

STATE OF ALABAMA)
 :
COUNTY OF LEE)

AMENDMENT TO DECLARATION OF COVENANTS AND RESTRICTIONS
FOR FOXCHASE ON EMERALD LAKE SUBDIVISION
REDIVISION OF PLAT NO. 2

Pursuant to the terms and conditions of the Declarations and Restrictions for Foxchase Subdivision (the "Declaration") filed of record on September 22, 1993 in Deed Book 1785, at Page 294 in the Office of the Judge of Probate of Lee County, Alabama, the undersigned developer, Plainsmen Developments, Inc., hereby adds the following additional property (the "Property") to the provisions of the Declaration:

All of that property shown on the plat of Foxchase on Emerald Lake Subdivision, Redivision of Plat No. 2 filed of record in the Probate Office of Lee County, Alabama in Plat Book 21, at Page 32.

The above described property will be conveyed by the Developer subject to all the provisions of the Declaration, except the Declaration is amended with respect to said additional property in the following respects:

1. Paragraph F of Section 3 of Article IV is amended to read as follows:

The right of the Association to abandon, partition, subdivide, sell, dedicate, or transfer all or any part of the Association Properties for such purposes as stated herein, subject to however, such conditions as may be agreed to by the members entitled to vote thereon; provided, however, that no such abandonment, partition, subdivision, sale, dedication or transfer, as to such purposes or as to the conditions thereof shall be effective unless first approved in writing by members entitled to at least two-thirds (2/3) of the votes of each class of members, holders of at least three-fourths (3/4) of all first mortgages secured by parcels and, in the case of a dedication.

2. Section 3 of Article V is amended to read as follows:

The Foxchase Residential Association, Inc. Board of Directors shall, after consideration of current costs and future needs of the Association, fix the annual assessment for any particular year. Should the Board of Directors fail to fix the annual assessment for any particular year, the prior year's assessment shall be continued automatically until such time as the Board shall act.

3. Section 2 of Article VIII is amended to read as follows:

Approval required. No buildings or accessory structures such as decks, patios, courtyards, swimming pools, driveways, mailboxes, exterior lights or garages, or similar structures shall be commenced, erected, placed, moved onto or permitted to remain on any parcel, nor shall any existing structure upon any parcel be altered in any way which materially changes the exterior appearance thereof, nor shall any new use be commenced on any parcel, unless a copy of completed final plans and specifications and related data (including a description of any proposed new use) thereof shall have been submitted to and approved by the DRB. Such plans and

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specifications shall be in such form and shall contain such information, as may be required by the DRB, but in any event shall include:

A. Site plans submitted to DRB shall have at a minimum a scale of 1" = 20' and shall contain at least the following: a clearing and grading scheme with proposed and existing land contours, grades and flow of the site drainage system; location and size of trees, six inches in diameter or larger, proposed to be removed from the site; and the dimensions and locations of all buildings, access drives, parking, utilities (septic system, water, power, telephone, cable, etc.), street pavement location, and all other proposed improvements to the site.

B. Landscape and irrigation plans submitted to the DRB shall have a minimum scale of 1" = 20' showing: The size, type and location of existing and proposed tree locations (six inch at caliper (48 inch from ground level) or larger); the location of all planting areas including existing plant materials incorporated into the plan, the species and size of all stock at the time of planting (six inches at caliper (48 inches from ground level) or larger); and an irrigation plan including the source of water supply. Any water supply other than the standard utility must be approved and will require a conditional agreement.

C. Plans at a minimum scale of 1/4" = 1.0" for all floors, cross sections and elevations including projections and wing walls (floor plans should also show total square feet of air conditioned living area).

D. Plans, elevations, types of materials or other information associated with any other site improvement or ornamentation, including exterior lighting, walls, fencing and screening, patios, decks, pools, porches, and signage.

E. Samples and color chips of all exterior finishes and materials to be incorporated into the plan if requested by the DRB.

F. Such other information, data and drawings as may be reasonably requested by the DRB.

G. The review fee is \$10.00 until reset by the Declarant or Association.

4. That paragraph C of Section 4 of Article VIII is amended to read as follows:

C. Fencing of tennis courts shall be chain link (darkly colored) and limited to ten (10) feet in height.

5. That Section 6 of Article VIII is amended to read as follows:

Retention of copy of plans. Upon approval by the DRB of any plans and specification submitted hereunder, a copy of such plans and specifications, as approved, shall be deposited for permanent record with the DRB.

6. That Section 2 of Article IX is amended to read as follows:

Exterior maintenance. All parcels subject to these restrictions and conditions, together with all additions and improvements located thereon, shall be maintained in a neat and attractive condition by and at the expense of their respective owners. Such maintenance shall include, but shall not be limited to, painting, staining, repairing, replacing and caring for roofs, gutter, down spouts, building surfaces, trees, shrubs, grass, walks, driveways, mailboxes, and other exterior improvements; provided, however, any such work shall be compatible in appearance and quality with the range of colors and materials then existing on other buildings in the neighborhood. The landscape shall be properly maintained by the homeowner who shall provide adequate watering (subject to drought restrictions imposed by government authorities). Parcels must be maintained free of unsightly weeds, vines, dead or fallen trees, trash, garbage, etc. Reflective glass is prohibited. No window air conditioning units shall be permitted. Each owner shall keep all parcels owned by him, and all improvements therein or thereon, in good order and repair, including, but not limited to, the seeding, watering, and mowing of all lawns, the pruning and cutting of all trees and shrubbery and all lawns, the pruning and cutting of all trees and shrubbery and all lawns, the pruning

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10. That Section 8 of Article X is amended to read as follows:

Livestock and poultry. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any parcel except that, subject to the preceding paragraphs, dogs, cats, or animals commonly accepted as household pets may be kept, provided that such animals are not kept, bred, or maintained for commercial purposes.

11. That Section 14 of Article X is amended to read as follows:

Temporary residence. No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other out building shall be used on any parcel at any time as a residence, either temporarily or permanently, unless special circumstances approval is granted by the DRB for a specified time period.

12. That Section 18 of Article X is amended to read as follows:

Vehicles. All motor vehicles owned, leased or used by any resident or kept on the premises are to be typically parked in the garage and only in the case of more vehicles than garages parked in the driveway, shall be currently licensed and maintained in proper operating conditions so as not to be a hazard by noise, exhaust emissions or appearances. All motor vehicles, including trail bikes, motorcycles and all terrain vehicles, shall be driven only upon paved streets and driveways; except for areas provided by the Declarant or Association and such vehicles as are authorized by Declarant and/or Association as needed to maintain, repair or improve the property. No boat, motor home, travel trailer or recreational vehicle shall be allowed to be parked for an extended period of time if it aesthetically detracts from the subdivision as determined by Declarant or Association. No such vehicles are to be parked on the street.

13. That Section 22. B. of Article X is amended to read as follows:

Hidden Service Court. A service court, or drying yard area hidden from view from the lake and from any adjacent street and from adjoining lot owners must be included in the architectural or landscaping plans, if desired, and constructed so as to provide space for garbage and trash cans, wood pikes, clothes drying areas and other similar uses.

14. That Section 24 of Article X is amended to read as follows:

Boat houses and ramps. Boat houses or enclosures on the water will be discouraged by the DRB. Boat houses will only be approved in locations that do not restrict lake traffic as determined by the DRB. These structures must follow a uniform design and appearance as provided by the DRB. Boathouses will not extend beyond 20' of the shoreline and will not protrude above 8' over the normal water level. Boathouses will be located in a recessed area of the lot's shoreline when possible and must be well maintained regarding appearance. Boat ramps for launching will be provided by the Declarant and cannot be installed on individual parcels.

15. That Section 25 of Article X is amended to read as follows:

Lake responsibilities. A. General Regulation. Plainsmen Developments, Inc. reserves the right to temporarily drain the lake at any time (pending 30 days written notice to lot owners) for no more than ninety (90) days if avoidable, for repairs, and/or modifications to the dam or underwater properties. The lake level may also be lowered once per winter as determined by the Declarant, to allow property owners an opportunity to clean up or repair their respective beach areas.

B. Lake Committee. Maintenance, fish stocking, regulations, or

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modifications to the lake or shoreline will be the responsibility of the lake front property owners ("class B" members). A group referred to as the "Lake Committee" will be established to govern the rules, regulations, actions, and financial needs regarding the lake and its use. The committee will consist of all participating water front owners and use the Association officers or separately elected officers as the governing body. A minimum 50 percent of the lake front property owners or representatives will be required to elect officers.

All lake front property owners will be required to meet the financial responsibilities produced from the Lake Committee regarding fees for maintenance and upkeep. Each owner constitutes 1 equal unit of responsibility in the total sum of lake front property owners. Other fees such as fish stocking and the corresponding privilege will be governed by the Lake Committee rules.

Initial rules governing the use of Emerald Lake are as follows: Any modification or additions to the set rules will be the responsibility of the Lake Committee. Any changes to the governing rules of the Lake Committee will require a 70 percent vote with all owners given prior due notice of the action and the meeting time and place at least two weeks prior to the meeting.

Any legal liabilities of actions resulting from breaking the rules set by the Lake Committee will be the responsibility of the Committee to enforce and assess damages resulting therefrom against the offending party.

Furthermore, it is the responsibility of each property owner to remain informed and inform family members or guests of such rules.

C. Lake Use Rules.

Fishing will be allowed with the following restraints:

(1) Fisher persons must yield to water skiers between 10:00 a.m. and 1 hour before official sunset. Water skiing can only be done behind an AWSA approved competition ski boat.

(2) Boat drivers must be approved by the recreational committee requiring competence in piloting a competition boat and full understanding of the safety requirements involved. A driver may lose privileges at any time if an unsafe act is committed.

(3) Skiers must yield to fishing boats the first and last hour of the allowable skiing period.

(4) Only 1 ski boat pulling skiers will be permitted at a time unless 2 boats agree to dual operation and stay on opposite sloughs. Other boats may wait at south end of lake with skier ready in which case boat in operation is limited to six passes down the lake.

Other uses:

(1) Swimming/Float/Snorkeling--allowed between 8:00 a.m. and 10:00 p.m. yielding to water skiing and fishing, when beyond 20 feet from shoreline.

(2) Non-powered boats--canoes, sailboats and sailboards must yield to fishing and water skiing activities beyond 50 feet of shoreline. No outboard motor craft shall be allowed on lake.

(3) Diving--Underwater activities such as snorkeling or scuba diving must be supervised by an adult (or accompanied by a certified diver in the case of scuba) with a diver's flag marking the location of activity.

(4) All other uses--Any other use of the lake must be reviewed and approved by the recreational committee.

16. That Section 29 of Article X is amended to read as follows:

Garage. All homes or residential structures require a minimum of a double garage that does not face the street or open to the street. The DRB has discretion to alter or amend this provision if circumstances warrant.

17. That Section 32 of Article X is amended to read as follows:

Garbage Containers/Gas Tanks. Garbage Containers shall be of a type approved

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by the City of Opelika, Alabama or by Foxchase. All garbage containers shall be kept to the rear of the dwelling and/or behind a structure or screen such as not to be visible to the street, except for days designated as garbage pick-up days. No fixed or permanent tanks or tanks greater than 10 gallons in size (propane, LP, kerosene, or petroleum tanks) are permitted on any parcel unless approved by the DRB.

18. That Section 3 of Article XI is amended to read as follows:

Annexation. Each owner agrees that such owner will support or consent to any annexation issues approved by vote of the Association.

Except for the amendments set out above, the Developer republishes the Declaration recorded in Deed Book 1785, at Page 294 and brings the Property within the scheme of the Declaration, as amended, and makes said Property subject to the Declaration as amended herein.

IN WITNESS WHEREOF, Plainsmen Developments, Inc., by its authorized officers has caused this Amendment of the Declarations to Conditions and Restrictions of Foxchase Subdivision to be executed and dated on this the 15th day of November 1999.

PLAINSMEN DEVELOPMENTS, INC.

BY: Don L. Ketcham
Don L. Ketcham, Its President

ATTEST: Richard E. Ward
Richard E. Ward, Its Secretary

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JUDGE OF PROBATE
LEE COUNTY

STATE OF ALABAMA

COUNTY OF LEE

I, the undersigned authority, a notary public in and for said county and state, hereby certify that Don L. Ketcham and Richard E. Ward, whose names as President and Secretary, respectively of Plainsmen Developments, Inc., are signed to the foregoing conveyance and who are known to me acknowledged before me on this day, that, being informed of the contents of said conveyance, as such officers and with full authority, executed the same voluntarily on the day the same bears date.

GIVEN under my hand and official seal office this the 15 day of November 1999.

(SEAL) Deborah J. Cole
NOTARY PUBLIC
MY COMMISSION EXPIRES: MY COMMISSION EXPIRES JUNE 9, 2003