

STATE OF ALABAMA
COUNTY OF LEE

*South Lakes Covenants
+ Restrictions are the
Same As Stephens Woods
Per Developer -*

DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS FOR
STEPHENS WOODS SUBDIVISION

KNOW ALL MEN AND WOMEN BY THESE PRESENTS, that:

WHEREAS, Preston Holdings, LLC (hereinafter referred to as ADeveloper@), is the owner of certain real property lying and situated in Opelika, Lee County, Alabama and shown by the Plat of Stephens Woods Subdivision as recorded in Plat Book ___ at Page ___ in the Office of the Judge of Probate of Lee County, Alabama (the "Property");

WHEREAS, Developer desires to subject said property and each lot located in the development thereof, which development is to be know as Stephens Woods Subdivision (the "Subdivision") and to impose upon said Lots mutual and beneficial restrictions, covenants, terms, conditions and limitations (herein for convenience sometimes referred to as "Restrictions") for the benefit of all Lots in the Subdivision and the future Owners of said Lots;

NOW THEREFORE, Developer does hereby proclaim, publish and declare that all of said lots 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 to all Lots in the Subdivision, as well as to any future phases within the Subdivision at the election of the Developer.

ARTICLE I
Definitions

As used throughout this Declaration, the following terms shall have the meanings set forth below, which meanings shall be applicable to both the singular and plural forms and tenses of such terms:

- 1.1 **Additional Property.** The term "Additional Property" shall mean and refer to any real property and any Improvements situated thereon lying adjacent to or in close proximity with the Property (but which does not presently comprise any part of the Development) which Developer may from time to time submit and add to the provisions of this Declaration.
- 1.2 **Architectural Review Committee.** The term or letters "ARC" shall mean the architectural review committee appointed pursuant to Article III hereof with the rights and obligations conferred upon such architectural review committee pursuant to this Declaration.
- 1.3 **Architectural Standards.** The term "Architectural Standards" shall mean the standards prepared, issued, and amended from time to time by the ACC for the purpose of reviewing and approving all exterior Improvements, landscaping, and any other Improvements which may be made to any Lot or Dwelling.
- 1.4. **Articles of Incorporation.** The term "Articles of Incorporation" or "Articles" shall mean and refer to the Articles of Incorporation of the Association.

- 1.5 **Assessment.** The term “Assessment” shall mean the annual and special assessments and any other charges assessed against any Owner by the Association.
- 1.6 **Association.** The term “Association” shall mean Stephens Woods Homeowners’ Association, Inc., an Alabama non-profit corporation.
- 1.7 **Board.** The term “Board” shall mean and refer to the Board of Directors of the Association and their duly elected successors as provided in the Article of Incorporation and Bylaws.
- 1.8 **Bylaws.** The term “Bylaws” shall mean and refer to the bylaws of the Association, as the same may be amended from time to time.
- 1.9 **Declaration.** The term “Declaration” shall mean and refer to the Declaration of Covenants, Conditions, and Restrictions of Stephens Woods Subdivision and all amendments thereto.
- 1.10 **Developer.** The term “Developer” shall mean Preston Holdings, LLC, its successors and/or assigns.
- 1.11 **Development.** The term “Development,” with an initial capital letter, shall mean and refer to the Property and all Improvements thereon and any of the Additional Property submitted to the provisions of this Declaration.
- 1.12 **Dwelling.** The term “Dwelling,” with an initial capital letter, shall mean and refer to any improved Lot.
- 1.13 **Improvement.** The term “Improvement,” with an initial capital letter, shall mean and refer to all Dwellings, any building, structure, or device constructed, erected, or placed upon any Lot which in any way affects the exterior appearance of any Lot or Dwelling. Improvements shall include, by way of illustration and not limitation, buildings, sheds, foundation, covered patios, underground utilities, roads, driveways, walkways, paving, curbing, parking areas, trees, shrubbery, landscaping, fences, screening, walls, signs, and any other artificial or man-made changes or alterations to the natural condition of any Lot or Dwelling. “Improvements” shall also mean any grading, any excavation, or fill, the volume of which exceeds eight (8) cubic yards.
- 1.14 **Living Space.** The term “Living Space” shall mean and refer to the enclosed and covered areas within a Dwelling which are heated and cooled by heating, ventilating, and air conditioning equipment, exclusive of garages, carports, porches, terraces, balconies, decks, patios, courtyards, greenhouses, atriums, bulk storage areas, attics, and basements.
- 1.15 **Lot.** The term “Lot” shall mean and refer to any unimproved designated portion of the Property upon which it is intended that a Dwelling be constructed thereon. Upon the recordation of any subdivision plat for any portion of the Property, each lot indicated thereon shall be deemed a Lot for purposes of this Declaration. A parcel of land shall be deemed unimproved and thus considered to be a Lot rather than a Dwelling, until the Improvements constructed thereon are sufficiently complete to reasonably permit habitation thereof. Upon such completion, such Lot and the Improvements thereon shall collectively be considered to be a Dwelling for purposes of this Declaration.
- 1.16 **Mortgage.** The term “Mortgage,” with an initial capital letter, shall mean and refer to any mortgage, deed of trust, or other security device encumbering a Lot or Dwelling or any interest therein and which shall have been duly and properly recorded in the Probate Office of Lee County, Alabama.

1.17 **Mortgagee.** The term “Mortgagee,” with an initial capital letter, shall mean and refer to the holder of any Mortgage.

1.18 **Occupant.** The term “Occupant” shall mean and include any Owner, the family members, guests, tenants, agents, employees, and invitees of any Owner and their respective family members, guests, tenants, agents, employees, invitees, and any other person who occupies or uses any Dwelling within the Development, All actions or omissions of any Occupant is and shall be deemed the action or omission of the Owner of such Dwelling.

1.19 **Owner.** The term “Owner,” with an initial capital letter, shall mean and refer to the record owner, including Developer, of fee simple title to any Lot or Dwelling whether a corporation, partnership, proprietorship, association, or other entity of any nature, including natural persons, but shall not include (i) any Mortgagee unless and until such Mortgagee has foreclosed on its Mortgage and purchased such Lot or Dwelling at the foreclosure sale held with respect to the foreclosure of such Mortgage or (ii) any lessee, purchaser, contract purchaser, or vendor who has an interest in any Lot or Dwelling solely by virtue of a lease, contract, installment contract, or other agreement.

1.20 **Property.** The term “Property,” with an initial capital letter, shall mean and refer to that certain real property situated in Lee County, Alabama, which is more particularly described in Exhibit A attached hereto and incorporated herein by reference. The Property shall also include any Additional Property made subject to this Declaration.

ARTICLE II MUTUALITY OF BENEFIT AND OBLIGATION

SECTION 2.1 **Mutual Servitudes.** The covenants, conditions, restrictions and agreements sets forth herein are made for the mutual and reciprocal benefit of each and every Lot and Dwelling in the Subdivision and are intended to create mutual, equitable servitudes upon each of said Lots and Dwellings in favor of each and all the other Lots and Dwellings therein, to create reciprocal rights between the respective owners of said Lot and Dwellings; and to create a privity of contract and estate between the grantees of said Lots and Dwellings, their heirs, legal representatives, successors and assigns.

SECTION 2.2 **General Declaration.** Developer hereby declares that the Property is and shall be subject to the easements, covenants, conditions, restrictions, charges, liens, and regulations of this Declaration; and the property, any part thereof and each Lot, Dwelling, and common area thereof shall be held, owned, sold, transferred, conveyed, hypothecated, encumbered, leased, occupied, built upon, and otherwise used, improved, and maintained subject to the terms of this Declaration, which easements, covenants, conditions, restrictions, charges, liens, and regulations shall run with the title to the property and shall be binding upon and inure to the benefit of Developer and upon the Owner and Occupants of the Property and any Lot, Dwelling, and common area thereof.

SECTION 2.3 **Development of Property.** Developer shall have the right, but not the obligation, for so long as Developer owns any Lot or Dwelling in the Subdivision, to make improvements and changes to all common areas and to all lots or dwellings owned by Developer, including without limitation: (i) installation and maintenance of any improvements in or to the common areas; (ii) changes in the location of the boundaries of any lots or dwellings owned by Developer or of the common areas; and (iii) installation and maintenance of any water, sewer, and any other utility systems and facilities within the common areas.

SECTION 2.4 **Additional Property.** Developer reserves the right, in its sole discretion, at any time and from time to time to add Additional Property to the provision of this Declaration. At

the time any Additional Property is specifically submitted to the terms and provisions of this Declaration, then such Additional Property shall constitute part of the Property. Submission of Additional Property need not be consented to or approved by any Owner, Occupant or Mortgagee of any Lot or Dwelling. An amendment to this Declaration shall refer to this Declaration stating the book and page number of recordation in the land records of Lee County, Alabama, where this Declaration is filed for record and contain a description of the Additional Property, and shall state that said Additional Property is conveyed subject to the terms and conditions in this Declaration. The number of votes in the Association shall be increased by the Number of Lots or Dwellings within the Additional Property which are added and submitted to the Declaration and there shall continue to be one vote in the Association per Lot or Dwelling within the Development.

In no event shall Developer be obligated to submit any Additional Property to the provisions of this Declaration situated adjacent to or in close proximity with the Development. Notwithstanding anything provided in this Declaration to the contrary, the provisions in this article may not be modified, rescinded, supplemented or amended, in whole or part, without prior written consent of Developer, its successors or assigns.

SECTION 2.5 Subdivision Plat. Developer reserves the right to record, modify, amend, revise, and otherwise add to, at any time and from time to time, a subdivision plat setting forth such information as Developer may deem necessary with regard to the development, including, without limitation the locations and dimensions of all Lots, Dwellings, common areas, additional property, public or private roads, utility systems, drainage systems, utility easements, drainage easements, access easements, set-back line restrictions, retention ponds, and drainage basins. Any such subdivision plats or any amendments thereto shall be binding on the portions of the Property indicated thereon as if such subdivision plat were specifically incorporated into this Declaration and no approval thereof shall be required by any Owner, Occupant or Mortgagee of any Lot or Dwelling. Notwithstanding anything provided to the contrary in this Declaration, Developer may at any time, or from time to time, divide and re-divide, combine and re-subdivide any Lot owned by Developer.

SECTION 2.6 Reservation of Maintenance Easement. Developer does hereby establish and reserve for the Association, its agents, employees, heirs successors and assigns a permanent and perpetual right and easement to enter upon any Lot or Dwelling for the purpose of mowing, removing, clearing, cutting, pruning underbrush, weeds, stumps or other unsightly growth and removing trash so as to maintain reasonable standards of health, fire, safety and appearance within the Development. Said easement shall not impose any duty or obligation upon Developer or the Association to perform any of the foregoing actions.

SECTION 2.7 Reservation of Environmental Easement. Developer does hereby establish and reserve for the Association and the ARC, its agents, employees, heirs successors and assigns a permanent and perpetual right and easement on, over, across, and upon all Lots and all unimproved portions of any Lot or Dwelling for the purpose of taking any action necessary to effect compliance with the Architectural Standards, or any watershed, soil erosion, or environmental rule, regulations, or procedures instituted by any governmental authorities or the Board. Except in the case of emergency situations, the exercise by Developer, the Association or the ARC of the rights reserved in this section shall not unreasonably interfere with the use or occupancy of any Dwelling situated on any Lot.

ARTICLE III ARCHITECTURAL CONTROL COMMITTEE AND REQUIREMENTS OF CONSTRUCTION

SECTION 3.1 Concept. It is intended that the Subdivision will be a residential community of high esteem with first class quality homes in a neighborhood environment.

In order to preserve the architectural and aesthetic appearance and the natural setting and beauty of the Development, to establish and preserve a harmonious design for the Development and to protect and promote the value of the Property, the Lots, the Dwellings, and all Improvements thereon, no Improvements shall be commenced, constructed, erected, installed, placed, moved on, altered replaced, relocated, permitted to remain on or maintained on any Lot of Dwelling by any Owner, other than Developer, which affects the exterior appearance of any Lot or Dwelling unless plans and specifications have been submitted to and approved by the Architectural Control Committee.

SECTION 3.2 **Architectural Control Committee.**

SECTION 3.2.1 The Architectural Control Committee (herein referred to as the "ACC") shall be composed of not less than three (3) members at all times. Regardless of the number on the ACC, at least a majority of the membership of the ACC shall be composed of owners of Lots in the Subdivision, provided, however, that the Developer reserves the right to appoint the initial and successor members of the ACC, none of whom need be an owner of a Lot in the Subdivision, for so long as the Developer owns any Lots in the Subdivision or until the Developer specifically elects to terminate its control of the ACC. The initial ACC shall consist of B. David Peak, Grant Fountain and Johnny R. "Tré" Mills, III. After terminating control of the ACC by the Developer, as aforesaid, the then record owner of a majority of the Lots shall have the power, through a duly recorded written instrument, to change the membership of the ACC or to withdraw from the ACC or to restore to it any of its powers and duties. Neither the members of the ACC, nor its designated representatives, shall be entitled to any compensation for services performed pursuant hereto. A majority of the ACC may designate one or more representatives to act for it.

SECTION 3.2.2 The primary duty of the ACC shall be to examine and approve or disapprove all plans, including site plans, for construction of Improvements on Lots within this Subdivision in accordance with the provisions of this Declaration. The ACC shall have such other responsibilities, duties and authority as provided for, but the ACC shall not have any responsibility, duty or power not expressly provided for herein.

SECTION 3.2.3 Decisions made by the ACC as outlined herein and as are necessary for the development of the Subdivision in consistency with this Declaration shall be made by any two of the three members of the ACC as established herein.

SECTION 3.3 **Plan Approval.** All Plans (as defined herein) for any Dwelling or Improvement to be erected on or moved upon 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 exterior remodeling, reconstruction, alterations or additions thereto on any Lot shall be subject to and shall require approval in writing of the ACC before any work is commenced. Construction may not be started before receipt of a letter of approval of the ACC, a copy of which must be signed by the builder or Lot Owner, and returned to the ACC for retention.

SECTION 3.4 **Review Documents.** One set of prints of the drawings and specifications (hereinafter referred to as "Plans") for each Dwelling or Improvement proposed to be constructed on any Lot shall be submitted for review or approval by the ACC. Said Plans should be delivered to the general office of the Developer, or to any member of the ACC at least thirty (30) days prior to commencement of construction. Each such Plan must include the following:

SECTION 3.4.1 All Plans for structures shall be not less than 1/8 inch equals 1 foot scale.

SECTION 3.4.2 All Plans must take into consideration the particular topographic and vegetative characteristics of the Lot or Lots involved.

SECTION 3.4.3 All plans must state the elevations of all sides of the proposed structure as such sides shall exist after finished grading has been accomplished.

SECTION 3.4.4 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.

SECTION 3.4.5 The site plan shall show all outlines, setbacks, drives, fences, and underground trench locations as a scale of one inch equals twenty (20) feet.

SECTION 3.4.6 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 ACC is unfamiliar.

SECTION 3.5 Design Criteria, Structure.

SECTION 3.5.1 It is the intent of this Subdivision to maintain itself with as many natural surfaces and textures as possible. The following exterior materials are acceptable:

- (a) Brick, stone, or other material approved by the ACC must cover the front of the exterior. Materials on the sides and back of the building must be the same, except for the trim. All exteriors must be white or earth tones.
- (b) Simulated Arch or driftwood shingles shall be natural or earth tone colored.

SECTION 3.5.2 Each plan for each Lot shall provide off-street parking for at least two (2) vehicles and may provide for an attached or unattached 2 car garage.

SECTION 3.5.3 All windows shall be made of painted or coated metal or vinyl. Storm doors of painted or coated metal shall be allowed to cover doors with the approval of the Acc. Enclosed front porches shall not be permitted.

SECTION 3.5.4 No window air conditioner shall be installed on the front or sides of any structure.

SECTION 3.5.5 Electrical distribution to individual Dwellings shall be provided by underground service. No overhead electrical wiring shall be permitted unless approved by the ACC.

SECTION 3.5.6 Swimming pools will be permitted. However, fencing of swimming pool areas must be within achieved set-back lines and fence type and site location must be approved by the ACC. Above ground pools or recreational equipment must located so as not to be visible from the street.

SECTION 3.5.6 The location and type of any fencing must be approved by the ACC prior to construction. All fencing shall extend from the rear corner of the Dwelling and no fencing shall be permitted on the front side of any Dwelling. Rear yard fences shall be black chain link or wood privacy fences, which are not more than six (6) feet in height.

SECTION 3.5.7 All mailboxes shall be designed and located in accordance with the overall architectural scheme of the residency, and must meet requirements of the United

States Postal Service. All mailboxes shall be standardized, of the same type, design, color and location as may be established by the ACC. The exact mailbox to be used in the Subdivision shall be controlled by the Developer and utilized by all builders of all Lots in the Subdivision. Only one mailbox shall be allowed on any Lot or Dwelling. Mailboxes shall contain only the house number of the Lot or Dwelling as approved by the ACC, and no further inscriptions, paintings, ornaments or artistry shall be allowed.

SECTION 3.5.8 During the construction, all vehicles, including those delivering supplies, must enter the building site only on driveways and roads approved by the ACC and such vehicles must be parked on the building Lot where the construction is under way so as to not unnecessarily damage trees.

SECTION 3.5.9 All building debris, stumps, trees, etc., must be removed from each Lot by the builder as often as necessary to keep the Dwelling and Lot attractive. Such debris shall not be dumped in any area of the Subdivision.

SECTION 3.5.10 During construction, the builder must keep dwellings and garages clean and yards cut.

SECTION 3.5.11 All Lots shall be landscaped in accordance with plans and specifications submitted to the ACC and must include the following:

- (a) A minimum of two (2) trees that are at least two and one-half to three gallon in size. Cypress or palm trees shall not be permitted in the front yard of any Dwelling. Builders are also encouraged to save existing hardwood trees.
- (b) Beds shall be properly maintained, mulched, and kept free of weeds at all times. Stones may not be used as bedding.
- (c) Fountains of any type are not permitted in the landscape plan for any Dwelling.
- (d) Landscaping plans shall include and incorporate one to three gallon sized plants.

SECTION 3.5.12 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 building is completed.

SECTION 3.5.13 Drainage of surface water, storm water, and/or foundation drains may not be connected to sanitary sewers.

SECTION 3.5.14 No outside clothes lines shall be permitted.

SECTION 3.5.15 Outdoor furniture of a permanent nature and all recreational appliances, devices and/or structures shall be located at the rear of the Dwelling located on the Lot.

SECTION 3.5.16 No exterior above ground liquified fuel storage containers in excess of ten (10) gallons of any kind shall be permitted.

SECTION 3.5.17 No lot corner stakes may be removed. In the event that such are removed or destroyed either during construction of a Dwelling or at any other time, it shall be the responsibility of the Owner of the Lot to have such restored by a licensed surveyor at the

Lot Owner's expense. The failure of a Lot Owner to restore or replace such lot stakes in accordance with the final subdivision plat shall authorize the Developer or Association (as hereinafter defined) to have such work performed and to charge the expense thereof to the Owner.

SECTION 3.5.18 Dust abatement and erosion control measures shall be implemented by the contractor or Owner in all stages of construction. Proper erosion control plans shall be submitted to the ACC for approval prior to the construction phase beginning. These plans should set out in detail the planned utilized and any builder or subcontractor that will be responsible for the implementation of the plan.

SECTION 3.5.19 The ACC requires the prior approval of all builders and subcontractors that will work on any structure or improvement on any Lot in the Subdivision. A list of said builders and subcontractors shall be submitted for approval either with the initial Plan or prior to the beginning of any construction or site preparation.

SECTION 3.5.20 Any fees or costs associated with tapping into or connecting to the water system for the City of Opelika, including but not limited to the meter loop fee and the impact fee shall be paid by the owner of the Lot or Dwelling, and shall not be the responsibility of either the Developer or the ACC.

SECTION 3.6 **Plans or Specifications Defects.** Neither the ACC nor any architect nor agent thereof nor the 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.

The ACC reserves the right to modify or amend the above regulations from time to time at its discretion.

ARTICLE IV EXCLUSIVE RESIDENTIAL USE AND IMPROVEMENTS

SECTION 4.1 **Residential Lots.** All Lots in the Subdivision shall be known and described as residential lots and shall be used for single-family residential purposes exclusively.

SECTION 4.2 **Subdivision.** No Lot shall be subdivided without the consent of the Developer and/or the ACC.

SECTION 4.3 **Detached Residences/Outbuildings.** 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 not to exceed two (2) stories. No more than one (1) outbuilding not to exceed 400 square feet, may be constructed or place on a Lot; provided however, that same shall be made of natural materials and blended with the exterior materials of the Dwelling and provided further that the written approval of the ACC shall be required prior to construction or installation thereof.

SECTION 4.4 **Heated Square Footage.** Every Dwelling on any Lot, exclusive of one story open porches, garages, bonus rooms located over garages and finished basements, shall have not less than the following square footage:

- (a) Single story dwelling, not less than 1,500 square feet.
- (b) Two story dwelling, not less than 1,100 square feet for the main level.

SECTION 4.5 Ceiling Height. The ceiling height of any enclosed, heated, and habitable area shall not be less than 8 feet.

SECTION 4.6 Occupants of Dwellings. Each Lot and Dwelling shall be used for residential purposes only. No more than a single-family unit and one unrelated person shall occupy any dwelling house.

ARTICLE V GENERAL PROHIBITIONS AND REQUIREMENTS

SECTION 5.1 Conditions of Lots. 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 Subdivision as a whole.

SECTION 5.2 Maintenance. All Lots, whether occupied or unoccupied, and any improvements placed thereon, shall at all time 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, the Developer reserves for himself and his agents and the ACC, 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 the Developer or the ACC detracts from the overall appearance and safety of the Subdivision. Such entrance upon such property for such purposes shall be only between the hours of 7 a.m. and 6 p.m. on any day except Sunday and shall not be a trespass. The Developer or the ACC may charge the Lot 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 the Developer or the ACC to mow, clear, cut or prune any Lot nor to provide garbage or trash removal services.

SECTION 5.3 Animals. No animals, livestock or poultry of any kind or description, except the usual household pets (not to exceed two in number), shall be kept on any Lot, provided that no household pet may be kept on any Lot for breeding or commercial purposes.

SECTION 5.4 Noxious, Offensive or Illegal Activities. 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 Subdivision.

SECTION 5.5 Drilling, Refining, and Quarrying Operations. No oil or natural gas drilling, refining, quarrying or mining operations of any kind shall be permitted upon any Lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted on any Lot. No water pipe shall be installed or maintained on any Lot above the surface of the ground except hoses and movable pipes used for irrigation purposes.

SECTION 5.6 Trash, Garbage and Refuse 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 clean and sanitary condition and shall be so placed, buried or screened by shrubbery or other appropriate material approved in writing by the ACC so as not to be visible from any street within sight distance of the Lot at any time except during periods of refuse collection. No outside burning of wood, leaves, trash, garbage or household refuse shall be permitted, except during the construction phase without prior approval of the ACC and the City of Opelika.

SECTION 5.7 Signs. All signs, billboards or advertising structures of any kind are prohibited except builder and subcontractor signs during construction periods and except one professional sign of not more than two (2) square feet to advertise the property during sale period. No sign shall be permitted to be nailed or attached to trees.

SECTION 5.8 Temporary Structure. No structure of a temporary character, mobile home, recreational vehicle, trailer, basement, tent or shack shall be used at any time as a residence either temporarily or permanently. There shall be no occupancy of any Dwelling until the interior and exterior of the Dwelling are completed and a certificate, or other satisfactory evidence of completion is received by the Developer or contractor from the Building Official of the municipality where the property is located.

SECTION 5.9 Destroyed Structure. Any Dwelling or other structure on any Lot in the Subdivision which is destroyed in whole or in part for any reason must be rebuilt in one (1) year. All debris must be removed and the Lot restored to a slightly condition with reasonable promptness, provided that in no event shall such debris remain on any Lot longer than sixty (60) days.

SECTION 5.10 Parking. No boat, boat trailer, house trailer, mobile home, camper, motor home, recreational vehicle or similar equipment or vehicle shall be parked or stored on any road, street, driveway, yard or Lot located in the Subdivision for any period of time in excess of twenty-four (24) hours, except in enclosed garages. No trucks larger than three-fourths (3/4) ton and no tractors or other excavating machinery shall be parked or stored on any road, street, driveway, yard or Lot located in the Subdivision for any period of time in excess of twenty-four (24) hours, except during the period of construction on the Lot. No cars shall remain on the street overnight.

SECTION 5.11 Non-residential Activity. No professional, business, home industry, religion, school, kindergarten or educational enterprises shall be conducted on any Lot. No owner or occupant of any Dwelling erected on any Lot shall ever rent or lease rooms, but such shall not be construed to prevent the rental of an entire residence to a family unit nor the employment of live-in-domestic servants.

SECTION 5.12 Yards and Drives Prior to occupancy of any residence constructed on any Lot, all yard areas which are visible from any street or adjoining lot must be planted with grass or have other suitable ground cover, and driveways must be paved or otherwise approved by the ACC.

SECTION 5.13 Set Back Lines. No building shall be located nearer to the street line than as indicated by the building set-back lines shown on the recorded Subdivision plat. Where these set-back lines are less than those required by the zoning ordinance of the municipality where the Lot is located, the higher requirement shall control. For the purposes of this paragraph, eaves, steps and open porches not covered by a roof structure shall not be considered as a part of building, provided however, that this shall not be construed to permit any portion of the building or construction on any Lot to encroach upon another Lot or upon reserved easements.

No structure or other permanent fixture, excluding landscaping planting and mail boxes shall be erected, placed or altered on any Lot between the street and the building set-back line unless the same be a retaining wall of masonry construction which does not in any event rise above the finished grade elevation of the earth embankment so retained, reinforced or stabilized. The exposed part of such retaining walls shall be made of brick, natural stone or concrete block veneered with brick, natural stone or other material approved by the ACC.

**ARTICLE VI
SET BACK LINES AND EASEMENTS**

SECTION 6.1 Building Set-Back Lines. The building set-back lines shall be in accordance with the requirements of the City of Opelika.

SECTION 6.2 Easement. Utility and drainage easements shall be designated on the plat of the subdivision.

**ARTICLE VII
ASSOCIATION**

SECTION 7.1 Membership. The owner of each Lot or Dwelling shall be a member of the Stephens Woods Homeowners' Association, Inc., (hereinafter referred to as the Association), a non profit corporation that will be created to facilitate the running of the Subdivision. Membership in the Association shall be appurtenant to and may not be separated from ownership of any Lot or Dwelling; provided, however, that (a) Developer shall be deemed a member of the Association and shall have one (1) vote for each Lot or Dwelling owned by Developer in the Subdivision; (b) in the event any Lot or Dwelling is owned by more than one (1) person, then the Owner of such Lot shall, by written notice to the Association=s Board of Directors, (hereinafter referred to as the Board), designate only one (1) representative to serve as a member of the Association who shall exercise all voting rights attributable to the Lot or Dwelling owned by such Owner; and (c) no Mortgagee shall become a member of the Association until such time, if at all, that the Mortgagee becomes an owner by virtue of foreclosure of its mortgage and title to such encumbered Lot or Dwelling is vested in Mortgagee pursuant to a duly recorded deed. The transfer or conveyance of fee title to any Lot or Dwelling (other than by a mortgage as security for the payment of an obligation) shall automatically include the transfer of all membership rights of such owner in the Association with respect to the Lot or Dwelling transferred and conveyed, notwithstanding any failure of the transferor to endorse to his transferee any certificates, assignments, or other evidence of such membership. Membership or the rights and benefits in the Association may not be transferred, assigned, conveyed, or otherwise alienated in any manner separately and apart from the ownership of a Lot or Dwelling. Each member of the Association shall at all times comply with the provisions of this Declaration, the Articles of Incorporation, the Bylaws, and all rules and regulations which may from time to time be adopted by the Board or the members of the Association.

SECTION 7.2 Board. The Board of Directors of the Association (the "Board") shall have the rights and duties set forth in the Articles of Incorporation and the Bylaws. Developer hereby retains and shall have the right to appoint or remove, with our without cause, any member or members of the Board and any officer or officers of the Association until such time as Developer no longer is the owner of any Lot or Dwelling within the Subdivision, except a Dwelling used as a personal residence. Each Owner, by acceptance of a deed to or other conveyance of a Lot or Dwelling, vests in Developer such authority to appoint and remove members of the Board and officers of the Association as provided by this Section 7.2

SECTION 7.3 Voting Rights. The Owner of each Lot or Dwelling shall be entitled to one (1) vote in any matter submitted to the members of the Association for approval. No Owner, whether one or more persons, shall have more than one membership and one vote per Lot or Dwelling. Such voting rights shall continue to apply to each Lot or Dwelling upon the addition of any Additional Property to this Declaration. Each owner, by acceptance of a deed or other conveyance to a Lot or Dwelling, consents and agrees to the dilution of his or her voting interest in the Association by virtue of the submission of any Additional Property to the terms of this Declaration. For purposes of this Section 7.3, Developer shall be deemed to be the owner of and entitled to all voting rights attributable to any Lots or Dwellings owned by Developer.

SECTION 7.4 Duties and Powers of Association. In addition to the rights, duties, responsibilities and obligations of the Association otherwise set forth in this Declaration, the Association shall have the power to do, cause to be done, and otherwise perform or cause to be performed any of the duties and powers set forth its Articles of Incorporation and Bylaws. The Association may exercise any other right or privilege granted to it expressly by this Declaration or by law, together with every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege. In the event of any conflict, ambiguity, or inconsistency between the Code of Alabama, this Declaration, the Articles of Incorporation, the Bylaws, or any rules and regulations adopted by the Association, then the provisions of the Code of Alabama, this Declaration, the Articles of Incorporation, the Bylaws, and any rules and regulations adopted by the Association, in that order, shall prevail and each owner, by acceptance of a deed or other conveyance to a Lot or Dwelling, covenants and agrees to vote in favor of and execute any amendments as may be necessary to remove or alleviate any such conflict, ambiguity, or inconsistency. The powers of the Association shall include, but not be limited to:

7.4.1 The power to purchase one or more Lots and/or Dwellings and any other real or personal property, whether tangible or intangible, and to hold, lease, mortgage, sell, and otherwise convey the same.

7.4.2 Subject to the provisions of this Section 7.4, the right to borrow money for the purpose of acquiring additional common areas for constructing, repairing, maintaining, or improving the common areas or any portion thereof or for providing any of the services authorized herein.

7.4.3 Subject to the provisions of this Section 7.4, the right to give mortgages or other security instruments encumbering all or any part of the common areas as security for any loan obtained by the Association; provided, however, that the lien and encumbrance of any such mortgage shall be subject and subordinate to all of the rights and interests of the Developer, the ACC, the Association, and all Owners and Occupants.

7.4.4 The right to grant and accept easements.

7.4.5 The right to dedicate or transfer fee simple title to all or any portion of the common areas to any governmental authority; provided, however, that except as provided herein in this Declaration the dedication or transfer of title to any of the common areas must be approved by a majority of those owners present in person or by proxy at a duly held meeting of the Association called for such purposes.

7.4.6 The right to arrange with any governmental authorities or any public or private utilities or others, for the furnishing of trash collection, water, sewer, and/or security services for the common areas and/or the Lots and Dwellings.

For so long as Developer shall own any Lot or Dwelling, the Association shall not, without the consent of Developer, borrow money or pledge, mortgage, encumber, sell, or otherwise convey an interest it may have in the common areas. Except as otherwise specifically provided to the contrary herein, the Association's Articles of Incorporation or Bylaws, the powers and authority granted to the Association may be exercised by the Board, acting through the officers of the Association, without further consent or action on the part of the Owners.

SECTION 7.5 Agreements. Subject to the conditions, restrictions, and other provisions of this Declaration, all agreements, actions, and determinations lawfully authorized by the Board shall be binding upon all owners, their heirs, executors, personal representatives, administrators,

successors, and assigns, and all others having any interest in the Subdivision. In performing its responsibilities hereunder, the Association, through the Board, shall have the right and authority to delegate to such persons of its choice such duties of the Association as may be determined by the Board. In furtherance of the foregoing and not in limitation thereof, the Association may obtain and pay for the services of any person or entity to manage its affairs or any part hereof, to the extent it deems advisable, as well as such other personnel as the Association shall deem necessary or desirable for the proper operation of any portion of the Subdivision, whether such personnel are furnished or employed directly by the Association or by independent contract with the Association. All costs and expenses incurred incident to the employment of a manager of the Subdivision or any of the common areas shall be a common expense. During the term of any such management agreement entered into by the Association with a third party, such manager may, if authorized by the Board, exercise all the powers and shall be responsible for the performance of all of the duties of the Association, excepting any of such powers or duties specifically and exclusively reserved to the Board or the officers of the Association by the Declaration, the Articles of Incorporation, or the Bylaws. Such manager may be an individual, corporation, or other legal entity and may be bonded in such manner as the Board may require with the costs of such bond to be a common expense. In addition to the foregoing, the Association may pay for and the Board may hire and contract for such legal and accounting services as are necessary or desirable in connection with the operation of the Subdivision, or the enforcement of this Declaration, the Articles of Incorporation, the Bylaws, or any rules and regulations of the Association.

SECTION 7.6 Management by Developer or its Affiliates. Developer or any affiliate thereof may be employed by the manager of the Association and the Subdivision for so long as Developer owns any Lot or Dwelling within the Subdivision, at such compensation on such terms as would be usual, customary, and obtainable in an arms-length transaction with any third party providing comparable services for any real estate development in the southeastern United States of the size, quality, and nature of the Subdivision. Each owner, by acceptance of a deed to or other conveyance of a Lot or Dwelling, shall be deemed to ratify the provisions of this Section 7.6 and specifically be deemed to have approved any such management agreement entered into by the Association and Developer or any affiliate thereof.

SECTION 7.7 Rules and Regulations. The Board may establish and enforce reasonable rules and regulations governing the use of all Lots, Dwellings, and common areas. Without limiting the foregoing, the Board may adopt rules and regulations which shall govern the use of any of the common areas (including specifically, the use of any of the recreational facilities, if any, situated within the common areas), the enforcement of all of the terms and provisions of this Declaration, and any rules and regulations adopted by the Board and such other matters. Copies of such rules and regulations shall be binding upon all Owners and Occupants until and unless such rule or regulation is specifically overruled, canceled, or modified by the Board or by the majority vote of the total votes of the Association at any regular or special meeting of the Association; provided, however, that no such rules or regulations may be overruled, canceled, or modified unless such action is also approved by Developer for as long as Developer owns any Lot or Dwelling in the Subdivision.

SECTION 7.8 Indemnification. The Association shall and does hereby indemnify, defend, and agree to hold each and every officer, agent, representative, and member of the Board of the Association and the ACC harmless from and against any and all expenses, including court costs and reasonable attorneys' fees, suffered, paid or incurred by an such officer, agent, representative, or member of the Board or the ACC in connection with any action, suit, or other proceedings (including the settlement or any suit or proceedings if approved by the Board) to which such person may be made a part by reason of being or having been an officer, agent, representative, or member of the Board of the Association or the ACC. The officers, agents, representatives, and members of the Board of the Association and the ACC shall not be liable for any mistake in judgment, negligence, or otherwise except for their own willful misconduct or reckless disregard of duty, as finally determined by a court of competent jurisdiction. The officers, agents, representatives, and members of the Board

of the Association and the ACC shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association, and the Association shall and does hereby indemnify, defend, and agree to forever hold each such officer, agent, representative, and member of the Board harmless from any and all liability to others on account of any such contract or commitment. The indemnification obligations and rights provided for herein shall not be exclusive of any other rights to which any officer, agent, representative, or member of the Board of the Association or the ACC may be entitled, including anything provided to the contrary contained in the Articles of Incorporation or the Bylaws. The Association may purchase general liability and officers and directors liability insurance in order to fulfill its obligations under this Section 7.8 and the costs of such insurance shall constitute a common expense.

ARTICLE XIII COMMON AREA ASSESSMENTS

SECTION 8.1 Assessments and Creation of Lien. Each Owner of a Lot or Dwelling, by acceptance of a deed or other instrument conveying any interest therein, regardless of whether such deed or instrument contains a reference to this Declaration, is hereby deemed to covenant and agree to pay to the Association: (a) annual assessments, as established and to be collected as provided in section 8.4 below; (b) special assessments, to be established and collected as provided in Section 8.5 below; and (c) individual assessments against any particular Lot or Dwelling which are established or assessed pursuant to the terms of this Declaration, including, but not limited to, any fines as may be levied or imposed against such Lot or Dwelling in accordance with the provisions herein. All assessments, together with late charges and interest, and all court costs and attorneys' fees incurred by the Association to enforce or collect such assessments, shall be an equitable charge and a continuing lien upon each Lot or Dwelling for which the owner thereof is responsible for the payment of the same, which lien may be enforced in the manner provided herein.

SECTION 8.2 Purpose of Assessments. The annual and special assessments provided for herein shall be used for the general purposes of promoting the recreational, health, safety, welfare, common benefit, and enjoyment of the Owners and Occupants of the Subdivision and otherwise for the general upkeep and maintenance of the Subdivision, including, specifically, the common area, and any improvements thereto, all as may be more specifically authorized from time to time by the Board.

SECTION 8.3 Annual Assessments. Annual Assessments shall be levied by the Association against each Lot and shall be collected and held by the Association for the payment of expenses including without limitation, administrative expenses, utility charges, administrative, repair, replacement and maintenance expenses in the Development.

SECTION 8.4 Initial Assessments. The initial assessment for each Lot shall be \$25,000. The Association will retain the services of Developer, to manage the Development for so long as Developer holds title to any Lot or Dwelling within the Development. All sums collected shall be deposited into an escrow account and Developer will maintain the Association's escrow account, until such time as Developer turns control of the ACC and Board over to the Association.

SECTION 8.5 Special Assessments. The Association may, by majority vote of Lot Owners voting in person or by proxy at a meeting duly called for such purposes, levy special assessments for any costs in connection with the construction, reconstruction, repair, or replacement of areas in the Subdivision.

SECTION 8.6 Non-payment Remedies. Any assessment which is not paid when due shall be delinquent. If an assessment for a Lot is not paid within ten (10) days after the due date, the Lot Owner (s) shall be in default and the Association may declare the balance of the entire annual assessment for such Lot immediately due and payable. If the assessment is not paid within thirty

(30) days after the date due, the assessment shall bear interest from the date due at the rate of twelve percent (12%) per annum, and the association may bring suit to recover a money judgment for the unpaid assessment against the Lot Owner without waiving the lien, and/or file a lien against such Lot. When either of the preceding remedies is exercised by the Association, interest, costs and attorneys fees equal to fifteen percent (15%) of the principal and interest due shall be added to the amount of such assessment as may then be due. Further, if the assessment is not paid within thirty (30) days after the date of default, the Association shall give prompt notice of default to the holder of any first mortgage upon said Lot. Each Lot Owner by his acceptance of a deed to a Lot from the Developer or from any subsequent owner of a Lot vests in the association or its agents the right and power to bring all actions against him personally for the collection of such charges as a debt and to file and foreclose a lien in a suit brought in the name of the Association in the same manner as a foreclosure of a mortgage on real property. This lien provided for herein shall be in favor of the Association and shall be for the benefit of all Lot Owners. If a Lot Owner defaults in the payment of his assessment, the Association shall have the right to declare the entire assessment for the year to be due and payable, together with all costs and attorneys' fees as provided herein. Non-use or abandonment of the Lot shall not constitute a defense against any action on account of any unpaid assessments.

Section 8.7 Responsibility of Developer. The Developer shall not have any responsibility to pay assessments regarding Lots which are unsold, unless it elects to pay the same.

ARTICLE IX ENFORCEMENT

SECTION 9.1 In the event of a violation or breach of any of these restrictions by any Owner, Occupant or family of Owner(s) or Occupants, the Developer, the Association, any Owner(s) of Lot(s), or any party to whose benefit these restrictions shall inure, shall have the right to proceed at law or in equity to compel compliance with the terms and conditions hereof, to prevent the violation or breach of said restrictions, to sue for and recover damages, reasonable attorney's fees, cost of court, or other charges or to take all such courses of action at the same time, or such other legal remedy it may deem appropriate. Any delay or failure on the part of an aggrieved party to invoke an available remedy set forth herein shall not be held to be waiver of that party or an estoppel of that party or of any party to assert any right available to that party upon the recurrence or continuation of said violation or the occurrence of a different violation.

ARTICLE X TERMS AND MODIFICATION

SECTION 10.1 Term. These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of twenty (20) years from the date these covenants are recorded, after which time said covenants shall expire unless extended. One or more extensions of the term of these covenants may be made by recording, prior to the expiration of the original term or any extension thereof, an instrument signed by the majority of the then Owners of the Lots extending the term of said covenants. No extension shall be for a term longer than ten years.

SECTION 10.2 Amendment by Developer. For so long as Developer owns any Lot or Dwelling within the Subdivision, Developer may amend this Declaration by a written instrument filed and recorded in the Probate Office of Lee County, Alabama, without obtaining the approval of any Owner or Mortgagee; provided, however, that except as otherwise provided in section 10.3 below: (a) in the event any amendment proposed by Developer materially and adversely alters or changes any owner=s rights to the use and enjoyment of his Lot or Dwelling or materially and adversely affects the title to any Lot or Dwelling, then such amendment shall be valid only upon the

written consent thereto by fifty percent (50%) of all of the Owners (including Developer who shall have the voting rights attributable to any Lots or Dwellings owned by Developer); or (b) in the event any such proposed amendment by Developer would materially and adversely affect the title and interest of any Mortgagee, such amendment shall be valid only upon the written consent thereto of all such Mortgagees affected thereby. Any amendment made pursuant to this Section 10.2 shall be certified by Developer and shall be effective upon recording of the same in the Probate Office of Lee County, Alabama.

SECTION 10.3 Amendment by Owners. Amendments in this Declaration, other than those authorized by Section 10.2 above, shall be proposed and adopted by the Association in the following manner:

10.3.1 At any annual or special meeting of the members of the Association, an amendment to this Declaration may be proposed by either the Board of the Association or by any owners present in person at such meeting. Any such proposed amendment must be approved by the owners holding at least two-thirds (2/3) of the total votes in the Association; provided, however, that (i) any amendment which materially and adversely affects the security, title, or interest of any Mortgagee must be approved by such Mortgagee; and (ii) during any period in which Developer owns a Lot or Dwelling in the Subdivision, then Developer must approve such proposed amendment.

10.3.2 Any and all amendments which have been approved in accordance with the provisions of Section 10.3.1 above shall be executed by all parties whose consent to the same is required, including the Owners holding at least two-thirds (2/3) of the total votes in the Association; provided, however, that in the alternative, a sworn statement of the President of the Association or by the Chairman of the Board stating unequivocally that the agreement of the requisite number of Owners was lawfully obtained may be attached to and incorporated into such amendment without joinder of any Owners. Any such amendment shall be effective upon recording of the same in the Probate Office of Lee County, Alabama.

ARTICLE XI SEVERABILITY

SECTION 11.1 Severability. Every one of the restrictions is hereby declared to be independent of, and severable from the rest of the restrictions and of and from every other one of the restrictions and of and from every combination of the restrictions. Invalidation by any court of any restrictions in this instrument shall in no way affect any of the other restrictions which shall remain in full force and effect.

SECTION 11.2 Developer's Rights to Improve Standards. The Developer may include in any contract or deed hereinafter made or entered into, such modifications and/or additions to these protective covenants and restrictions, which will by their nature raise the standards of the Subdivision.

ARTICLE XII GENERAL

SECTION 12.1 Captions and Headings. The captions and headings contained in this Declaration are for convenience of reference only and shall not be used in the construction or interpretation of any provisions of this Declaration.

SECTION 12.2 **Pronouns and Plurals.** All personal pronouns used in this Declaration, whether used in the masculine, feminine, or neuter gender, shall include all other genders. The use of the singular tense shall include the plural and the use of the plural shall include the singular.

SECTION 12.5 **Binding Effects.** The terms and provisions of this Declaration shall be binding upon each Owner, Occupant, and Mortgagee and the respective heirs, executors, administrators, personal representatives, successors, and assigns of each Owner, Occupant, and Mortgagee, and shall inure to the benefit of Developer, the ACC, the Association, all of the Owners, Occupants and their respective Mortgagees and their respective heirs, executors, administrators, personal representatives, successors and assigns.

IN WITNESS WHEREOF, Preston Holdings, LLC, has caused this Declaration of Covenants, Conditions and Restrictions to be properly executed, by JEDD Holdings, LLC, its sole member by Fred D. Peak, its Manager Member, as of this the ___ day of February, 2005.

PRESTON HOLDINGS, LLC
By: JEDD Holdings, LLC

By: _____
Fred D. Peak, Manager Member

STATE OF ALABAMA
COUNTY OF LEE

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify that **Fred D. Peak**, whose name is signed to the foregoing instrument as the **Manager Member of JEDD Holdings, LLC, the sole member of Preston Holdings, LLC**, and is known to me, acknowledged before me on this day that, being informed of the contents of this instrument, he executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this the ____ day of _____, 2005.

Notary Public _____
My Commission Expires: _____

EXHIBIT A

Lots 1-22, Stephens Woods Subdivision, and Parcel A as shown on the map or plat of subdivision recorded in Plat Book ___ at Page ___ in the Office of the Judge of Probate of Lee County, Alabama.