

STATE OF ALABAMA

COUNTY OF LEE

BOOK 1135 PAGE 652 ✓

DECLARATION OF RESTRICTIVE COVENANTS

KNOW ALL MEN BY THESE PRESENTS, that whereas Joe G. Hunter, Jr. and Richard S. Hunter, hereinafter referred to as "OWNERS" are the owners of certain lands in the police jurisdiction of Opelika, Lee County, Alabama, subdivided and platted into parcels and known and designated as EL Joe Rich Eagle Heights Estates, Parcel 1 through 17, according to and as shown by map or plat of said subdivision dividing said property into parcels denoting by number the various parcels in said subdivision, and showing Deer Tract Road therein, which said plat of survey was prepared and duly certified by the surveyor David H. Miller, Cert. No. 6259, dated January 31, 1989, and which said subdivision plat has been duly filed for record in the Office of the Judge of Probate of Lee County, Alabama, and recorded in Town Plat Book 13, at Page 155; and

WHEREAS, OWNERS are desirous of placing certain restrictions, conditions and limitations upon the use and occupancy of said parcels in said subdivision, for the benefit of the owners, from time to time, of the parcels in said subdivision, and that said subdivision shall be and continue to be an uncongested, healthful and desirable place in which to maintain residences:

NOW, THEREFORE, OWNERS do hereby declare that the said parcels in said subdivision, as shown by the aforesaid recorded map thereof shall be subject to the following limitations and conditions and restrictions, to-wit:

1. No dwelling of less than 2,500 square feet of living area shall be erected on any parcel in said subdivision. If a dwelling is erected with more than one story, it shall have no less than 1800 square feet on the ground floor, and no less than 2600 square feet in total. All parcels in the subdivision shall be known and designated as residential parcels. No structure shall be erected, altered, placed or permitted to remain on any

residential parcel other than one detached single-family dwelling not to exceed two and one-half stories in height, and a private garage for not more than two cars and other accessory structures customarily incidental to residential property.

2. No parcel in said subdivision shall be sold, leased, or used for any mercantile, manufacturing, commercial, or other business purposes whatsoever.

3. No building of any kind shall be located on any parcel shown on said subdivision plat nearer to the front line or nearer to the side street line than the building set-back lines shown on the recorded plat of said subdivision. No building of any kind shall be erected on any parcel shown on said subdivision map nearer than 50 feet to the side line of said parcel.

4. No noxious or offensive animals or livestock, or trade or activity of any kind shall be carried on upon any parcel nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.

5. No tent, shack, garage, modular home, barn, house trailer, mobile home or other outbuildings placed or erected on any parcel shall at any time be used as a residence temporarily or permanently nor shall any structure of temporary character be used as a residence; nor shall any house trailer or mobile home be stored on any parcel in said subdivision.

6. There shall be no subdivision of any parcel shown on said subdivision plat by the grantor or grantee or by its or his their successors, heirs and assigns, except that any parcel shown on said subdivision plat may be at any time subdivided or combined with another parcel or parcels on said plat for the purpose of enlarging and improving the adjacent parcel or parcels, the parcel or parcels resulting from such subdivision or combination each to be deemed thereafter one single parcel subject to all of the restrictions herein set forth.

7. No wall or fence whatsoever shall be erected or maintained on any parcel between the street and the building set-back line as shown by said recorded subdivision plat. No

hedge or hedgerow within said building set-back area shall have a height greater than three (3) feet above the finished graded surface of the ground upon which such hedge or hedgerow is located.

8. Easements as indicated on said subdivision map are reserved.

9. No septic tank, cesspool, or drainage field thereof or therefrom shall be placed on any of said parcels until the location and construction thereof shall have been approved by the property health authority or authorities.

10. ARCHITECTURAL CONTROL COMMITTEE.

A. It is intended that the subdivision development will be a residential community of high esteem and of first class quality in homes in a delightful family-oriented environment.

B. The Architectural Control Committee (herein referred to as the "Committee") shall be initially composed of Joe G. Hunter, Jr., William M. McLeod and one owner of a parcel or parcels in the subdivision. In the event of death or resignation of a member of the committee, the then record owners of a majority of the parcels shall have the power, through a duly recorded written instrument, to replace the member of the Committee. Neither the members of the Committee, nor its designated representatives, shall be entitled to any compensation for services performed pursuant to this covenant. A majority of the Committee may designate one or more representatives to act for it. A majority of the record owners of parcels in the subdivision shall have the power to amend the provision of the paragraph including the powers, duties and composition of the committee.

The primary duty of the Committee shall be to examine and approve or disapprove all plans, including site plans, for construction of improvements on parcels within this subdivision in accordance with the provisions of these covenants. The Committee shall have such other responsibilities, duties, and

authority as provided for, but the Committee shall not have any responsibility, duty or power not expressly provided for herein.

C. All plans and specifications for any structure or improvements whatsoever to be erected on or moved upon or to any parcel, and the proposed location thereof on any parcel or parcels, the construction material, the roofs, any later changes or additions after initial approval thereof and any exterior remodeling, reconstruction, alterations or additions thereto on any parcel shall be subject to and shall require approval in writing of the Committee before any work is commenced.

Construction may not be started before receipt of a Letter of Approval of the Committee, a copy of which must be signed by the Builder, or Owner, and returned to the Committee for retention.

D. One set of prints of the drawings and specifications (hereinafter referred to as "plans") for each house or other structure proposed to be constructed on each parcel shall be submitted for review and approval or disapproval by the Committee. The plans submitted to the Committee shall be retained by the Committee. Said plans should be delivered to Joe G. Hunter, Jr. at his residence in Opelika, Alabama at least thirty (30) days prior to commencement of construction. Each such plan must include the following:

1. All plans for structures shall be not less than 1/8 inch equals 1 foot scale.

2. All plans must take into consideration the particular topographic and vegetative characteristics of the parcel or parcels involved.

3. All plans must state the elevations of all sides of the proposed structure as such sides shall exist after finished grading has been accomplished.

4. The foundation and floor plan(s) shall show the existing grade on each elevation in order that the extent of cut and/or fill areas may be easily and clearly determined.

5. The site plan shall show all outlines, setbacks, all trees over six inches in diameter as measured two

feet above ground and the species thereof, drives, fences, and underground trench locations at a scale of one inch equals twenty feet. No tree except diseased or damaged trees, may be cut or removed until the plan and siting are approved.

6. All plans must include a summary specifications list or proposed materials and samples of exterior materials which cannot be adequately described and of materials with which the Committee is unfamiliar.

The Architectural Control Committee reserves the right to change, alter, and add to the above regulations from time to time at its discretion.

E. Neither the Committee nor any architect nor agent thereof nor Joe G. Hunter, Jr. or Richard S. Hunter shall be responsible in any way for any defects in any plans or 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.

Acceptance of conveyance of any of said parcels by the grantees shall evidence an understanding and agreement that as a part of the consideration for the conveyance, the grantee or grantees therein named, their heirs and assigns, shall conform to the foregoing conditions, limitation and restrictions and that said conditions, limitations and restrictions shall attach to and run with the land until January 31, 2014, at which time said conditions, limitations and restrictions shall expire; and that it shall be lawful for any person or persons owning any parcel or parcels in said subdivision to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any of said covenants, and either to prevent him or them from so doing or to recover damages or other dues for such violation.

Invalidation of any one of these covenants by judgment or decree of any Court shall in no wise affect any of the other covenants which shall remain in full force and effect.

Upon the expiration of the aforesaid condition, limitations and restrictions, a majority of the then owners of parcels in said subdivision, may, by written instrument filed in the Office of the Judge of Probate of Lee County, Alabama, renew such conditions, limitations and restrictions for such additional period as they may determine, and likewise change, amend or modify the same.

IN WITNESS WHEREOF, we, have hereunto set our hands and seals on this the 23 day of February, 1989.

Joe G. Hunter, Jr.
JOE G. HUNTER, JR.

RICHARD S. HUNTER

BY: Joseph Guellat Hunter, Jr.
HIS ATTORNEY-IN-FACT

STATE OF ALABAMA
COUNTY OF LEE

I, the undersigned authority, a Notary Public in and for said County and State, hereby certify that Joe G. Hunter, Jr., individually, and whose name as attorney-in-fact for Richard S. Hunter, 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 executed the same voluntarily on the day the same bears date, individually, and with full authority in his capacity as attorney-in-fact for Richard S. Hunter.

Given under my hand and official seal of office, this the 23 day of February, 1989.

Yvonne Hood
NOTARY PUBLIC

EX-123
BOOK 1425 PAGE 62
FILED IN THE OFFICE
OF THE JUDGE OF PROBATE
LEE COUNTY, ALA.

1989 FEB 24 PM 3:30
HAL SMITH, JUDGE
MORTGAGE TAX
DEPT. TAX

AMENDED RESTRICTIVE COVENANTS

STATE OF ALABAMA)

)

COUNTY OF LEE)

KNOW ALL MEN BY THESE PRESENTS, that the undersigned are the owners of certain lands in the police jurisdiction of Opelika, Lee County, Alabama, subdivided and platted into parcels and known and designated as Eljoerich Eagle Heights Estate, Parcel 1-17, according to and shown by map or plat of said subdivision dividing said property into parcels denoting by number the various parcels in said subdivision, and showing Deer Tract Road therein, which said plat of survey was prepared and duly certified by the surveyor David H. Miller, Cert. No. 6259, dated January 31, 1989, and which said subdivision plat has been duly filed for record in the office of the Judge of Probate of Lee County, Alabama, and recorded in Town Plat Book "13", Page 155; and

WHEREAS, by instrument recorded at Book "1425", Page 052 et seq. in the Probate Records of Lee County, Alabama, the owners of the aforementioned property at that time did by that instrument set forth a declaration of restrictive covenants; and

WHEREAS, the undersigned are the current owners of this property; and

WHEREAS, the undersigned are desirous of amending the declaration of restrictive covenants recorded at Book "1425", Page 052 et seq. so that said subdivision shall be and continue to be a helpful and desirable place in which to maintain residences; and

WHEREAS, the undersigned are signing this instrument in order to do so.

NOW, THEREFORE, the undersigned do hereby declare that the declaration of restrictive covenants recorded at Book "1425", Page 052 et seq. in the Probate Records of Lee County, Alabama, be and hereby are amended in the following respects, to-wit:

Paragraph "2" of the Declaration of Restrictive Covenants shall be modified to include the following additional language: Notwithstanding the foregoing, property owners shall be allowed to operate a Professional Home Office in full compliance with the City of Opelika's requirements set forth in section 8.14 of the City of Opelika Zoning Ordinance, Section VIII; General Provisions, September 17, 1991.

IN WITNESS WHEREOF, We have hereunto set our hands and seals on the dates listed next to our respective signatures.

Joe G. Hunter, Jr.
JOE G. HUNTER, JR.

Date: 8-8-95

Joe G. Hunter, Jr. P.O.A.
RICHARD S. HUNTER by his
attorney-in-fact

Date: 8-8-95

Timothy J. Larsen
TIMOTHY J. LARSEN

Date: 8-10-95

Susan Larsen
SUSAN LARSEN

Date: 8-10-95

DR. KAHING CHAN

Date: _____

ESTHER CHAN

Date: _____

ROGER D. MCCRELESS

Date: _____

LESSIE MCCRELESS

Date: _____

Donald E. Walters
DR. DONALD E. WALTERS

Date: 8-14-95

Lorna J. Walters
LORNA WALTERS

Date: 8-15-95

Randell K. Goodman
RANDELL K. GOODMAN

Date: 8-14-95

Nina O. Goodman
NINA O. GOODMAN

Date: 8-14-95

James W. Hise
JAMES W. HISE

Date: 8-11-95

Barbara S. Hise
BARBARA S. HISE

Date: 8-11-95

AMENDED RESTRICTIVE COVENANTS

STATE OF ALABAMA)

COUNTY OF LEE)

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WHEREAS, the undersigned are the current owners of this property; and

WHEREAS, the undersigned are desirous of amending the declaration of restrictive covenants recorded at Book "1425", Page 052 et seq. so that said subdivision shall be and continue to be a helpful and desirable place in which to maintain residences; and

WHEREAS, the undersigned are signing this instrument in order to do so.

NOW, THEREFORE, the undersigned do hereby declare that the declaration of restrictive covenants recorded at Book "1425", Page 052 et seq. in the Probate Records of Lee County, Alabama, be and hereby are amended in the following respects, to-wit:

1. Paragraph "1" of the Declaration of Restrictive Covenants shall be modified

(1)

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to read as follows: "1. No dwelling of less than 2,500 square feet of living area shall be erected on any parcel in said subdivision. If a dwelling is erected with more than one story, it shall have no less than 1,800 square feet on the ground floor, and no less than 2,600 square feet in total. All parcels in the subdivision shall be known and designated as residential parcels and no more than one (1) detached single-family dwelling not to exceed 2½ stories in height shall be erected, altered, placed or permitted to remain on any residential parcel. Notwithstanding this limitation, a private garage or other accessory structure which is customarily incidental to residential property including a wood shop for non-commercial purposes shall not be prohibited. In the event a private garage or other accessory structure is constructed, the location and dimensions of the same are to be subject to the approval and supervision of the architectural control committee as created under the original Declaration of Restrictive Covenants."

4. Paragraph "4" of the Declaration of Restrictive Covenants recorded at Book "1425", Page 052 et seq. shall be modified to include the following additional language:

"4. Notwithstanding the foregoing, property owners shall be free to own or possess a maximum of two (2) horses in a non-commercial or non-business context on the property if the same are confined within a fenced in setting, subject to the location thereof as provided for in Paragraph 7 of the original Declaration of Restrictive Covenants, and subject to the approval and supervision of the Architectural Control Committee as created under the original Declaration of Restrictive Covenants."

IN WITNESS WHEREOF, we have hereunto set our hands and seals on this the

_____ day of _____, 1994.

(2)

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