

ASHFORD PARK,
UNIT THREE

DECLARATION OF COVENANTS AND RESTRICTION

State of Alabama, Baldwin County
I certify this instrument was filed
and taxes collected on:
2003 January -15 3:18PM
Instrument Number 704529 Pages 10
Recording 30.00 Mortgage
Deed Min Tax
Index DP 1.00
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Adrian T. Johns, Judge of Probate

ABT, LLC, an Alabama limited liability company, hereinafter referred to as the "Developer", the owner of all the following described real property situated in Baldwin County, Alabama, viz:

[See Exhibit "A" Attached Hereto]

As shown on the "Ashford Park, Unit Three, Plat dated January 7, 2003 and recorded as Instrument Number 702703 in the Office of the Judge of Probate, Baldwin County, Alabama.

A residential subdivision limited to single family residences being developed by Developer, for the purposes of insuring that the property will be used for single family residences only, to prevent nuisances, to prevent impairment of the attractiveness of the property, to maintain the desired tone of the subdivision, and thereby to preserve, as far as practicable, the natural beauty of each lot therein, to insure the erection thereon of attractive, well designed, properly proportioned and appropriate homes constructed of proper and suitable materials, with appropriate locations of such homes on the lots, and thereby to secure to each lot owner the full benefit and enjoyment of his home with no greater restriction on the free and undisturbed use of his lot than is necessary to insure the same advantages to the other lot owners, does hereby covenant and agree with each and every future owner of said property, and any part thereof, and each and every future owner shall, by virtue of becoming such an owner, agree with the Developer and with each other such owner or future owner that the following covenants, restrictions, and limitations apply to the property in said subdivision:

1. **ARCHITECTURAL COMMITTEE.** An Architectural committee (the "Committee") consisting of four (4) persons shall exist and function in the manner and with the powers hereinafter stated. No member of the Committee shall be in any way liable to any lot owner for any act, or inaction by the Committee or a member thereof in connection with these restrictions and covenants.

704529

The initial members of the Committee shall be:

Anthony P. Kaiser
Barton E. Kaiser
T.E. Mitchell
Bill Spriggs

The term of service of the initial members of the Committee shall be five (5) years from the date hereof, provided, however, that until (a) the time when Developer no longer owns any lot in, or planned for, the subdivision (including all planned additional Units), or (b) the expiration of five (5) years from the date hereof, or (c) Developer relinquishes control of the subdivision in writing, whichever first occurs, Developer may, by written instrument duly recorded, at any time remove any member of the Committee, or replace any member, or name a new member in place of any member who has resigned or died. After the first to occur of such events, control of the subdivision shall be transferred to all lot owners, and thereafter the owners (including Developer if it is still a lot owner) of a majority of the total lots in, or planned for, the subdivision (including all planned additional Units) may, by written instrument duly recorded, remove any member of the Committee, or replace any member, or name a new member in his place in the event he for any reason ceases to serve, and fix the term of service of each new member. On all issues decided by a vote of the lot owners, whether pursuant to this Paragraph or any other provision of this instrument, each lot owner other than Developer shall be entitled to one vote for each lot owned by him, and Developer shall be entitled to one vote for each lot in, or planned for, the subdivision (including all planned additional Units) owned by the Developer. In the event of the death, resignation, or removal of one or more members of the Committee, the remaining members shall have full authority to act in the name of the Committee pending the appointment of a successor member. With respect to all matters that are, by the terms of this instrument, to be decided by the Committee, the decision of a majority of the members of the Committee shall be final and binding on all parties.

Liability: Neither the Developer, the Committee or the Association, its employees, agents or assigns, shall be liable to any lot owner(s) in Ashford Park for (i) the manner in which it exercises or for its failure or refusal to exercise any right or authority herein granted to it, whether discretionary or not; (ii) for the failure or refusal of any lot owner to comply with any of the provisions hereof, or, (iii) the failure or refusal of the Developer, the Committee or the Association to enforce the provisions hereof against any lot owner, their owner, their builder, agent or assigns. It is the intent of this paragraph to be a preemptive limitation on the effect of these covenants.

2. **RESIDENTIAL USE ONLY.** No lot may be improved, used or occupied for other than private single family residential purposes. No flat, duplex, or apartment or ground apartment though intended for residential purposes, may be erected on any lot. No building

or structure shall be erected, altered, placed or permitted to remain on any lot other than one (1) detached single family residential dwelling not to exceed three (3) stories in height above the highest elevation of said lot, and other appropriate out building incidental to residential use as shall be approved in writing by the Committee. Each dwelling shall include an enclosed garage, unless otherwise approved in writing by the Committee.

No lot shall be resubdivided. A maximum of one (1) outbuilding per lot shall be permitted, which shall not be metal or prefabricated and shall be no closer than five (5) feet to any lot line and shall be designed in such fashion as to blend with the design of the dwelling on the lot and the surroundings and shall be located so as to minimize visibility from the street.

3. **BUILDING PLANS.** No house, garage, carport, play house, servants quarters, outbuilding, fence, wall, swimming pool, sidewalk, walkway, driveway, mailbox, lawn ornaments (not including holiday decorations, i.e. Birthday, Christmas, Easter), lawn furniture, playground equipment or other above ground structure shall be commenced, erected, placed, altered, or maintained on any lot until a copy of complete building plans, specifications and plot plans showing, without limitation, the schedule of exterior colors and the elevation and location of such structure, has been approved in writing by the Committee. The copy of such building plans, specifications, and plot plans so submitted may be retained by the Committee. Should the Committee fail to approve or disapprove such plan and specifications within thirty (30) days after submission, approval shall be deemed given, provided, however, such lots shall be and remain in all other respects subject to these restrictions. If such plans and specifications are disapproved, written notice of such disapproval shall be given to the submitting lot owner in person, or by registered or certified letter addressed to the lot owner at the address furnished by him with the plans and specifications. Such notice will set forth the particulars upon which disapproval was made, but need not contain any suggestions as to corrective measures to be taken. All submissions to the Committee shall be made in care of Ashford Park, Post Office Box 1318, Gulf Shores, Alabama 36547, or such other address as the Committee shall from time to time designate by instrument recorded in the Probate Court of Baldwin County, Alabama.

4. **OFFENSIVE ACTIVITIES.** No obnoxious, offensive, or illegal activity shall be conducted upon any lot, nor shall anything be done thereon that may be or become an annoyance or a nuisance to the neighborhood or violation of the laws and regulations of the City of Foley, Baldwin County, the State of Alabama or the United States of America. No junk, inoperable motor vehicles or other unsightly personal property shall be kept or maintained on the property or any lot or street in the subdivision except for minor emergency repair. Inoperable motor vehicles or those in a state of disrepair, shall be made operable or repaired at locations other than any such lot or street.

5. **AREA.** The living area of each dwelling, exclusive of open porches, open carports and garages, shall contain not less than fourteen hundred (1,400) square feet. The first floor of each dwelling containing more than one floor of living area, shall contain not less than nine hundred (900) square feet of living area, exclusive of open porches, open carports and garages.

6. **CONSTRUCTION TIME.** Each dwelling, including the garage thereto, shall be completed within six (6) months after initial construction of the dwelling and garage has begun, unless the Committee shall give its written approval to a longer period. Each playhouse, servants quarters or other outbuilding, fence, wall, swimming pool, sidewalk, walkway, driveway, mailbox, lawn ornaments (not including holiday decorations, i.e. Birthday, Christmas, Easter), lawn furniture, playground equipment or other above ground structure approved by the Committee shall be completed within (6) months after initial construction of such structure has begun unless the Committee shall give its written approval to a longer period.

7. **CONSTRUCTION REQUIREMENTS.** Plans and specifications submitted for any lot shall include provision for concrete pipe culverts, if any, for access to the property. The exterior walls of the dwelling shall be faced by brick or other suitable material from ground level. No concrete block utilized in the construction shall show above ground level. All exposed windows and window units shall be constructed of wood or such primed and finished metal as shall be approved in writing by the Committee. No bright metal windows shall be allowed. Unless otherwise approved by the Committee in writing, each lot owner shall be responsible for the secondary residential electrical service to his lot, which shall be underground. All service between any buildings or other Areas on the lot shall likewise be underground. Each lot owner shall be responsible for building, at his expense, a concrete sidewalk four (4) inches thick, four (4) feet in width across each side of his lot adjoining a street. Such sidewalk must be completed on or prior to completion of the dwelling or within three (3) years after the closing of his purchase of his lot, whichever is sooner. All sidewalks must connect with those of the adjoining lots as a compatible extension thereof. The location, design and construction of all sidewalks must be approved in writing by the Committee prior to construction. The driveway entrance to each lot must be approved in writing by the Committee prior to construction to ensure compatibility of aesthetics and the owner has established adequate erosion control.

8. **FENCES, HEDGES AND WALLS.** No chain link or cyclone fence shall be permitted except along side lines and rear line of the lots, and then not if they directly face the front or side of another dwelling. In no event shall a chain link or cyclone fence be permitted without written approval of the Committee, and any chain link or cyclone fence must be factory coated black or dark green.

9. **CLOTHES LINES.** No outside clothes line shall be permitted in the subdivision at any time, unless approved in writing by the Committee.

10. **MECHANICAL AND ELECTRICAL DEVICES.** All heating, ventilation and air conditioning equipment, including, without limitation, compressors, and all gas meters, butane tanks and other mechanical and/or electrical devices on any lot shall be located to the rear of the dwelling located thereon, and shall be visually screened from the street and adjoining property owners.

11. **TRAILERS AND PROHIBITED USES.** No house trailer, truck (other than a pick-up truck) or mobile home shall be permitted on any lot, except trucks may be permitted for use during construction and temporary repairs to a dwelling with the written permission of the Committee. Travel trailers, hauling trailers, "habitable motor vehicles", boat trailers and boats must be stored to the rear most extension of the dwelling located on the lot, more than five (5) feet from the boundaries of the lot, and shall be visually screened from the street and adjoining property owners.

12. **MAINTENANCE.** All buildings and improvements on each lot shall be maintained and kept in a proper and good state of repair. All exposed areas of each building shall be kept well painted. All mailboxes shall be decorative and of such size and design as may be approved in writing by the Committee.

13. **SIGNS.** No sign, billboard, banner or flying paraphernalia of any kind shall be placed or maintained upon any lot after sale by the Developer, except that the Developer or any person or entity receiving written permission from the Developer, may display any of the foregoing at its sole discretion except address and mailboxes and one (1) sign of not more than five (5) square feet advertising the property for sale or rent, and signs used by the builder during the construction period not to exceed one hundred twenty (120) days. The Developer shall retain the authority to revoke any written authorization for said displays. Nothing herein contained shall prevent the placing or maintenance of any sign, billboard, banner or flying paraphernalia of any kind anywhere in the subdivision by Builder/Developer, its successors, assigns or contractors; nor shall anything herein contained prevent the flying of the American Flag at anytime by any lot owner on his lot.

14. **PETS.** Dogs, cats, and other small domesticated household animals in a total number not exceeding two (2) may be kept by each owner on each lot owned. No chickens, horses, pigs, cows, sheep, goats or other recreational, work, farm or large animals of any kind shall be kept or maintained on any part of said property. Any animals of any kind that are kept or maintained on the property shall be fenced or restrained in such manner that they may not run loose upon other properties within the subdivision.

15. **SETBACK LINES.** No dwelling shall have its front, or any part thereof, located closer to the right-of-way line of the road or street that it faces than the appropriate distance as shown on the recorded plat of the subdivision as the setback line. Notwithstanding this provision, the Developer and/or the Property Owners' Association shall have the right and authority to grant variances from the setback lines as described herein.

16. **ADJOINING LOT OWNERSHIP.** For the purposes of this instrument any owner having two or more adjoining lots may treat, use and build on them as though they were one (1) after making written application and receiving written approval by the Committee. Said approval shall be recorded and operated as an amendment to this instrument.

17. **EASEMENTS.** The easements shown on the plat of the subdivision are hereby adopted as part of these restrictions, and all lots in the subdivision shall be subject to such easements, as shown on the plat, or as herein otherwise described. The Developer reserves unto itself and its successors and assigns the right and use of said easement but does not assume any obligations, to construct, install, maintain, repair and replace power, water, gas, sewer, telephone and other utility lines, equipment and facilities and drainage ditches in, on, over, and under the streets, roads and easements shown on the plat of the subdivision, and to construct, install, operate, maintain, repair, or replace lights, walls, fences, shrubbery, bushes, trees and other decorative and screening improvements in, on, over and under any easement on the property as shown on said plat, with full right of ingress and egress to and from said streets, road and easements and the right to contract generally with others for the doing of any or all of such things as the Developer, in its sole discretion, may deem appropriate or convenient in connection therewith.

18. **SATELLITE DISHES.** All satellite dishes installed on a lot must be located to the rear of the rear most plane of the dwelling on the lot and not larger than eighteen (18) inches in size and must be visually screened from the adjoining lots and from the street.

19. **VIOLATIONS AND VARIANCES.** The Committee shall, upon written request by any lot owner, or upon its own initiative, if it so elects, investigate any possible violation of these restrictions and determine by majority vote whether a violation exists. If the Committee determines that no such violation exists, it shall give written notice of its determination to the complainant lot owner, if any, in person or by registered or certified mail, addressed to such lot owner at his last known address. Should the Committee determine that a violation does exist, it shall give written notice of this determination in person or by registered or certified mail to the complainant lot owner, if any, and to the owner of the lot on which, or as to which, such violation exists shall be allowed thirty (30) days after the giving of such notice, or such longer period as the Committee may deem appropriate, in which to correct such violation. Should the violation not be corrected within such period, the Committee, or any owner or owners of any part of the property hereby

restricted, shall each have the right, but not the obligation, to prosecute any proceedings at law or in equity against the person or persons found by the Committee to be violating any of these restrictions and prevent him or them from so doing, recover damages for such violation, and obtain any other legal or equitable relief to which it, he, or they may be entitled under the circumstances. No such proceedings shall be commenced until and unless the Committee determines that a violation exists or unless the Committee fails to act for thirty (30) days after receiving a written complaint of a violation. It is further provided that the Committee may waive or grant a variance in writing as to any one or more of the covenants, restrictions, limitations, or requirements herein specified, at any time prior to the actual filing of legal proceedings regarding a violation thereof, provided, however, that no such waiver or variance shall permit the improvement, use or occupancy of any lot in the subdivision for other than private, single-family residential purposes.

20. **TERM OF RESTRICTIONS.** The covenants, terms, conditions, restrictions and limitations herein contained shall run with the land and be binding upon all owners and future owners, and parties claiming under them, and shall insure to the benefit of and shall be binding upon them, and each of their heirs, executors, administrators and assigns, for a period of twenty (20) years after the date hereof, at which time the said covenants, restrictions, and limitations shall automatically be extended for an additional period of twenty (20) years, unless at the end of the first twenty-year period or at any time during the second twenty-year period, by vote of owners of two-thirds of the lots then in the subdivision it is agreed to terminate or change said covenants in whole or in part, said termination or change to be signed by the members of the Committee and recorded in the Probate Court of Baldwin County, Alabama. Should any provision, clause, restriction, limitation or condition of this instrument be declared unenforceable, illegal, against public policy, or inconsistent with or contrary to the laws or Constitution of the State of Alabama or the United States of America by any court of competent jurisdiction, or by legislative enactment of the State of Alabama, or the United States of America, every remaining provision, clause, restriction, limitation, or condition contained herein not affected by such judicial or legislative declaration, decision, or act shall be and remain in full force and effect.

21. **ADDITIONS AND AMENDMENTS.** Developer reserves the right to add one or more additional Units to the subdivision, which, if added, shall be subject to these covenants and restrictions, and all amendments thereto, unless different covenants and restrictions applicable to any such additional Unit are adopted by the Developer and filed of record at such time. Until the time when control of the subdivision is transferred to all lot owners as provided in Paragraph 1 above, Developer may, by written instrument duly recorded, at any time amend these covenants and restrictions, and any amendments thereto, by filing the same of record in the Office of the Judge of Probate Court of Baldwin County, Alabama, provided, however, that no such amendment shall permit the improvement, use or occupancy of any lot in the subdivision for other than private single family residential purposes and no owner of any lot previously sold by Developer (whether or not then owned

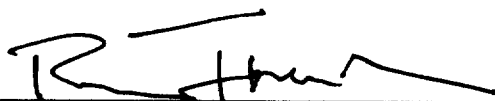
by the original purchaser) shall be bound by any such amendment if it adversely affects his use and enjoyment of his lot. After control of the subdivision is transferred to all lot owners as provided in Paragraph 1 above, the owners (including Developer if it is still a lot owner) of a majority of the total lots in, or planned for, the subdivision (including all planned additional Units) may, by written instrument duly recorded, exercise the foregoing right of amendment subject to the foregoing restrictions.

22. **HOMEOWNERS' ASSOCIATIONS.** Each lot owner, upon acquiring his lot in the subdivision, shall automatically become a member of Ashford Park Homeowners' Association, Inc., (the "Association"), an Alabama nonprofit corporation organized and to be operated as the residential real estate management association for the subdivision, and shall pay when due any assessments and shall abide by the Articles of Incorporation, By-Laws and rules and regulations from time to time made and promulgated by the Association for such purpose.

The Association shall be responsible for maintaining all streets, street lights and supporting structures in the subdivision and all utilities serving the subdivision to the extent that the same are not maintained by the county or a unit of local government in which the subdivision is located.

IN WITNESS WHEREOF, ABT, LLC, an Alabama limited liability company, has caused these presents to be executed by Barton E. Kaiser, as its Manager, on this the 15 day of January, 2003.

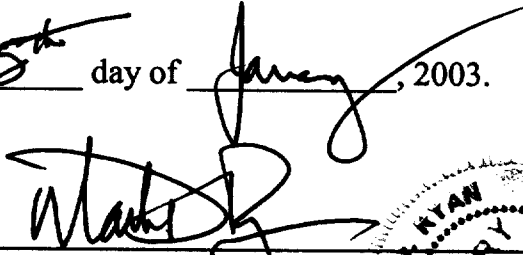
ABT, LLC

By: 
BARTON E. KAISER
As its Manager


STATE OF ALABAMA)
)
COUNTY OF BALDWIN)

I, the undersigned Notary Public in and for said State and County, do hereby certify that BARTON E. KAISER, whose name as Manager of ABT, LLC, an Alabama limited liability company, 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 company, on the day the same bears date.

Given under my hand and seal this the 15th day of January, 2003.



NOTARY PUBLIC
My Commission Expires: 12/31/05



This instrument prepared by:

Mark D. Ryan
Post Office Box 1000
Bay Minette, Alabama 36507
(251) 580-0500

Exhibit A

ASHFORD PART UNIT THREE
Description (Instrument #702703):

COMMENCING AT THE NORTHEAST CORNER OF LOT 17, ASHFORD PARK, AS RECORDED ON SLIDE 2028-A IN THE PROBATE COURT RECORDS OF BALDWIN COUNTY, ALABAMA, RUN N 00°08'57" E ALONG THE WEST RIGHT OF WAY LINE OF EAST ASHFORD PARK DRIVE A DISTANCE OF 39.31 FEET TO THE POINT OF BEGINNING OF THE PROPERTY HEREIN DESCRIBED; THENCE CONTINUE N 00°08'57" E ALONG SAID WEST RIGHT OF WAY LINE OF EAST ASHFORD PARK DRIVE A DISTANCE OF 33.70 FEET TO A POINT; THENCE RUN N 89°55'01" W A DISTANCE OF 480.41 FEET TO A POINT; THENCE RUN N 43°48'12" W A DISTANCE OF 120.34 FEET TO A POINT; THENCE RUN S 48°11'48" W A DISTANCE OF 180.00 FEET TO A POINT ON THE WEST RIGHT OF WAY LINE OF WEST ASHFORD PARK DRIVE; THENCE RUN N 43°48'12" W ALONG THE EXTENSION OF SAID WEST RIGHT OF WAY LINE OF WEST ASHFORD PARK DRIVE A DISTANCE OF 172.55 FEET TO A POINT; THENCE RUN N 50°06'55" E A DISTANCE OF 80.12 FEET TO A POINT; THENCE RUN N 43°48'12" W A DISTANCE OF 54.89 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE LEFT HAVING A RADIUS OF 125.00 FEET; THENCE ALONG SAID CURVE A DISTANCE OF 52.98 FEET TO THE POINT OF TANGENCY OF SAID CURVE; THENCE RUN N 48°09'30" E A DISTANCE OF 188.40 FEET TO A POINT; THENCE RUN S 89°55'01" E A DISTANCE OF 1099.30 FEET TO A POINT; THENCE RUN S 00°11'06" W A DISTANCE OF 364.17 FEET TO A POINT; THENCE RUN N 89°51'03" W A DISTANCE OF 409.90 FEET TO THE POINT OF BEGINNING. CONTAINING 8.825 ACRES.