

AMENDED DECLARATION OF PROTECTIVE COVENANTS  
FOR FALLISTON, PHASE I,  
AS RECORDED IN MAP BOOK 18, PAGE 66,  
IN THE PROBATE OFFICE OF SHELBY COUNTY, ALABAMA

STATE OF ALABAMA     )  
SHELBY COUNTY         )

KNOW ALL MEN BY THESE PRESENTS, that:

WHEREAS, the undersigned, Mobley Development, Inc. (the "Declarant"), is the owner of all of the following described property:

Falliston, Phase I, as recorded in Map Book 18, Page 66,  
Shelby County, Alabama

WHEREAS, the undersigned desires to subject said Property and each lot located in said survey to the conditions, limitations and restrictions hereinafter set forth.

NOW, THEREFORE, the undersigned does hereby expressly adopt the following protective covenants, conditions and limitations for said subdivision to-wit:

That said Property and each lot located in said subdivision shall be and the same are hereby subject to the following conditions, limitations and restrictions.

**I. EXCLUSIVE RESIDENTIAL USE AND IMPROVEMENTS**

All lots in the tract shall be known and described as residential lots and shall be used for single-family residential purposes exclusively.

No structure shall be erected, altered, placed or permitted to remain on any residential building lot other than detached single-family dwellings built on full or partial basements, crawl space, or slab construction not to exceed two and one-half stores, and a private garage for not less than two cars.

The undersigned and their assigns shall be permitted to construct or place and maintain a structure and related facilities for use as a sales center for the marketing of real estate and a structure and related facilities for use as a construction office.

- D. No building shall be located on any lot nearer to the front lot line than thirty (30) feet or nearer to the side street than thirty (30) feet as shown on the recorded plat. No building shall be located nearer than twenty (20) feet to any side street line. No building shall be located nearer than ten (10) feet to any side lot line. No building shall be located nearer than thirty (30) feet to the back line. For the purpose of this covenant, eaves, steps, and open decks or

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terraces 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.

- E. Each main structure of a residential building, exclusive of open porches, garages and basements shall meet the following size restrictions: 1 story houses shall have minimum of 1400 square feet of heated area; no basement area can be considered finished area. 1 and 1/2 story houses shall have a minimum of 1400 square feet, with a minimum of 800 square feet on the main level; 2 story houses shall have a minimum of 1600 square feet, with a minimum of 800 square feet on each floor.
- F. No lot, once subdivided and recorded by the undersigned or their assigns, shall be further subdivided.
- G. No aluminum siding shall be permitted to be installed on the exterior of any structure or residential building constructed on a lot.
- H. No satellite, microwave dishes or television or radio antennas shall be placed on any lot in the subdivision; unless approved in writing by the Architectural Control Committee, but in no event shall satellite, microwave dishes or television or radio antennas be visible from any street in the subdivision.
- I. All lots will be sold to a builder approved by the Architectural Control Committee.
- J. Wherever any curbs, gutters or sidewalks must be removed, such removal shall be done in a manner (sawed or cut) to enable replacement to be in keeping with the balance of the curbs, gutters and sidewalks.
- K. No lot shall be cultivated for crops of any sort, except for kitchen gardens of reasonable size, which must be located to the rear of any dwelling.
- L. Fences may be constructed in the rear of the dwelling but shall not be constructed nearer to the front of the lot than the front rear building line of the dwelling. With respect to corner lots, no fence may extend to the side street past the rear corner of the dwelling. The design and materials to be used in fencing shall be approved, in advance, by the Architectural Control Committee.

## II. FALLISTON, PHASE I, HOMEOWNER'S ASSOCIATION

- A. Every owner of a lot in Development is subject to assessment and shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any lot which is subject to assessment and subject to the provisions of the Protective Covenants.



B. The Association shall have one (1) class of voting membership. The members shall be owners and shall be entitled to one (1) vote for each lot owned. When more than one (1) person holds an interest in any lot, all such persons shall be members. The vote for such lot shall be exercised as they determine, but in no event shall more than one (1) vote be cast with respect to any lot.

C. (1) There will be an annual assessment of Fifty and no/100 Dollars (\$50.00) to be paid for the maintenance of the entrance way, landscaping and any other deemed common area maintenance within the subdivision. The assessment will be due and payable at the closing of each home in the subdivision. The annual assessment of Fifty and no/100 Dollars (\$50.00) shall be made payable to Mobley Development, Inc. and due on the anniversary date of each year thereafter until the last house is built and closed.

(2) The homeowner will be notified in writing within ten (10) days of the last house closing that an assessment of Fifty and no/100 Dollars (\$50.00) will be due and payable to the Fallston, Phase I, Homeowner's Association and placed in an escrow account. The certification of the last house closing shall state that the Architectural Control Committee, maintenance of the entrance way, landscaping and any other deemed common area in the subdivision will be the sole responsibility of the Fallston, Phase I, Homeowner's Association.

(3) The maximum annual assessment may be increased each year by not more than five percent (5%) of the previous year's assessment without a majority vote of the Homeowner's Association. The Homeowner's Association may fix the annual assessment at an amount not to exceed One Hundred and no/100 Dollars (\$100.00) unless greater assessment be approved by a two-thirds (2/3) vote of the membership of the Homeowner's Association.

### III. GENERAL REQUIREMENTS

A. It shall be the responsibility of each lot owner to prevent development or occurrence of any unclean, unsightly or unkempt conditions of buildings or grounds on such lot which shall tend to decrease the beauty of the specific area or of the neighborhood as a whole.

B. No weeds, underbrush or other unsightly growth shall be permitted to grow or remain upon any part of the Property and no refuse pile or unsightly objects shall be allowed to be placed or allowed to remain upon any part of the Property, including vacant parcels. The undersigned reserves the right (after 10- days notice to the Owner) to enter any residential lot during normal working hours for the purpose of mowing, removing, cleaning or cutting underbrush, weeds or other unsightly growth, or trash which, in the sole opinion of the undersigned, detracts from the overall beauty and safety of

the subdivision and may charge the Owner a reasonable cost for such services, which charge shall constitute a lien upon such lot enforceable by appropriate proceedings at law or equity. This provision shall not apply to the undersigned or their assigns during the sales and development period, such sales period to extend until the last lot is sold by the undersigned.

- C. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any lot, except dogs, cats or other household pets may be kept provided that they are not kept, bred or maintained for any commercial purposes. Household pets will be restricted to fenced backyards, houses or leashes.
- D. No noxious or offensive trade or activity shall be carried on upon any lot nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.
- E. No oil drilling, oil development operation, 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.
- F. No trash, garbage or other refuse shall be dumped, stored or accumulated on any lot. Trash, garbage or other waste shall not be kept on any lot except in sanitary containers or garbage compactor units. Garbage containers, if any, shall be kept in a clean and sanitary condition, and shall be so placed or screened by shrubbery or other appropriate material approved in writing by the Committee as not to be visible from any road or waterway within sight distance from the lot at any time except during refuse collection. No outside burning of wood, leaves, trash, garbage or household refuse shall be permitted, except during the construction period.
- G. No structure of a temporary character, or trailer, basement, tent or shack shall be used at any time as a residence, either temporarily or permanently. There shall be no occupancy of any dwelling until the interior and exterior of the dwelling is complete and certificate, or other satisfactory evidence, of completion is received by and approved by the Committee.
- H. No fence, wall, hedge, or shrub planting which obstructs sight lines at elevations between 2 and 6 feet above the roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection of the street lines or in the case of a rounded property corner, from the intersections of the street property lines extended. The same sight line limitations shall apply on any lot within 10 feet from the intersection



of a street property line with the edge of a driveway or alley pavement. Trees shall be permitted to remain within such distances of such intersections provided the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

- I. No sign of any kind shall be displayed to the public view on any lot except one professional sign of not more than two (2) square feet, one sign of not more than six (6) square feet advertising property for sale or rent, or signs used by a builder to advertise the property during the construction and sales period. All signs shall comply with design specifications of the Architectural Control Committee. No signs shall be nailed to trees. These provisions shall not apply to the undersigned or their assigns during the sales period.
- J. During all construction, all vehicles, including those delivering supplies, must enter the building lot on the driveway only as approved by the undersigned so as not to unnecessarily damage trees, street paving or curbs. Any damage not repaired by the contractor will be repaired by the undersigned (after 10 days written notice) and will be charged to the contractor (or Owner) at a reasonable cost for such services, which charge shall constitute a lien upon such lot enforceable by appropriate proceedings at law or equity. During construction, all builders must keep the homes, garages and building sites clean. All building debris, stumps, trees, etc. must be removed from each building lot by the builder as often as necessary to keep the house and lot attractive. Such debris will not be dumped in any area of the subdivision.
- K. When the construction on any building is once begun, work whereon must be prosecuted diligently and continuously and must be completed within twelve (12) months.
- L. Garage doors must be kept closed at all times except when garage is in use.
- M. Outside air conditioning units may not be located in the front yard but must be located only on the side or rear as required. No window or wall units will be allowed.
- N. No plumbing or heating vent shall be placed on the front of house, but only on the side or rear as required.
- O. No boats, boat trailers, horse trailers, campers or similar equipment or vehicle shall be parked or stored on any road, street, driveway, front yard or side yard in the subdivision for any period of time. No more than one such item may be stored in the rear of the dwelling provided that it is stored on a concrete pad.
- P. Any pools must have Architectural Control Committee approval.

- Q. No clotheslines for the purposes of hanging clothes/wash/laundry shall be installed, nor shall there be the hanging of clothes/wash/laundry on any lot where the hanging of said clothes/wash/laundry is visible from any street within the subdivision.
- R. No concrete block foundation will be exposed on the front, rear or sides of the residences constructed in this subdivision.
- S. All dwellings shall have fully sodded front yards except that a nature area may be created by approval of the Architectural Control Committee. Rear and side yards may be seeded. With respect to a corner lot, that portion of the side lot facing the street must be sodded to the rear building line of the dwelling. Sufficient landscaping shall be done to control erosion.
- T. No free-standing basketball goal may be placed closer to the street than the rear building line of the house. Basketball goals may be affixed to the house above garage entries only so long as the garage is a side entry garage.

#### IV. ARCHITECTURAL CONTROL COMMITTEE AND PLAN APPROVAL

- A. The Architectural Control Committee (the Committee) is to be under the control of Mobley Development, Inc. until all the subdivision is completed and at such time will be turned over to the Homeowner's Association.

A majority of the Committee may designate a representative to act for it. In the event of the death or resignation of any member of the Committee, the remaining members shall have full authority to designate a successor. Neither the members of the Committee nor its designated representative shall be entitled to any compensation for services performed pursuant to this covenant. Upon the (i) development of at least one hundred percent (100%) of the lots of the subdivision for single-family residential use by the construction thereon of a single-family residential dwelling in accordance with the terms hereof and (ii) occupancy of said dwelling units by individual owner/tenant occupants, and then record owners of a majority of the lots shall have the power, through a duly recorded written instrument, to change the membership of the Committee, or to withdraw from the Committee or restore to it any of its power or duties.

- B. All plans for any structure of improvement whatsoever to be erected on or moved upon or to any lot, and the proposed location thereof on any lot or lots, the exterior construction material, the roofs, and any later changes or additions to the exterior of the building on any lot after initial approval thereof shall be subject to and require the approval in writing of the Committee before any work is commenced. Construction may not be started before receipt of a Letter of Construction may not be started before receipt of



a Letter of Approval from the Committee, a copy of which must be signed by the Builder, or Owner, and returned to the Committee for retention.

- C. Any remodeling, reconstruction, alterations or additions to the interior of any existing residence shall not require the written approval of the Committee, but shall comply with all restrictions and covenants.
- D. One set of prints of the drawings (herein referred to as "Plans") for each house or other structure proposed to be constructed on each lot shall be submitted for review and approval or disapproval by the Committee. Said plans should be delivered to the Architectural Control Committee at least ten (10) days prior to the beginning of construction. All plans must include the following: a list of proposed exterior materials and color selections including exterior paint samples. Only upon the submission of all reasonably requested plans in the manner set forth above shall the Committee be deemed to have received the plans for the purposes of Section E hereof.
- E. The Committee's approval or disapproval as required in the covenants shall be in writing. In the event the Committee, or a designated representative, fails to approve or disapprove submitted plans and specifications which have been submitted to it, within ten (10) business days after receipt of same, then such plans and specifications shall be deemed to have been approved by the Committee and the related covenants therein shall be deemed to have been fully complied with.
- F. Neither the Committee nor any architect or agent thereof nor the Developer shall be responsible to check for any defects in any plans of specifications submitted, revised or approved in accordance with the foregoing provisions, nor for any structural or other defects in any work done according to such plans and specifications. It is specifically understood and agreed that any approval given by the Committee as provided herein shall not be deemed any warranty, either expressed or implied, or approval by the Committee of the structural integrity or soundness of any structure to be erected upon any lot in the subdivision.
- G. The undersigned reserve for themselves, their successors and assigns the right to use, dedicate and/or convey to the State of Alabama, to the City of Helena, and/or to the appropriate utility company or companies right-of-way or easement on, over, across or under the ground to erect, maintain and use utilities, electric and telephone poles, wires, cables, conduits, storm sewers, sanitary sewers, water mains and other equipment, gas, sewer, water or other public conveniences or utilities on, in and over strip of land ten (10) feet in width along the rear property line of each lot and five (5) feet in width along each side line of each lot.

- H. Each and every covenant and restriction contained herein shall be considered to be an independent and separate covenant and agreement and in the event any one or more of said covenants or restrictions shall, for any reason, be held to be invalid or unenforceable, all remaining covenants and restrictions shall nevertheless remain in full force and effect.
- I. The undersigned, and only the undersigned, may include in any contract or deed thereafter made any additional covenants and restrictions that are not inconsistent with and which do not lower the standards of the covenants and restrictions set for herein.
- J. The covenants and restrictions herein shall be deemed to be covenants running with the land. If any person shall violate or attempt to violate any of such restrictions or covenants, it shall be lawful for the undersigned, or any person or person owning any lot in said subdivision: (a) to prosecute proceedings at law for the recovery of damages against the person or persons so violating or attempting to violate any such covenant or restriction, or (b) to maintain a proceeding in equity against the person or persons so violating or attempting to violate any such covenant or restriction for the purpose of preventing such violation; provided, however, that the remedies contained in this paragraph shall be construed as cumulative of all other remedies now or hereafter provided by law.
- K. The covenants and restrictions set forth herein are made for the mutual and reciprocal benefit of each lot within the herein described subdivision and are intended to create: (1) mutual, equitable servitude upon each lot within such subdivision, (2) reciprocal rights between and among the respective owners and future owners of each lot within such subdivision; and (3) a privity of contract and estate between the grantees of any and all lots within such subdivision, their respective heirs, executors, administrators, successors and assigns.

Prohibited Construction. No construction on any lot shall be permitted or commenced until such time as all sewer impact fees and connection costs shall have been paid to the City of Helena, Alabama by the lot Owner.

No fence, barrier, blind or other obstruction shall be erected, constructed, or devised in that part of the side yard of any house which obstructs the full or part view from one house to the next. The side yard of any house consists of that amount of property which lays between two houses beginning at the front and running to the rear of each house.

These covenants and restrictions may be altered only with the consent of two-thirds (2/3) of lot owners and agreement of the developer.



IN WITNESS WHEREOF, the said developer and lot owners have executed this instrument on this the 20th day of May, 1994.

MOBLEY DEVELOPMENT, INC.

By: J. Steven Mobley  
J. STEVEN MOBLEY  
Its: President

FALLICO, INC.

Fallico Inc  
By Robert Snider

STATE OF ALABAMA )  
SHELBY COUNTY )

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that J. Steven Mobley, as President of Mobley Development, Inc., whose name 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 officer and with full authority, executed the same voluntarily.

Given under my hand and seal this the 20th day of May, 1994.

(S E A L)

Kenneth W. Walker  
NOTARY PUBLIC STATE OF ALABAMA AT LARGE  
MY COMMISSION EXPIRES: Apr. 26, 1997  
My Comm. No. 11111

STATE OF ALABAMA )  
SHELBY COUNTY )

05/23/1994-16461  
08:47 AM CERTIFIED  
SHELBY COUNTY JUDGE OF PROBATE  
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I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Robert Snider, as President of Fallico, Inc., whose name 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 officer and with full authority, executed the same voluntarily.

Given under my hand and seal this the 20th day of May, 1994.

(S E A L)

Kenneth W. Walker  
NOTARY PUBLIC STATE OF ALABAMA AT LARGE  
MY COMMISSION EXPIRES: Apr. 26, 1997  
My Comm. No. 11111

Inst # 1994-16461