

Inst # 1994-30920

10/11/1994-30920
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SHELBY COUNTY JUDGE OF PROBATE
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STATE OF ALABAMA)
COUNTY OF SHELBY)

GENERAL COVENANTS, RESTRICTIONS, AND EASEMENTS

KNOW ALL MEN BY THESE PRESENTS, THAT: L. Spencer Shaw and wife, Connie C. Shaw, hereinafter designated as "Sellers", and Robert L. Spivery and wife, Marcia K. Spivery, hereinafter designated as "Purchasers", have heretofore agreed to the transfer of certain real estate from Sellers to Purchasers hereinafter described as follows:

A tract of land lying in the South 1/2 of the SW 1/4 of Section 15, Township 22 South, Range 3 West described as follows:

Commence at the Southwest Corner of Section 15, Township 22 South, Range 3 West, Montevallo, Shelby County, Alabama and run thence Northerly along the West line of said Quarter-Quarter Section a distance of 159.26 feet to the point of beginning of the property being described; thence continue along last described course a distance of 507.91 feet to a point; thence turn a deflection angle of 91 deg. 01 min. 21 sec. to the right and run Easterly a distance of 1,883.20 feet to a point in the centerline of Shoal creek; thence turn a deflection angle of 67 deg. 06 min. 29 sec. to the right and run southerly along centerline of said creek 126.00 feet to a point; thence turn a deflection angle of 3 deg. 55 min. 18 sec. to the right and continue along centerline of said creek 84.44 feet to a point; thence turn a deflection angle of 18 deg. 05 min. 40 sec. to the right and continue along centerline of said creek 134.82 feet to a point; thence turn a deflection angle of 4 deg. 26 min. 09 sec. to the left and continue along centerline of said creek 102.51 feet to a point; thence turn a deflection angle of 13 deg. 22 min. 06 sec. to the right and continue along centerline of said creek 87.01 feet to a point; thence turn a deflection angle of 8 deg. 23 min. 05 sec. left and continue along centerline of said creek 152.07 feet to a point on the South line of said Section 15; thence turn a deflection angle of 91 deg. 12 min. 09 sec. to the right and run Westerly a distance of 97.33 feet to a point; thence turn a deflection angle of 0 deg. 47 min. 07 sec. to the left and continue Easterly 1,175.03 feet to a point; thence turn a deflection angle of 0 deg. 02 min. 45 sec. to the right and continue Easterly 415.86 feet to a point; thence turn a deflection angle of 88 deg. 51 min. 03 sec. to the right and run Northerly 161.30 feet to a point; thence turn a deflection angle of 89 deg. 18 min. 03 sec. to the left and run Westerly 260.00 feet to the point of beginning.

WHEREAS, Probate Office of Shelby County, Alabama, said plat being made a part hereof by reference thereto; and

WHEREAS, the Sellers are desirous of establishing certain general covenants, restrictions, and easements applicable to all lots owned by Sellers regarding said legal description;

NOW, THEREFORE, the Sellers do hereby adopt, proclaim, and publish general covenants, restrictions, and easements which shall be applicable to all real estate in the said deed, and which shall be binding on all parties and all persons claiming under them, and for the benefit of and limitations on all future owners of said property, and Sellers hereby declare that all of said property shall be owned, sold, transferred, conveyed, and occupied, subject to all of the General Covenants, Restrictions, and Easements herein set forth, said General Covenants, Restrictions, and Easements being designed for the purpose of keeping the subdivision desirable, uniform, and suitable in architectural design and use and which are set forth as follows:

1. **RESIDENTIAL USE.** The Property shall be used for single family residence purposes only and not for any purpose of business or trade, as hereinafter designated.

2. **FLOOR AREAS.** No single family residence shall be constructed containing less than 2500 square feet of heated and air conditioned interior floor space, exclusive of porches, garages, and carports. For a 1-1/2 story dwelling, or a 2 story dwelling, a minimum of 2,500 square feet is required.

3. **SETBACKS.** All single family residences or other authorized structures shall comply with the following setback requirements. No residence or structure shall be constructed closer than:

- (a) Minimum front line setbacks as shown on said recorded plat; and
- (b) 50 feet to any front lot line; and 50 feet of clearance on all sides thereof.
- (c) Any and all subdivisions of said property shall consist of Lots not less than two acres in square footage.

4. **TEMPORARY STRUCTURES.** Except for the construction and development activities of Owner, no temporary structure of any kind shall be used, or placed upon the lot, including, but not limited to trailers, campers, shacks, tents, etc. However, outbuildings and auxiliary structures may be allowed, within the discretion of Seller and Purchaser, within the joint discretion of said parties, who shall compose the "Building Committee", regarding said premises.

5. **UTILITIES.** The Lot Owner shall be solely responsible for the cost and expense of the installation of all utilities used on any lot up to the lot line. Neither Seller, nor Purchaser shall be responsible for the cost and expense of installing or maintaining any utilities, including underground electrical power, used on any lot.

6. **SEWER.** Any future Lot Owner acknowledges that his/her lot may be served by a septic tank system, which septic tank system shall be installed and maintained at his/her expense. If connection to City sewer is done, Lot Owner

shall be responsible for all tap fees, usage fees, or other costs associated herewith.

7. **DRAINAGE.** The Lot Owner shall be responsible for the drainage of all surface waters on the lot so as not to increase the natural drainage across neighboring lots. The Lot Owner shall also be responsible for drainage and silt control during the construction and landscaping of his/her residence. Also, the Lot Owner shall be responsible for maintaining any ditch or swale used for storm water drainage through his/her lot to insure it is never obstructed and that it properly drains at all times.

8. **LOT MAINTENANCE.** Each Lot Owner shall at all times keep and maintain said lot and improvements thereon in a clean, orderly, and attractive condition, maintaining and repairing the residence promptly as conditions may require. All trash, rubbish, garbage, grass, leaves, tree limbs, weeds, vines, and other waste materials shall be removed for proper disposal from a lot as soon as is practical, and prior to removal, the same shall be stored on the lot out of sight and in a neat and orderly manner so as not to interfere with the aesthetics, health, or welfare of other Lot Owners. No such material shall be placed or stored on any street or public right of way. No open burning shall be permitted on any lot or any other part of the Property, except that outdoor fireplaces, grills and chimneys may be used provided they are so constructed and equipped with fire screens as to prevent the discharge of any ashes, embers, or other particulate matter, and in compliance with local, state, and federal laws.

9. **SIGHT EASEMENTS.** No fence, wall, tree, shrub, or bush shall be erected or planted in such a way as to prevent any pedestrian or operator of a motor vehicle from having clear, open, and safe scope of vision at any intersection, corner, or other adjoining of streets, or as to obstruct passage on public right of way. The height of shrubbery or a professionally installed chain link fence near intersections shall not exceed 42 inches, and all such shrubbery or chain fences shall not exceed the 42 inch maximum height.

10. **FENCES, CLOTHES LINES, AND MAILBOXES.** No fence, wall (above the grade of the lot), or hedges may be installed in front of a residence. Only chain-link fences, not to exceed 42 inches in height shall be allowed on the front, back, or sides of any Lot.

11. **ARCHITECTURAL APPROVAL REQUIRED.** No structure shall be commenced, erected, placed, moved on to or permitted to remain on any lot, nor shall any existing structure upon any lot be altered in any way which materially changes the exterior appearance thereof, nor shall any new use be commenced on any lot, unless plans and specifications (including a description of any proposed new use) thereof shall have been submitted to and approved in writing by the Sellers or by an Architectural Committee appointed by the Seller. Such plans and specifications shall be in such form and shall contain such information as may be required by the seller or by the Architectural Committee, but in any

event shall include: (a) a site plan of the lot showing the nature, exterior color scheme, kind, shape, height, materials, and location with respect to the particular lot, including proposed front, rear, and side setbacks and free spaces, if any are proposed, of all structures, the location thereof with reference to structures on adjoining portions of the property, and the number and locations of all parking spaces and driveways on the lot; (2) a clearing plan for the particular lot showing the location of sanitary sewer service lines, and such other information required by the Seller or the Architectural Committee; (3) a drainage plan, including a construction drainage plan for silt control; and (4) a plan for landscaping. The initial Architectural Committee shall be composed of Sellers and Purchasers herein.

12. **PETS.** No animals, birds, or reptiles shall be kept or be possessed on the Property by any Lot Owner, except for commonly accepted household pets. Any such pet shall be kept by any Lot Owner within the limitations of the lot and residence thereon, and no pet shall be permitted to leave said lot or residence without being controlled at all times by the Lot Owner. No kennels will be allowed. However, no horses, goats, cows, pigs, sheep, or chickens shall be maintained on such premises.

13. **SIGNS.** No signs, billboards, posters or other advertising matter or displays of any kind shall be permitted anywhere on the Property except as provided herein. The Sellers or Architectural Committee may, in its discretion, adopt and promulgate rules and regulations relating to signs which may be employed.

14. **UTILITY EASEMENTS.** The Sellers, or any utility authorized by it, reserves an easement across the back of each lot and side line easements or other easements as shown on the recorded plat of the Property, for the purpose of constructing, maintaining, and repairing utility lines and equipment and for water mains, storm drains, sanitary sewer lines and other general use facilities; provided, however, that said easement areas shall be maintained by Purchaser or other Lot Owner, except for those obligations of public authorities or utility companies.

15. **NUISANCES.** No substance, thing, or material shall be kept upon any lot that will emit foul or obnoxious odors, or that will cause any noise that will or might disturb the peace, quiet, comfort, or serenity of the occupant of surrounding property. No house trailer, trailer, truck, commercial vehicle, or any other similar item shall be stored in the open on any lot for a period of time in excess of twenty-four (24) hours.

16. **RESTRICTIONS ON ACCESS.** No vehicular access shall be permitted from any lot to public roads outside the boundaries of the Property except by roads constructed by the Seller or Lot Owner on the Property, and same shall be used only as Private access ways for Sellers, Purchasers or Lot Owners.

17. **ZONING AND SPECIFIC RESTRICTIONS.** The general covenants, restrictions, and easements herein shall not be taken as permitting any action

or thing prohibited by the applicable zoning laws, or the laws, rules or regulations of any governmental authority, or by specific restrictions imposed by any deed. In the event of conflict, the most restrictive provision of such laws, rules, regulations, deeds, or the general covenants, restrictions, and easements shall be taken to govern and control.

18. **GRANTEE'S ACCEPTANCE.** The Purchaser of any lot subject to the coverage of these general covenants, restrictions, and easements, by acceptance of the deed or other instrument conveying an interest in or title to, or the execution of a contract for the purchase thereof, whether from Seller, Seller's heirs at law, or a subsequent Lot Owner, shall accept such deed or other contract upon and subject to each and all of these general covenants, restrictions, and easements herein contained.

19. **INDEMNITY FOR DAMAGES.** Each and every Lot Owner and future Lot Owner, in accepting a deed or contract for any lot subject to these general covenants, restrictions, and easements, agrees to indemnify and defend Sellers against and hold Sellers harmless from any damage caused by such Lot Owner, or the contractor, agent or employees of such Lot Owner, to the roads, streets, gutters, walkways, or other aspects of public ways, including all surfacing thereon, or to water drainage or storm sewer lines or sanitary sewer lines.

20. **ENFORCEMENT.** In the event of a violation or breach of any of these general covenants, restrictions, and easements or any amendments thereto by a Lot Owner, or family or agent of such Lot Owner, the Lot Owner(s), Seller, its successors and assigns, or any aggrieved party to whose benefit these general covenants, restrictions, and easements inure, shall have the right to proceed at law or in equity to compel the compliance with the terms and conditions hereof, to prevent the violation or breach of said general covenants, restrictions, and easements, to sue for and recover damages, or take all such courses of action at the same time, or such other legal remedy it may deem appropriate. No delay or failure on the part of the aggrieved party to initiate an available remedy set forth herein shall be held to be a waiver of that party or an estoppel of that party or of any other party to assert any right available to him upon the recurrence or continuation of said violation or the occurrence of a different violation.

Damages shall not be deemed adequate compensation for any breach or violation of any provision hereof, but any person or entity entitled to enforce any provision hereof shall be entitled specifically to relief by way of injunction as well as any other available relief at law or in equity.

Any party to a proceeding who succeeds in enforcing a general covenant, restriction, or easement or enjoining the violation of the same against a Lot Owner may be awarded a reasonable attorney's fee against such violating Lot Owner.

21. **INTERPRETATION BY SELLER.** Sellers shall have the right to construe and interpret the provisions hereof, and in absence of an adjudication by a

court of competent jurisdiction to the contrary, its construction or interpretation shall be final and binding as to all persons or property benefited or bound by the provisions hereof.

22. **ASSIGNMENT BY SELLERS.** In the event that seller should sell the Property to a third party, Sellers shall be empowered to assign its rights hereunder to said third party, and, upon such assignment, said third party shall have all the rights and be subject to all the duties of Sellers hereunder.

23. **RULES AND REGULATIONS.** All Lot Owners shall at all times comply with all rules and regulations, orders, laws, ordinances, statutes, and decrees of any governmental or political entity or persons, and any rules and regulations adopted by Owner or its successors, assigns, or designees.

24. **RIGHTS OF SELLERS TO MODIFY COVENANTS, RESTRICTIONS, AND EASEMENTS.** The undersigned Sellers, its successors or assigns, reserves the right to modify, release, amend, void, transfer, or delegate any and all of the rights, reservations, and restrictions herein set forth, or the right to modify, amend, void, or transfer any one or more of the said herein set forth general covenants, restrictions, and easements on lots in said subdivision.

25. **TITLE.** It is understood and agreed that said general covenants, restrictions, and easements, shall attach to and run with the land for a period of twenty (20) years from October 1, 1994, and at which time the said general covenants, restrictions, and easements shall be automatically extended for successive periods of ten (10) years, unless by a vote of the then majority of the Lot Owners of said subdivision, it is agreed in writing to change said general covenants, restrictions, and easements in whole or in part. Invalidation of any one of these general covenants, restrictions and easements by judgment or court order shall in no way affect any of the other provisions, which shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned have executed this document this 21st day of September, 1994.

Lynne K. Stamps
Witness

Lynne K. Stamps
Witness

Lynne K. Stamps
Witness

Lynne K. Stamps
Witness

L. Spencer Shaw
L. Spencer Shaw

Connie C. Shaw
Connie C. Shaw

Robert L. Spivery
Robert L. Spivery

Marcia K. Spivery
Marcia K. Spivery

STATE OF ALABAMA)
COUNTY OF SHELBY) General Acknowledgment

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that L. Spencer Shaw and Connie C. Shaw, 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 this instrument, they executed the same voluntarily on the day the same bears date.

Given under my hand and official seal, this the 21st day of Sept., 1994.

L. Michele K. Danks

Notary Public

My Commission Expires: 5/95

STATE OF ALABAMA)

COUNTY OF SHELBY) General Acknowledgment

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Robert L. Spivery and Marcia K. Spivery, 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 the instrument, they, executed the same voluntarily on the day the same bears date.

Given under my hand and official seal, this the 21st day of Sept., 1993.

L. Michele K. Danks

Notary Public

My Commission Expires: 5/95

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