

STATE OF ALABAMA
SHELBY COUNTY

COVENANTS AND RESTRICTIONS

BENT RIVER COMMONS 2ND SECTOR

KNOWN ALL MEN BY THESE PRESENTS, THAT;

WHEREAS, Multi-Vest, Inc. And Werth Realty, Inc. , Alabama Corporation, are the Owners and Developer, (hereinafter referred to as the "Developer"), of all lots in the Survey of Bent River Commons, 2nd Sector a plat of which is recorded in Map Book 25, Page(s) 25, in the Probate Office of Shelby County, Alabama, said plat being made a part hereof by reference thereto, and

WHEREAS, the Developers are desirous of establishing certain general covenants, restrictions, and easements applicable to all lots owned by it in the said survey of Bent river Commons, 2nd Sector.

NOW THEREFORE, the Developers do hereby adopt, proclaim and publish general covenants, restrictions, and easements which shall be applicable to all lots in the said Survey of Bent River Commons, 2nd Sector 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 in Bent River Commons, 2nd Sector and Developer hereby declares that all of the said lots in Bent River Commons, 2nd Sector shall be owned, sold, transferred, conveyed and occupied subject to all of the 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 said property shall be used for a single family residence purposes exclusively and no other purposes. No noxious or offensive trade or activity shall be carried on upon any Lot; neither shall there be any conduct or activity thereon which constitutes an annoyance or nuisance to the residents of the subdivision. Furthermore Purchasers of individual lots shall have no longer than one year to complete home from the date of closing on said lot and have a certificate of occupancy from Shelby County Building Inspection Services. This provision does not apply to the Developers or their Assigns.

2. FLOOR AREAS: For the purpose of this provision river lots and adjacent river lots will be defined as Lots 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219. Non- river lots will defined as Lots 201, 202, 230, 229, 228, 227, 226, 225, 224, 223, 222, 221 and 220. No single family residence shall be constructed containing less than 2000 square feet of heated and air conditioned interior floor space, and 2500 square feet of heated and air conditioned interior floor space for the river lots, exclusive of porches, garages and carports. For a 1 ½ story dwelling, the main level must contain a minimum of 1300 square feet and the remaining 700 square feet in the half-story. For a 1 ½ story dwelling for the river lots, the main level must contain a minimum of 1500 square feet and the remaining 1000 feet in the half-story. For a two story dwelling, a minimum of 1000 square feet on each level and for the river lots on a two story dwelling the minimum square footage must be 1250 square feet per level.

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

(a) Minimum front line setbacks shall be as shown on the recorded map:

(b) Side-line setback on each side to be 10 feet from the property line.

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(c) 30 feet to any rear lot line; and

(d) Request for variance for items a, b, or c, will be presented to the Developer only if the aforesaid requirements cannot be met because of the topography of a particular lot.

4. TEMPORARY STRUCTURES. Except for the construction and development activities of Developer and Builder, no temporary structure of any kind shall be used, or placed upon any lot, including, but not limited to trailers, campers, shacks, tents, outbuildings, or auxiliary structures.

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. Furthermore, all electrical power transmission lines on any lot shall be installed underground up to the lot line. Developer shall not be responsible for the cost and expense of installing or maintaining any utilities, including underground electrical power, used on any lot up to the lot line. All utilities from Lot Line to the structure shall be underground.

6. DRAINAGE. The lot owner shall be solely responsible for the drainage of all surface waters on the lot so as not to increase the natural drainage and silt control during the construction and landscaping of his/her lot.

7. LOT MAINTENANCE. Each owner of any lot 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 homeowners. 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 Bent River Commons, 2nd Sector development, 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. Garbage containers, if any, shall be kept in clean and sanitary condition and shall be so placed or screened by shrubbery or other appropriate material approved in writing by the Architectural Control Committee so as not to be visible from any road at any time, except during the time that refuse is being collected.

8. 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 full scope of vision at any intersection, corner, or other adjoining of streets, or as to obstruct passage on public right of way. Height of shrubbery near intersections shall not exceed 30 inches.

9. FENCES, CLOTHES LINES. No fence, wall (above the grade of the lot), or hedges may be installed in front of a residence. Walls and fences on the property are to be approved in writing by the Developers or the Architectural Committee, its successors, or assigns, prior to installation. No wall or fence shall be erected on the rear of the property which exceeds six feet in height. Any walls on the rear of the property above the line of site (as determined by the Architectural Committee) must be approved in writing by the Developer or Committee. No clothes lines are permitted.

10. WINDOWS; YARDS. All windows shall be wood framed, vinyl clad wood, or vinyl windows if

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they contain the following characteristics: 1. Wood window appearance, 2. Two (2") inch brick mold, 3. Sloping sill with at least a 10 degree slope, 4. Check rail (strip between upper and lower windows) should be a minimum of 1 1/4". All fronts must be sodded, except in natural areas. Corner lots must be sodded from lot line to lot line for a minimum of twenty (23) feet from back of curb.

11. GARAGE OPENINGS. Garage opening shall not face the street. Exceptions may be granted by the Developer or Architectural Control Committee in their sole discretion, and said exceptions must have electric door openers installed and operating.

12. ARCHITECTURAL APPROVAL REQUIRED. No structure shall be commenced, erected, placed, moved onto 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 Developer or by an Architectural Committee appointed by the Developer. Such plans and specifications shall be in such form and shall contain such information as may be required by the Developer or by the Architectural Committee, but in any event shall include: (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, is any are proposed, of all structure, 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, (b) a clearing plan for the particular lot showing the location of sanitary sewer service lines, and such other information required by the Developer or the Architectural Committee, (c) a drainage plan, including a construction drainage plan for silt control, and (d) a plan for landscaping.

This entire provision shall not apply to the Developers or their heirs or assigns.

13. EXTERIOR OF DWELLING. All houses must have brick, dryvit or stacked stone on the exterior of the house.

14. PETS. No animals, birds, or reptiles shall be kept or be possessed in Bent River Commons, 2nd Sector by any person owning a lot, except for commonly accepted household pets. Any such pet shall be kept by any homeowner within the limitations of the said lot or residence. No kennels will be allowed.

15. SIGNS. No signs, billboards, posters or other advertising matter or displays of any kind shall be permitted anywhere in Bent River Commons, 2nd Sector except as provided herein. The Developer or Architectural Committee may, in its discretion, adopt and promulgate rules and regulations relating to signs which may be employed. The Developer and builders shall be permitted to install their signage. All signs shall comply with design specifications of the Architectural Control Committee. No signs of any kind shall be displayed on any Lot, except one for sale sign of not more than five square feet on existing homes or one for sale sign of not more than six (6) square feet during the construction and sale. The Developer may use signage as he deems necessary to promote the subdivision. No radio towers will be permitted. No satellite dish antennas larger than eighteen (18") in diameter will be permitted and these must not be visible from front or side streets.

16. UTILITY EASEMENTS. Developer, or any utility authorized by it, reserves a 10 foot easement

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across the back of and along each side of each lot, for the purpose of constructing, maintaining and repairing utility lines and equipment and for water mains and storm drains, and other general use facilities; provided, however, that said easement area shall be maintained by the lot owner, except for those obligations of public authorities or utility companies.

17. 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 boat, boat trailer, house trailer, trailer, motor homes, truck, commercial vehicle, motorcycle, golf cart, or any other similar item shall be parked or stored on any lot where it can be seen from a front or side street for a period of time in excess of twenty-four (24) hours, nor shall any inoperable motor vehicle be kept thereon at any time..

18. RESTRICTIONS ON ACCESS. No vehicular access shall be permitted from any lot to public roads outside the boundaries of the subdivision except by roads constructed by the Developer in the Bent River Commons, 2nd Sector development.

19. 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 govern and control.

20. GRANTEE'S ACCEPTANCE. The grantee of any lot subject to 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 Developer or a subsequent owner of such lot, shall accept such deed or other contract upon and subject to each and all of these general covenants, restrictions, and easements herein contained.

21. 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 Developer against and hold Developer harmless from any damage caused by such lot owner, or the contractor, agent or employees of such lot owner, to roads, street, gutters, walkways, of other aspects of public ways, including all surfacing thereon, or to water drainage or storm sewer lines or nature trail.

22. 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 owners of any lot, Developer, its successors and assigns, or any 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 prevailing 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 fees..

23. INTERPRETATION BY DEVELOPER. Developer 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.

24. ASSIGNMENT BY DEVELOPER. In the event that Developer should sell the Bent River Commons, 2nd Sector, development to a third party, Developer 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 Developer hereunder.

25. RULES AND REGULATIONS. All homeowners 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 Developer or its successors, assigns, or designees.

26. MAILBOXES AND CHIMNEY CHASES. All mailboxes and posts must be a designed specified by the Developer. No cantilevered chimney chase shall be allowed on the front of any structure. All chimney chases on the front of the structure shall be supported by the foundation of the structure and shall be constructed of materials approved by the Developer.

27. EXCEPTION FOR DEVELOPER. Paragraphs 1 through 24 shall not apply to Developer during the course of development of the property.

28. RIGHTS OF DEVELOPER TO MODIFY COVENANTS, RESTRICTIONS, AND EASEMENTS. The undersigned Developer, 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, release, amend, void, or transfer any one or more of the said herein set forth general covenants, restrictions, and easements on lots in said subdivision, at his sole discretion.

29. PROPERTY OWNERS ASSOCIATION. A Property Owners Association will be formed at a time determined in the sole discretion of the Developer, to promote community integrity, maintain the entrance and rights-of-ways and for other purposes determined by the Association. The Association shall have the right to assess charges against each parcel of land for said maintenance of the entrance and rights-of-ways and for any other costs agreed to by two-thirds except for Lots owned by the Developers or their Assigns of the "property owners". Each owner, by acceptance of a deed for any property in Bent River Commons, 2nd Sector shall become a member of the Association and is deemed to have covenanted and agreed to pay the Association charges as provided herein. These

charges together with interest, costs, and reasonable attorney's fees shall be a charge on the land and shall be a continuing lien upon the property against which each such charge is made. The Developer shall retain control of the Architectural Control Committee and the Association as provided for in the By-Laws and Articles of Incorporation, and shall not be liable for payment or any assessments until such time Developer sells all of the lots.

The action of the Property Owners Association in maintaining the entrance and right-of-ways of the subdivision is at the sufferance of the governmental agency having the title to the same pursuant to the recording of the subdivision plat.

30. 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 *the date these covenants are recorded*, 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 owners of the lots it is agreed in writing to change said general covenants, restrictions, and easements in whole or in part.

31. NO LOT TO BE SUBDIVIDED. No Lot shall be subdivided so as to create an additional Lot.

32. LOCATION OF AIR CONDITIONING UNITS AND VENTS. Outside air conditioning units and plumbing and heating vents shall be placed only at the rear or at the sides of the houses.

33. EACH COVENANT INDEPENDENT. Each and every covenant and restriction contained herein shall be considered to be an independent and separate restriction and condition, and in the event one or more condition or restriction shall, for any reason, be held to be invalid or unenforceable, all remaining covenants and restrictions shall nevertheless remain in full force and effect.

34. NATURE TRAIL. There is a nature trail that will be shared by the owners in Bent River Commons. It will be at the discretion of the Developer as to which Phases are entitled to use said nature trail as well as to admit Bent River Estates (Garden Homes), provided all are willing to accept the responsibility of maintaining said trail on pro rata basis. The Developers, Robert C. Barnett and Charles G. Kessler, Jr. reserve the right to use the nature trail for themselves and their families at no charge. There will be more Phases and Developer reserves the right to allow same privileges to the subsequent Phases.

35. Developer shall have first right to buy back any lot purchased by Builders or Individuals for amount paid by Purchaser, provided the purchaser has not constructed a home on said lot or lots within 24 months from the date of closing of said lot or lots. Said purchase price to be paid by Developers shall be an amount equal to the price of the original purchase. Developers shall notify the owners of said lot or lots of its intent to purchase said lot or lots by written demand. Upon said notice the owner of said lot or lots shall within 10 days from the receipt of said notice execute a warranty deed to said lot or lots to the Developers upon the payment of said purchase price. The owner of said lot or lots shall reconvey said lot or lots to the developer free and clear of all liens and encumbrances. The Developers shall have the right to enforce this provision by specific performance or any other legal remedy. All property taxes on said lot or lots shall be pro rated on the date of closing. Owner shall furnish to the Developers a title policy for the purchase price issuing the title to said lot or lots at owners cost.

MULTI-VEST, INC.

BY: Charles G. Kessler, Jr.
ITS PRESIDENT

WERTH REALTY, INC.

BY: Robert C. Barnett
ITS PRESIDENT

STATE OF ALABAMA
JEFFERSON COUNTY

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Charles G. Kessler, Jr., whose name as President of Multi-Vest, Inc., 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 the instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal this the 3rd day of February 1999.

James B. Richardson
Notary Public
My commission expires: 3/13/2000

STATE OF ALABAMA
JEFFERSON COUNTY

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Robert C. Barnett, whose name as President of Werth Realty, Inc., 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 the instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal this the 10th day of February 1999.

Amy McDonald
Notary Public
My commission expires: 4/23/02

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