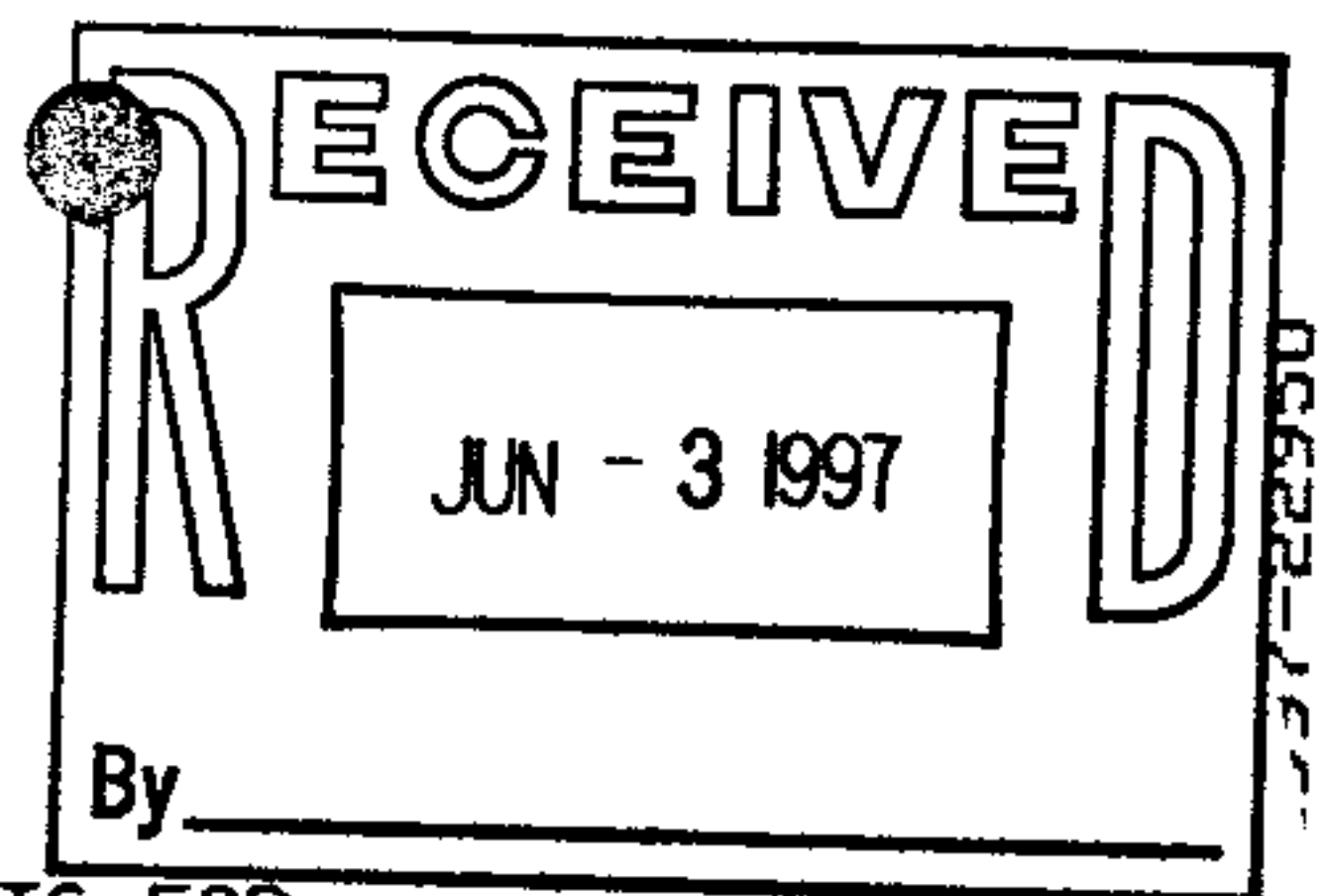


STATE OF ALABAMA)
COUNTY OF SHELBY)



DECLARATION OF RESTRICTIVE COVENANTS FOR
TWIN OAKS

KNOW ALL MEN BY THESE PRESENTS: That:

Whereas: Bill Brantley and Applegate Realty, Inc. (collectively "the Developer"), have heretofore acquired fee simple title to certain real property situated in Shelby County, Alabama and has subdivided, (the Subdivision) such property into thirty-two (32) lots (herein "Lots") as described in map and survey of Twin Oaks as recorded in Map Book 22, Page 108, in the Probate Office of Shelby County, Alabama (the "Property").

WHEREAS, the Developer desires to develop a residential subdivision to be known as Twin Oaks and in doing so to subject the Property to the restrictions and covenants set forth in this Declaration of Restrictive Covenants for Twin Oaks (herein "the Declaration") and

NOW, THEREFORE, the Developer does, upon recording hereof, declares and makes the Property and each of the Lots now or hereafter included in the subdivision of the Property subject to the covenants, conditions, restrictions, uses, limitations and affirmative obligations set forth in this

Inst # 1997-22950

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Declaration, all of which are declared to be in furtherance of a plan for the improvement of the Property in a desirable and uniform manner, and all of which shall run with the land and shall be binding on all persons, firms or corporations having or acquiring any right, title or interest in the Property, the Lots, or any part(s) thereof, and shall be for the benefit of each such Owner of Property or interest therein, and shall inure to the benefit of and be binding of, and be binding upon each successor in interest to the Owners thereof.

ARTICLE I

Land Use

1. The Property will be used for residential purposes only and not for any business or trade.

ARTICLE II

Building Requirements

1. **MINIMUM STRUCTURE SIZE OF PRIMARY DWELLING.** No Lot shall contain more than one primary dwelling (the "Dwelling") and no primary dwelling shall be erected on any Lot if such dwelling contains less than 1400 square feet of living space. Living space is defined as heated and finished areas and does not include porches, garages, basements, carports or attics.

2. **EXTERIOR MATERIAL.** No Dwelling or out building as hereinafter allowed shall use the following materials which shall be visible on the exterior of any such building: (a) concrete block; or (b) stucco over concrete block.
3. **DRIVEWAYS.** All driveways servicing any Lot shall be concrete.
4. **BUILDING LOCATION.** No structure, other than fences, shall be located any closer than 30 feet from Twin Oaks Circle and Twin Oaks Way (the "ROADS") nor shall any structure other than fences be located any closer than 35 feet from any non-Road Lot line.
5. **FENCING.** The Architectural Control Committee shall have the right to approve any proposed fencing.
6. **TEMPORARY STRUCTURES AND OUTBUILDINGS.** No mobile homes or temporary dwellings shall be built and used for residential purposes. Guest houses and other outbuildings shall, subject to the approval of the Architectural Control Committee, be allowed.
7. **DESIGN CRITERIA.** The objective of the Architectural Control Committee hereinafter established is to provide for the quality development of all of the Lots within the subdivision.

8. **SEPTIC TANKS.** All septic tanks must be of an improved type, such tanks together with adequate field lines must be approved and completely acceptable to the Shelby County Health Department. No septic tank or field line shall be constructed within 20 feet of an adjoining property line. No sewer or drainage lines shall be constructed or laid which shall empty on or become a nuisance to an adjoining Lot or Property line.

9. **WINDOWS.** Only wood or white aluminum windows are permitted.

10. **THE ROOF.** Pitch on any residence shall not be less than 8 and 12 unless first approved in writing by the Architectural Control Committee.

11. **NO** residence shall have an open carport or front drive unless specifically approved in writing by the Architectural Control Committee.

12. **ALL PORCHES** on the front sides of any dwelling shall be supported by the foundation of the structure.

13. **ALL** dwellings will have brick, stone or dryvit type product on all four sides of the foundation, no exposed block. All homes are to be of traditional styling and approved in writing by the Architectural Control Committee.

14. **GARAGES.** Garage doors shall not be permitted on the front of houses. In cases where it is unavoidable due to terrain, the garage shall be of sheetrock and painted. Unless located on the side or rear of the house.

15. **CONSTRUCTION OF IMPROVEMENTS.** When the construction of any building is once begun, work thereon must be prosecuted diligently and continuously and must be completed within 12 months.

16. **ALL** roof vents and pipes shall be painted as near the color of the roof as possible, and shall be located on the rear of the structure and not be viewed from the street. All roofs shall be of weathered wood color.

17. **UPON** the completion of a residence all front and side yards which are not left in a natural state will be landscaped with solid sod. The rear yard may be sprigged, seeded, or solid sod, or left in a natural state.

ARTICLE III

ARCHITECTURAL CONTROL COMMITTEE

1. **APPROVAL OF ARCHITECTURAL CONTROL COMMITTEE.** No structure, building, or fence shall be commenced, erected, placed, moved onto or permitted to remain on any Lot, nor shall any existing structure upon any Lot within the Property be altered in any way which materially changes the

exterior appearance thereof until same is submitted to and approved by the Architectural Control Committee (herein "the Committee"). The Committee will be provided with such plans and specifications which will be in a form and shall contain such information, as may be required by the Architectural Control Committee and shall include but not necessarily be limited to:

A. a site plan of the Lot showing the location, height, and exterior design (including a summary of all proposed materials together with samples of exterior materials and paint colors) of all buildings and improvements proposed to be constructed on the Lot; paint colors preferable should be earth tones only; and

B. a grading, and drainage plan for the Lot.

C. Any remodeling, reconstruction, alterations or additions to an existing residence shall require the written approval of the Architectural Control Committee.

2. **COMPOSITION OF THE COMMITTEE.** The Architectural Control Committee (the "Committee"), until termination or modified pursuant to Article III, Paragraph 10 as hereinafter set out shall be composed of the Developer until such time as the

Developer has sold all of the Lots within the Property. At such time as the Developer has sold all of the lots, the Committee shall be comprised of three (3) individuals who are Lot Owners who are elected by a majority of the fee simple Owners of the Lots within the Property and at such time, the affirmative vote of a majority of the members of the Committee shall be required in order to issue any permit and authorizations set forth herein.

3. **EVIDENCE OF APPROVAL.** The approval of the Committee shall be evidenced by written permit executed by one or more of the members of the Committee and counter-signed by the applicant therefor. The written permit shall be executed in duplicate with one copy to be retained by the applicant.

4. **BASIS FOR DISAPPROVAL OF PLANS.**

A. The scope of review by the Committee shall be limited to appearance and improvement location only. The purpose of the Committee is to promote quality development on the Lots and not necessarily to impose requirements concerning the type of structure or the design of such structures in such Lots.

THE COMMITTEE DOES NOT ASSUME OR ACCEPT BY THE FILING HEREOF ANY RESPONSIBILITY OR AUTHORITY TO REVIEW FOR STRUCTURAL SOUNDNESS, COMPLIANCE WITH BUILDING OR ZONING CODES OR STANDARDS, OR ANY OTHER FACTORS.

B. The Committee shall have the right to disapprove any plans and specifications submitted for approval for any of the following reasons:

- (1) failure of such plans and specifications to comply with the covenants and restrictions herein set forth;
- (2) failure to include information in such plans and specifications as may have been reasonably requested by the Committee;
- (3) reasonable objection to the exterior design, appearance or materials proposed to be used in any proposed structure;
- (4) incompatibility of use of any proposed structure or improvement with existing structures or uses upon other Lots in the Property;
- (5) objection to the site plan, clearing plan, drainage plan for any special parcel;
- (6) failure of plans to take into consideration the particular topography, vegetative characteristics, and natural environs of the Lot;
- (7) any other matter which, in the judgement of the Committee, would render the proposed structure, improvement, or uses inharmonious with the general plan of improvement of the Property or with structures, improvements, or uses located upon Lots in the Property.

C. In any case where the Committee shall disapprove any plans and specifications submitted hereunder, or shall approve the same only as modified or upon specified conditions, such disapproval shall be accompanied by a statement of the grounds upon which such actions were based.

If no response is made by the Committee within a thirty (30) day period after submission of such plans and specifications, it shall be deemed that such plans and specifications are approved. In any such case the Committee shall, if requested, make reasonable efforts to assist and advise the applicant in order that an acceptable proposal can be prepared and submitted for approval.

5. **RETENTION OF COPY OF PLANS.** Upon approval by the Committee of any plans and specifications, as approved, shall be deposited for permanent record with the Committee, and a copy of such plans and specifications bearing such approval, in writing, shall be returned to the applicant submitting the same.

6. **FAILURE TO OBTAIN APPROVAL.** If any structure or improvement shall be altered, erected, placed or maintained upon any Lot, or any new structure or improvement commenced on any Lot other than in accordance with plans and specifications approved by the Committee pursuant to the provisions of this Article III, such alteration, erection, maintenance or use shall be deemed to have been undertaken in violation of this covenant, and without the approval required herein, and upon written notice from the Committee, any such structure or improvement as altered, erected, placed or

maintained shall be corrected as to extinguish such violation.

If fifteen (15) days after the notice of such violation the Owner of the Lot upon which such violation exists shall not have taken reasonable steps toward the removal or correction of the same, the Committee shall have the right, through its agents and employees, to enter upon such Lot and to take such steps as may be necessary to extinguish the violation and the cost thereof shall be a binding, personal obligation of such owner as well as a lien (enforceable in the same manner as a mortgage) upon the Lot in question. The lien provided in this paragraph shall not be valid as against a bona fide purchaser (or bona fide mortgagee) of the Lot in question unless a suit to enforce said lien shall have been filed in a court of record in Shelby County prior to the recordation among the Land Records of Shelby County of the deed (or mortgage) conveying the Lot in question to such purchaser (or subjecting the same to such mortgage).

7. **CERTIFICATE OF COMPLIANCE.** Upon completion of the construction or alteration of any structure or improvement in accordance with the plans and specifications approved by the Committee, the Committee shall, upon written request of the Owner thereof, issue a certificate of compliance in form

suitable for recordation, identifying such structure or improvement and the Lot on which such structure or improvement is placed, and stating that the plans and specifications, the location of such structure or improvement and the use or uses to be conducted thereon have been approved and that such structure or improvement complies with the requirements of the Committee. Preparation and recording of such certificate shall be at the expense of such Owner.

Any certificate of compliance issued in accordance with the provisions of this Article III, Paragraph 7, shall be prima facie evidence of the facts therein stated, and as to any purchaser or encumbrance in good faith and for value, or as to any title insurer, such certificate shall be conclusive evidence that all structures or improvements on the Lot and the use or uses described therein comply with all the requirements of this Article III, and with all other requirements of this Article III, and with all other requirements of this Declaration as to which the Committee exercises any discretionary or interpretive powers.

8. INSPECTION RIGHTS. Any agent of Developer or the Committee may at any reasonable time or times enter upon and inspect any Lot or any improvements thereon for the purpose of ascertaining whether the maintenance of such Lot and the

maintenance, construction, or alteration of structures and improvements thereon are in compliance with the provisions hereof; and neither Developer nor the Committee nor any such agent shall be deemed to have committed a trespass or other wrongful act by reason of such entry or inspection.

9. **WAIVER OF LIABILITY.** Neither the Committee nor any architect nor agent thereof, nor Developer, nor any partner, agent, or employee of any of the foregoing, shall be responsible in any way for (i) any failure of structures or improvements to comply with requirements of this Declaration, although a certificate of compliance has been issued; (ii) any defect in any plans and specifications submitted, revised, or approved in accordance with the foregoing provisions; or (iii) any structural or other defects in any work done according to such plans and specifications, and all persons submitting any such plans and specifications, and all persons relying thereon, agree not to sue or claim against the entities and persons referred to in this Section 9 for any cause arising out of the matters referred to in this Section 9 and further agree to and do hereby release said entities and persons for any and every such cause.

10. **DURATION.**

A. The rights of the Developer as to the Architectural Control Committee shall terminate upon the earlier of:
(i) the date that the Developer has sold the last Lot owned by the Developer within the Subdivision and Property; and
(ii) the resignation or inability of the Developer to perform on the Committee.

B. After the Developer's involvement with the Committee has ended, the Committee shall be comprised of at least three (3) people who are fee simple Lot owners and are designated by a majority vote of the fee simple Lot Owners.

C. Inactivity of the Committee shall not be deemed a waiver of the rights of the Committee.

ARTICLE V

Miscellaneous

1. **ANIMALS.** No dog kennels for commercial purposes will be allowed. No cows, swine or chickens will be allowed, and no commercial breeding of any animal will be allowed.

2. **No** obnoxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the Property.

Without limiting the generality of the foregoing, it is the intent of the Developer and these covenants to restrict the use of the Property and any Lot therein which will detract

from a high quality residential estate subdivision.

Accordingly, no commercial vehicle or any inoperable motor vehicle shall be allowed on the Property or any Lot therein which is visible from Twin Oaks Circle and Twin Oaks Way. No Lot shall be used as a dumping ground for rubbish, trash, garbage or other waste, and such shall not be kept except in sanitary containers which permanent location of such sanitary containers shall not be visible from Twin Oaks Circle and Twin Oaks Way. Each Lot shall be maintained in a neat and orderly fashion at least to the extend of visibility from Twin Oaks Circle and Twin Oaks Way, this includes the yard and any shrub beds. No satellite, microwave dishes or television or radio antennas shall be placed on any Lot unless approved in writing by the Architectural Control Committee, but in no event shall satellite, microwave dishes or televisions or radio antennas be visible from the street. No Lot shall be cultivated for crops of any sort, except for gardens of reasonable size, which is to be located in the rear of the dwelling.

3. No signs of any kind shall be displayed to the public view on any Lot except one sign of not more than five (5) square feet advertising the Property for sale or rent, or signs used by a builder to advertise the Property during construction and sale period.

4. During all construction, all vehicles, including those delivering supplies, must enter the building Lot on the driveway only as approved by the Committee so as not to unnecessarily damage trees, and street paving. Any damage to street pavings or gutters not repaired by the contractor will be repaired by the Committee (after ten (10) days written notice) and will be charged to the Lot Owner at a reasonable charge for such services, which charge shall constitute a lien upon such Lot enforceable by appropriate proceedings at law or equity. Streets are designed for residential and light construction use only. Any damage caused by excessive dirt hauling to or from a lot will be charged to the lot owner. During construction, all Builders must keep the homes, garages, and building site 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 Property.

5. No Lot shall be sold or used for the purpose of extending any public or private road, street, or alley, for the purpose of opening any road, street, or alley, except by the prior written consent of the Committee.

6. **No** basketball goal or similar object may be installed nearer the street than the front building line of the dwelling. The backboard will be clear or smoked flexiglass construction and the supporting structure shall be painted dark green.

7. **All** mailboxes shall be of a standard design and type as determined by the Committee.

8. **No** Lot in said subdivision may be subdivided or replatted without the express written consent and approval of the Architectural control Committee, the appropriate government agency and 2/3 of Property Owners with each owner having one (1) vote per Lot owned.

9. **GRANTEE'S ACCEPTANCE.** The grantee of any Lot subject to the coverage of this Declaration, by acceptance of the deed or other instrument conveying an interest in or title to, or the execution of a contract for the purpose thereof, whether from Developer or a subsequent Owner of such Lot, shall accept such deed or other contract upon and subject to each and all of these restrictions herein contained and other easements, restrictions and reservations of record.

10. **INDEMNITY FOR DAMAGES.** Each and every Lot Owner and future Lot Owner, in accepting a deed or contract for any Lot subject to the Declaration, agrees to indemnify Developer for

any damages caused by such Owner, or the contractor, agent, or employees of such Owner, to 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 owned by Developer, or for which Developer has responsibility, at the time of the damage.

11. **SEVERABILITY.** Every one of the provisions and restrictions is hereby declared to be independent of, and severable from the rest of the provisions and restrictions and of and from every other one of the provisions and restrictions and of and from every combination of the provisions and restrictions.

12. **OWNER.** As used herein, "Owner" shall mean the record fee title Owner of a Lot within the Subdivision, whether such ownership is by one or more person and or entity. Each Lot shall only have one vote relating to matters concerned by this instrument regardless of the number of owners.

13. **EFFECTS OF VIOLATION ON MORTGAGE LIEN.** No violation of any of this Declaration shall defeat or render invalid the lien of any mortgage made in good faith and for value upon any portion of the Property, and Lot therein; provided, however, that any mortgagee in actual possession, or any purchaser at any foreclosure sale shall be bound by and

subject to this Declaration as fully as any other Owner of any portion of the Property, any Lot therein.

14. **NO REVERTER.** No restriction herein is intended to be, or shall be construed as a condition subsequent or as creating a possibility of reverter.

15. **DURATION AND AMENDMENT.** The restrictions contained in this Declaration shall run with and bind the Property and, shall inure to the benefit of and shall be enforceable by Developer, the Architectural Control Committee, and the Owner of any Lot included in the Property, their respective legal representatives, heirs, successors and assigns until the 31st day of December, 2017, after which time said restrictions shall be automatically extended for successive periods for 10 years. This Declaration may not be amended in any respect except by the execution of an instrument shall be filed for 2/3 of the Lot Owners, which instrument shall be filed for recording among the Land Records of Shelby County, Alabama, or in such other place of recording as may be appropriated at the time of the execution of such instrument. After December 31, 2017, this Declaration may be amended and or terminated in its entirety by an instrument signed by not less than a majority of the Lot Owners, which instrument shall be filed for recording among the Land Records of Shelby County,

Alabama, or in such other place of recording as may be appropriate at the time of the execution of such instrument.

16... **ENFORCEMENT.** In the event of a violation or breach of any of these restrictions or any amendments thereto by any Owner of a Lot, or employee, agent, or lessee of such Owner, the Owner(s) of Lot (s), Developer, their successors and assigns, or any party to whose benefit these restrictions inure shall have the right to proceed at law or in equity to compel compliance with the terms and conditions hereof, to prevent the violation or breach of said restrictions, to sue for and recover damages for any amounts required to be paid hereunder, or take all such courses of action at the same time, or such legal remedy deemed appropriate. No delay or failure on the part of an aggrieved party to initiate and available remedy set forth herein shall be held to be a waiver 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 different violations. 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 either at law or in equity. Any party to proceeding who succeeds in enforcing a

restriction or enjoining the violation of a restriction against a Lot Owner may be awarded a reasonable attorney's fee against such Lot Owner, and shall have the right to place recorded lien on any Lot for the purpose of securing the payment of any amounts owing by a Lot Owner under this Declaration and such lien may be enforced in the same manner as foreclosure of a mortgage under the Laws of the State of Alabama.

17. **NO WAIVER.** The failure of any party entitled to enforce any of these restrictions herein contained shall in no event be considered a waiver of the right to do so thereafter, as to the same violation or breach or as to such violation or breach occurring prior or subsequent thereto; provided, however, that approval of plans pursuant to Article III shall be binding on any and all parties as a conclusive determination that such plans are in conformity with these restrictions.

18. **All** Lot owners shall maintain their Lot and the improvements thereon in a neat and orderly fashion. Applegate Realty has a master permit for Twin Oaks with ADEM. It shall be the responsibility of lot owners to maintain any erosion control devices on their individual lots. If

STATE OF ALABAMA)

COUNTY)

I, the undersigned, a Notary Public in and for said County is said State, hereby certify that **Bill Brantley** is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he/she, executed the same voluntarily on the day the same bears date.

Given under my hand and seal this 2nd day of June, 1997.

Reuben B. Sumner
Notary Public
My Commission Expires: 4-2000

STATE OF ALABAMA)

COUNTY)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that **RANDALL H. GOGGANS**, whose name as President of **APPLEGATE REALTY, INC.**, a corporation, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation on the day the same bears date.

Given under my hand and seal this 2nd day of June, 1997.

Robbie B. Summer

Notary Public

My Commission Expires 4-2000

additional erosion and sedimentation control devices are needed due to construction or grading by the owners, it is the responsibility of the lot owner. All lot owners must keep their individual lots in compliance with ADEM regulations.

19. MODIFICATION OF THESE COVENANTS BY DEVELOPER.

Notwithstanding anything to the contrary contained herein, the Developer reserves the right to unilaterally modify these covenants with respect to any Lot Owned by Developer at any time without the necessity of obtaining approval from any Lot Owner or Lot Mortgagee. Any such modification shall only apply to Developer Owned Lot (s).

20. Bill Brantley, by his execution of the Declaration, Individually and **Randall H. Goggans** as President of Applegate Realty, Inc., agrees that the interest as it appears, of the Developer in the Property or any Lot contained in the Property, is subordinate and subject to this Declaration. The Property is not the Homestead of Bill Brantley or Randall H. Goggans or their spouses.

IN WITNESS WHEREOF, the undersigned, as the owner of the
Property, has caused this Declaration to be executed as of
the 2ND day of JUNE, 1997.



Bill Brantley

Applegate Realty, Inc.



BY: Randall H. Goggans
President

Applegate Realty
1 Riverchase Plaza
Suite 124
B'ham 35242

Inst # 1997-22950

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