Trees and Shrubs. No trees measuring 18 inches or more in diameter at a point 2 feet above ground level, no flowering trees or shrubs, nor any evergreens on any Lot may be removed without the prior approval of the Architectural Control Committee unless located within 10 feet of the approved site for a dwelling or without the right of way of driveways or walkways. Excepted herefrom shall be damaged or dead trees and trees which must be removed due to an emergency.

ARTICLE IX
GENERAL PROVISIONS

Section 1. Enforcement.

(a) Architectural Control Committee, the Developer or any Owner shall have the right to enforce, by an proceeding at law or in equity, all restrictions, conditions, covenants, reservations, easements, liens and charges nor or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

(b) The Architectural Control Committee shall have the right of abatement in all cases where an Owner of a Lot shall fail to take reasonable steps to remedy a violation or breach of any restriction contained in this Declaration within twenty (20) days after the mailing of written notice of such violation or breach. The right of abatement means the right of the Architectural Control Committee, through its agents and employees, to enter at all reasonable times upon any Lot or Structure as to which a violation or breach exists, and to take such action or actions specified in the notice to the Owner to abate, extinguish, remove or repair such violation or breach, all without being deemed to have committed a trespass or wrongful act by reason of such entry and such actions.

Section 2. Severability. If any provision of the Declaration, or any paragraph, subparagraph, article, section, sentence, clause, phrase, word or the application thereof in any circumstance, is held invalid, the validity of the remainder of this Declaration and the application of any such provision, paragraph, subparagraph, article, section, sentence, clause, phrase or word in any other circumstances shall not be affected thereby and the remainder of this Declaration shall be construed as if such invalid part was never included therein.

Section 3. Headings. The headings of articles and sections in this Declaration are for convenience of reference only and shall not in any way limit or define the content or substance of such articles and sections.

Section 4. Duration. The covenants and restrictions of this Declaration shall run with and bind the land for a period of twenty (20) years from the date this Declaration is recorded, at the end of which period such covenants and restrictions shall be automatically extended for successive periods of ten (10) years each, unless at least two-thirds (2/3) of the Owners at the time of the expiration of the initial period, or of any extension period, shall sign an instrument in which said covenants and restrictions are modified in whole or in part, which instrument is filed of record in the appropriate county.

Section 5. Rights and Obligations. Each grantee of the Developer and Owners, by the acceptance of a deed of conveyance, accepts the same subject to all restrictions, conditions, covenants, nants, reservations, liens and charges, and the jurisdiction, rights and powers created or reserved by this Declaration. All rights, benefits, privileges of every character hereby imposed shall be deemed and taken to be covenants running with the land and shall bind any person having at anytime any interest or estate in the Property or any portion thereof, and shall inure to the benefit of such grantee in like manner as though the provisions of this Declaration were recited and stipulated at length in each and every deed of conveyance or contract for conveyance.

Section 6. Notices. Notices provided for in this Declaration shall be in writing and shall be addressed to any Owner at his Lot or at such other address as hereinafter provided. Notices to the Association or Board shall be in writing and shall be addressed to the President of the Association at his/her address which presently is:

2022 Powers Ferry Road, Suite 180
Atlanta, Georgia 30339

or at such different address or addresses as reflect their proper address. Any Owner may designate a different address for notices to him by giving written notice to the Association. Notices addressed as above shall be deemed delivered upon mailing by United States registered or certified mail or when delivered in person.

Section 7. Amendment. This Declaration may be amended unilaterally at any time and from time to time by Developer:

- (i) if such amendment is necessary to bring any provision hereof into compliance with any applicable governmental statute, rule or regulation or judicial determination which shall be in conflict therewith,
- (ii) if such amendment is necessary to enable any reputable title insurance company to issue title insurance coverage with respect to the Lots subject to this Declaration,
- (iii) if such amendment is required to obtain the approval of this Declaration by an institutional lender, such as a bank, savings and loan association or life insurance company, or by a governmental lender or purchaser of mortgage loans, such as the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase mortgage loans on the Lots subject to this Declaration, or
- (iv) if such amendment is necessary to enable any governmental agency, such as the Veterans Administration, or reputable private insurance company to insure mortgage loans on the Lots subject to this Declaration. Further, this Declaration may be amended at any time and from time to time by an agreement signed by at least seventy-five (75%) percent of the Owners of Lots; provided, however, such amendment by the Owners shall not be effective unless also signed by Developer, if Developer is the owner of any real property then subject to this Declaration. No amendment to the provisions of this Declaration shall alter, modify, change or rescind any right, title, interest or privilege herein granted or accorded to the holder of any mortgage encumbering any Lot or the Common Area affected thereby unless such holder shall consent in writing thereto. Any such amendment shall not become effective until the instrument evidencing such change has been filed of record. Every purchaser or grantee of any interest in any real property made subject to this Declaration, by acceptance of a deed or other conveyance therefor, thereby agrees that this Declaration may be amended as provided in this Section.
- (v) Developer and Owners do hereby reserve the right, in their sole discretion, to expand this Declaration to include other real property by Developer's submission of such real property to the rights, privileges and obligations contained herein. Such submission shall be evidenced by an amendment filed to this Declaration

setting forth therein the real property to which this Declaration shall apply. Upon which submission, said real property shall be subject to and governed by this declaration as if included herein ab initio."

IN WITNESS WHEREOF, Developer and Owners have caused this amendment to be executed by their duly authorized representatives on the day and year first above written.

Signed, sealed and delivered
in the presence of:

Jennifer B. Dingler
Witness

Judy P. Schlenger N.P. SEAL
Notary Public

Neal C. Peavy
NEAL C. PEAVY

Date Notarized: March 10, 1986

My commission expires:

Notary Public, Cobb County, Georgia

My Commission Expires Sept. 5, 1989

(NOTARY SEAL)

Signed, sealed and delivered
in the presence of:

Jennifer B. Dingler
Witness

Judy P. Schlenger N.P. SEAL
Notary Public

Robert D. Gibson
ROBERT D. GIBSON

Date Notarized: March 10, 1986

My commission expires:

Notary Public, Cobb County, Georgia

My Commission Expires Sept. 5, 1989

(NOTARY SEAL)

Signed, sealed and delivered
in the presence of:

Debra Threlkeld
Witness

Debra Threlkeld
Notary Public

Date Notarized: 3/14/86

My commission expires:

Notary Public, Georgia, State at Large

My Commission Expires May 12, 1987

(NOTARY SEAL)

THE HOME COMPANY, INC.

By: W. H. McIlhenny

Title: President

Attest: W. H. McIlhenny

Title: Vice President

(CORPORATE SEAL)
CORPORATE SEAL

EXHIBIT "A"

TRACT IA:

All that tract or parcel of land lying and being in Land Lot 329 of the 20th District, 2nd Section, Cobb County, Georgia, as per survey by John C. Gaskins, Georgia Registered Land Surveyor No. 2060, dated May 10, 1985, last revised June 24, 1985, and being more particularly described as follows:

BEGINNING at an iron pin located at the common corner of Land Lots 318, 319, 328, and 329, said district and section; thence running south 00° 10' 11" west as measured along the easterly land lot line of Land Lot 329, said district and section, for a distance of 395.80 feet to an iron pin and corner; thence running north 89° 32' 01" west for a distance of 199.39 feet to a point and corner; thence running south 00° 27' 59" west for a distance of 67.72 feet to a point; thence running south 45° 27' 59" west for a distance of 70.71 feet to a point; thence running north 89° 32' 01" west for a distance of 662.45 feet to a 36 inch oak tree; thence running north 89° 29' 33" west for a distance of 392.82 feet to an iron pin and corner; thence running north 01° 24' 10" west for a distance of 400.52 feet to an iron pin; thence running north 01° 50' 00" west for a distance of 110.0 feet to an iron pin located on the northerly land lot line of Land Lot 329, said district and section; thence running south 89° 54' 45" east as measured along the northerly land lot line of Land Lot 329, said district and section, for a distance of 403.51 feet to an iron pin; thence running south 89° 33' 20" east as measured along the northerly land lot line of Land Lot 329, said district and section, for a distance of 916.59 feet to an iron pin located at the common corner of Land Lots 318, 319, 328, and 329, said district and section, and the point of beginning. This tract contains 14.88 acres, and is denominated as Tract IA of the referenced plat of survey.

TRACT IB:

All that tract or parcel of land lying and being in Land Lot 329 of the 20th District, 2nd Section, Cobb County, Georgia, as per survey by John C. Gaskins, Georgia Registered Land Surveyor No. 2060, dated May 10, 1985, last revised June 24, 1985, and being more particularly described as follows:

BEGINNING at an iron pin located on the easterly land lot line of Land Lot 329, said district and section, which iron pin is located south 00° 10' 11" west as measured along the easterly land lot line of Land Lot 329, said district and section, a distance of 395.80 feet from an iron pin located at the common corner of Land Lots 318, 319, 328, and 329, said district and section; thence running south 89° 56' 54" west for a distance of 199.39 feet to a point and corner; thence running south 00° 27' 59" west for a distance of 67.72 feet to a point; thence running south 45° 27' 59" west for a distance of 70.71 feet to a point; thence running north 89° 32' 01" west for a distance of 662.45 feet to a 36 inch oak tree; thence running south 00° 33' 00" east for a distance of 176.0 feet to an iron pin and corner; running thence south 89° 32' 01" east for a distance of 910.24 feet to an iron pin located on the easterly land lot line of Land Lot 329, said district and section; thence running north 00° 10' 11" east for a distance of 293.70 feet to an iron pin located on the easterly land lot line of Land Lot 329, said district and section, and the point of beginning. Said tract contains 4.25 acres, and is denominated as Tract IB on the referenced plat of survey.

JOHN H. MOORE
Attorney
274 Washington Avenue
Marietta, Georgia 30060
(404) 428-1488

TRACT II:

All that tract or parcel of land lying and being in Land Lot 329 of the 20th District, 2nd Section, Cobb County, Georgia, as per survey by John C. Gaskins, Georgia Registered Land Surveyor No. 2060, dated May 10, 1985, revised May 17, 1985, and being more particularly described as follows:

BEGINNING at an iron pin located on the easterly land lot line of Land Lot 329, said district and section, which iron pin is located south 00° 10' 11" west as measured along the easterly land lot line of Land Lot 329, said district and section, a distance of 689.50 feet from an iron pin located at the common corner of Land Lots 318, 319, 328, and 329, said district and section; thence running south 00° 10' 11" west as measured along the easterly land lot line of Land Lot 329, said district and section, for a distance of 634.23 feet to an iron pin and corner; thence running south 89° 56' 54" west for a distance of 1305.0 feet to an iron pin and corner; thence running south 01° 22' 14" west for a distance of 13.17 feet to an iron pin; thence running south 62° 09' 06" west for a distance of 107.98 feet to an iron pin; thence running south 77° 20' 37" west for a distance of 85.68 feet to an iron pin; thence running north 66° 11' 00" west for a distance of 191.85 feet to a steel rod located on the southeasterly side of Ridgeway Road, having a right-of-way of 50 feet; thence running north 19° 58' 32" east as measured along the southeasterly side of Ridgeway Road for a distance of 77.51 feet to an iron pin; thence running north 19° 06' 40" east as measured along the southeasterly side of Ridgeway Road for a distance of 66.08 feet to an iron pin; thence running north 17° 26' 54" east as measured along the southeasterly side of Ridgeway Road for a distance of 95.17 feet to an iron pin; thence running north 09° 41' 43" east as measured along the southeasterly side of Ridgeway Road for a distance of 218.70 feet to an iron pin and corner; thence running north 89° 54' 34" east for a distance of 199.79 feet to an iron pin and corner; thence running north 06° 44' 18" west for a distance of 201.27 feet to an iron pin and corner; thence running north 89° 33' 48" east for a distance of 461.93 feet to an iron pin; thence running south 89° 32' 01" east for a distance of 910.24 feet to an iron pin located on the easterly land lot line of Land Lot 329, said district and section, and the point of beginning. This tract contains 22.66 acres.

JOHN H. MOORE
Attorney
274 Washington Avenue
Marietta, Georgia 30060
(404) 426-1488

Exhibit "A"
Page #2

BOOK 3863 PAGE 435

228