

This instrument was prepared
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600 North 18th Street
Birmingham, Alabama 35203

1304

DECLARATION OF PROTECTIVE COVENANTS

STATE OF ALABAMA)
) FOR
COUNTY OF SHELBY) Kerry Downs II, also known as
) First Addition to Kerry Downs,
) a Subdivision of Inverness

KNOW ALL MEN BY THESE PRESENTS, that:

WHEREAS, 2154 TRADING CORPORATION, a corporation, doing business as INVERNESS (herein referred to as "Developer"), is the owner of certain lots and tracts of land known as Kerry Downs II, and also known as First Addition to Kerry Downs, a subdivision of Inverness (herein referred to as "Subdivision"), located in Shelby County, Alabama; as shown by the Plat of First Addition to Kerry Downs, a subdivision of Inverness, as recorded in Map Book 7, page 73, in the office of the Judge of Probate of Shelby County, Alabama; and

WHEREAS, Developer desires to subject said property and each lot to be located in said Subdivision to and impose upon said lots mutual and beneficial restrictions, covenants, terms, conditions and limitations (herein for convenience sometimes referred to collectively as "restrictions") for the benefit of all the lots in the said Subdivision, the future owners of said lots, the Inverness Country Club, and any other party as may be specified herein.

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NOW, THEREFORE, Developer does hereby proclaim, publish and declare that all of said lots in said Subdivision are subject to, held and shall be held, conveyed, hypothecated or encumbered, rented, used, occupied and improved subject to the following restrictions, which shall run with the land and shall be binding upon Developer and upon all parties having or acquiring any right, title, or interest in and to the real property or any part or parts thereof subject to such restrictions. The restrictions contained herein shall apply only to lots in Kerry Downs II, a subdivision of Inverness, and shall not apply to any other land owned by Developer, even though such land may be contiguous with the land described above as Kerry Downs II, a subdivision of Inverness.

ARTICLE I

MUTUALITY OF BENEFIT AND OBLIGATION

SECTION 1.1 The restrictions and agreements set forth herein are made for the mutual and reciprocal benefit of each and every lot in the Subdivision and are intended to create mutual, equitable servitudes upon each of said lots in favor of each and all the other lots therein, to create reciprocal rights between the respective owners of said lots; and to create a privity of contract and estate between the grantees of said lots, their heirs, successors and assigns.

In witness whereof
9/30/68
John Patton

ARTICLE II

ARCHITECTURAL CONTROL COMMITTEE
AND REQUIREMENTS OF CONSTRUCTION

SECTION 2.1 Concept. It is intended that the Subdivision development will be a residential community of high esteem and quality homes in a delightful recreation-oriented environment.

2.2 Architectural Control Committee. The Architectural Control Committee (herein referred to as the "Committee") shall be composed of not less than three (3) members and at all times, regardless of the number on the Committee, at least two-thirds (2/3) of the membership of the Committee shall be composed of owners of lots in the Subdivision. Provided, however, that Developer reserves the right to appoint the initial and successor members of the Committee, none of whom need be an owner of a lot in the Subdivision, until December 31, 2000, or until Developer elects to terminate its control of the Committee, whichever shall first occur. After terminating control of the Committee by Developer, as aforesaid, then the Master Homeowners Association, if formed, or if not, then the record owners of a majority of the lots in this subdivision shall have the power, through a duly recorded written instrument, to change the membership of the Committee or to withdraw from the Committee or restore it to any of its powers and duties. 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.

The primary authority of the Committee shall be to examine and approve or disapprove all initial and subsequent plans, including site plans, for construction of improvements on lots within this subdivision in accordance with the provisions of these covenants. The Committee shall have such other responsibilities, duties and authority as provided for, including enforcement of these restrictions, but the Committee shall not have any responsibility, duty, power or authority not provided for herein.

2.3 Plan Approval. All plans and specifications for any structure or improvement whatsoever to be erected on or moved upon or to any lot, and the proposed location thereof on any lot or lots; the construction material, the roofs, any later changes or additions after initial approval thereof and any remodeling, reconstruction, alterations or additions thereto on any lot shall be subject to and shall require the approval in writing of the Committee before any work is commenced. THE SCOPE OF REVIEW BY THE COMMITTEE SHALL BE LIMITED TO APPEARANCE ONLY AND SHALL NOT INCLUDE ANY RESPONSIBILITY OR AUTHORITY TO REVIEW FOR STRUCTURAL SOUNDNESS, COMPLIANCE WITH BUILDING OR ZONING CODES OR STANDARDS, OR ANY OTHER SIMILAR OR DISSIMILAR FACTORS. Commencement of construction prior to a 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, is strictly prohibited.

2.4 Review Documents. One set of prints of the drawings and specifications (herein referred to as "plans") for each house or other structure proposed to be constructed on each lot shall be submitted for review and approval or disapproval by the Committee. The scope of review by the Committee shall be limited to appearance only and shall not include any

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responsibility or authority to review for structural soundness, compliance with building or zoning codes or standards, or any other similar or dissimilar factors. The plans submitted to the Committee shall be retained by the Committee. Said plans should be delivered to the general office of Inverness at least five (5) days prior to the date construction is scheduled to commence. Each such plan must include the following:

2.4.1 All plans for structures shall be not less than 1/8" = 1' scale.

2.4.2 All plans must take into consideration the particular topographic and vegetative characteristics of the lot or lots involved.

2.4.3 All plans must state the elevations of all sides of the proposed structure as such sides will be after finished grading has been accomplished.

2.4.4 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.

2.4.5 The site plan shall show all outlines, setbacks, all trees over 6" in diameter as measured 2' above ground and the species thereof, drives, fences, and underground trench locations at a scale of 1" = 20'. No tree may be cut or removed until the plan and the siting are approved.

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

After the plan for the structure is approved, the house or other structure must be staked out and such siting approved by the Committee before tree cutting or grading is done. No tree may be cut or removed until both the plan and the siting are approved by the Committee.

2.5 Design Criteria, Structure.

2.5.1 It is the intent of this development to maintain itself with as many natural surfaces and textures as is possible. The following exterior materials, among others, are acceptable, subject to final approval by the Architectural Control Committee:

- (a) Brick in natural earth tones.
- (b) Vertical or horizontal wood siding, stained or bleached.
- (c) Stone.
- (d) Wood shakes or natural-colored asphalt shingles or slate roofing. White roofing of any material is not acceptable.
- (e) Paint, in natural earth tones (which shall not include, among other colors, any high gloss finishes, pure white, red, or blue), subject to Section 2.5.26.

In intent, this criteria frowns upon the practice of placing materials on the sides and back of a residence that are essentially different from the front elevation.

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2.5.2 Openings of garages should not be visible from the street. In cases where it is unavoidable and openings of garages are visible or partially visible from a street, electric automatic door closers shall be used. No open garage is to face a neighboring yard without screening approved by the Committee. In the event an enclosed garage is not built, then a carport with an enclosed storage area of not less than 80 square feet shall be constructed, such carport and storage area to be designed so as not to be offensive to neighboring lots. The area of the storage area herein shall not be included for the purposes of Section 3.2.

2.5.3 No window air conditioner shall face the front or the side of a residence.

2.5.4 Underground electrical distribution is the intent of this development and no overhead electrical wiring shall be permitted.

2.5.5 All outside radio and T.V. antennas shall be installed in such a way as not to be offensive from the main road and shall be placed on the back side of the chimney where possible; otherwise, they shall be placed on the back side of the roof.

2.5.6 No plumbing or heating vent shall be placed on the front side of the roof. All vents protruding from roofs shall be painted the same color as the roof covering.

2.5.7 Swimming pools will be permitted. However, fencing of swimming pool areas must be within achieved setback lines.

2.5.8 Dust abatement and erosion control measures shall be provided by the contractor or owner in all stages of construction.

2.5.9 Where possible, brick or stone curved walkways are encouraged. Curved driveways are preferred and the driveway surface must be paved or the surface approved. Concrete is preferred and suggested for driveways.

2.5.10 All mailboxes shall be designed in accordance with the overall architectural scheme of the residency. Such design must be submitted to the Committee for approval concurrently with the house plans.

2.5.11 Since the establishment of inflexible building setback lines for location of houses on lots tends to force construction of houses both directly behind and directly beside other homes with detrimental effects on privacy, view, and preservation of specimen trees, no specific setback lines are established by these restrictions. In order to assure that location of houses will be staggered where practical and appropriate, so that the maximum amount of view and breeze will be available to each house and that the structures will be located with regard to the topography of each individual lot, the Committee reserves unto itself, its successors and assigns, the right to control absolutely and to solely decide the precise site and location of any house or other structure upon all lots in the Subdivision. Such location shall be determined only after reasonable opportunity is afforded the lot owner to recommend a specific site. Notwithstanding this provision, no building shall be placed nor shall any material or refuse be stored on any lot within 20 feet of

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the property line of any park or edge of any open water course. Developer reserves the right to establish specific setback lines applicable to any unsold lots in the Subdivision.

2.5.12 During construction, all vehicles, including those delivering supplies, must enter the building site only on driveways approved by the Committee and such vehicles must be parked on the building lot where the construction is under way so as to not unnecessarily damage trees.

2.5.13 All building debris, stumps, trees, etc., must be removed from each lot by builder as often as necessary to keep the house and lot attractive. Such debris shall not be dumped in any area of Inverness.

2.5.14 During construction, builder must keep homes and garages clean and yards cut.

2.5.15 There shall be no silver finish metal doors (including glass sliding doors) or windows of any kind; however, a factory painted or dark anodized finish may be used. The color of such finish should be natural earth tones. Provided, however, that metal windows may not be used, without the prior written consent of the Committee, on the front side of a house, and, where a house borders the golf course, on the sides of the house facing the golf course.

2.5.16 Plans for landscaping must be submitted to the Committee for approval. A minimum of \$750.00 excluding the cost of rough grading, must be allotted for landscaping of each lot. On corner lots, lots without trees and lots adjacent to the golf course, the landscaping allowance shall be increased to \$1,000.00.

2.5.17 No chain link fences may be used. All fences, including fences for backyards and swimming pools, must be approved by the Committee prior to construction. No fence of any kind shall be permitted in the front yard of any lot, or on the rear of any lot which has a rear lot line adjacent to a lake or the Golf Course Property. In addition, no prominent structure shall be permitted on the rear thirty (30) feet of any lot which has a rear lot line adjacent to a lake or Golf Course Property.

2.5.18 There shall be no signs nailed to trees at any time. All builders' and contractors' signs are to be removed from the lot after the house has been completed.

2.5.19 All proposed exterior redecorating must be approved by the Committee or its successors or assigns.

2.5.20 All lakes are specifically restricted in use to sailboats, boats with electric trolling motors, canoes, paddle boats, and row boats.

2.5.21 Drainage of surface water, storm water, and/or foundation drains may not be connected to sanitary sewers.

2.5.22 No outside clothes lines shall be permitted.

2.5.23 No exterior liquified fuel storage containers of any kind shall be permitted.

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2.5.24 Existing drainage shall not be altered in such a manner as to divert the flow of water onto an adjacent lot or lots.

2.5.25 Developer reserves the right to make exceptions to architectural guidelines in the event solar heating is to be used, such exceptions to be made on a case by case basis considering the design's compatability with the neighborhood.

2.5.26 Without the prior written consent of the Committee, no house shall have exterior block walls covered with stucco paint or masonry paint.

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

2.6 Neither the Committee nor any architect nor agent thereof nor Developer 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. It is specifically agreed that the scope of review by the Committee shall be limited to appearance only and shall not include any responsibility or authority to review for structural soundness, compliance with building or zoning codes or standards, or any other similar or dissimilar factors.

ARTICLE III

EXCLUSIVE RESIDENTIAL USE AND IMPROVEMENTS

SECTION 3.1 All lots in the Subdivision shall be known and described as residential lots and shall be used for single family residential purposes exclusively and no lot shall be subdivided so as to increase the number of lots in the subdivision. No structure, except as otherwise provided, shall be erected, altered, placed or permitted to remain on any residential building lot other than one detached single family residence dwelling not to exceed two (2) stories or twenty-one (21) feet front plate height, or, on uphill lots, three (3) stories or twenty-eight (28) feet front plate height, and a private garage for not more than three (3) cars. This shall not prohibit the construction of one residence upon two (2) or more lots.

3.2 Except as otherwise provided, every dwelling building erected on any lot, exclusive of one-story open porches, garages, carports and other unairconditioned, unfinished spaces, shall each have not less than 2150 square feet of floor space, with a ceiling height of not less than eight (8) feet in all enclosed, heated, habitable areas. The first or main floor area of each such dwelling building, exclusive of one-story open porches, garages, carports and finished basements, shall be not less than 1600 square feet in the case of a one-story structure and not less than 1400 square feet in the case of a one and one-half, two, two and one-half or three-story structure.

3.3 No more than a single family unit shall occupy any dwelling house. Detached auxiliary buildings are not permitted without prior written approval of the Committee.

ARTICLE IV

GENERAL PROHIBITIONS AND REQUIREMENTS

SECTION 4.1 It shall be the responsibility of each lot owner to prevent the development of any unclean, unsightly or unkept conditions of buildings or grounds on such lot which shall tend to decrease the beauty of the specific area or of the neighborhood as a whole.

4.2 All lots, whether occupied or unoccupied, and any improvements placed thereon, shall at all times be maintained in a neat and attractive condition and in such manner as to prevent their becoming unsightly by reason of unattractive growth on such lot or the accumulation of rubbish or debris thereon. In order to implement effective control of this item, Developer reserves for itself, its agents and the Committee the right, after ten (10) days' notice to any lot owner, to enter upon any residential lot with such equipment and devices as may be necessary for the purpose of mowing, removing, clearing, or cutting underbrush, weeds or other unsightly growth and trash which in the opinion of Developer or the Committee detracts from the overall beauty and safety of the Subdivision. Such entrance upon such property for such purposes shall be only between the hours of 7:00 a.m. and 6:00 p.m. on any day except Sunday and shall not be a trespass. Developer or the Committee may charge the owner a reasonable cost for such services, which charge shall constitute a lien upon such lot enforceable by appropriate proceedings at law or equity. The provisions of this paragraph shall not be construed as an obligation on the part of Developer or the Committee to mow, clear, cut or prune any lot nor to provide garbage or trash removal services.

4.3 No animals, livestock or poultry of any kind or description except the usual household pets shall be kept on any lot; provided, however, that no household pet may be kept on any lot for breeding or commercial purposes; provided further, that any household pets must be kept on a lease when permitted to be outside.

4.4 No noxious, offensive or illegal activities shall be carried on upon any lot nor shall anything be done on any lot which may be or may become an annoyance or nuisance to the neighborhood. No commercial activity shall be carried on on any lot.

4.5 No oil or natural gas drilling, refining, quarrying or mining operations of any kind shall be permitted upon any lot and no derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained, or permitted on any lot; nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted on any lot.

4.6 No trash, garbage or other refuse shall be dumped, stored or accumulated on any lot. Trash, garbage or other waste shall not be kept on any lot except in sanitary containers or garbage compactor units. Garbage containers, if any, shall be kept in a clean and sanitary condition, and shall be so placed or screened by shrubbery or other appropriate material approved in writing by the Committee as not to be visible from any road, waterway, or golf course within sight distance of the lot at any time except during refuse collection. No outside burning of wood, leaves, trash, garbage or household refuse shall be permitted.

4.7 All signs, billboards or advertising structures of any kind are prohibited except builder and subcontractor signs during construction periods as authorized in

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