

534873

STATE OF ALABAMA

COUNTY OF MOBILE

RESTRICTIVE COVENANTS

BELLE ISLE SUBDIVISION, UNIT THREE

WHEREAS, Audrey L. Powers, a divorced woman, and Mary F. N. Davis, a widow, are the owners of Belle Isle Subdivision, Unit Three, a plat of which subdivision is recorded in Map Book 29, page 9 of the records in the Office of the Judge of Probate, Mobile County, Alabama, and

WHEREAS, it is the intention and desire of the aforesaid owners that Lot Numbered 1 through 8 of the said subdivision be owned, used and occupied exclusively for residential purposes and no other; and

WHEREAS, the said lots are subject to restrictions in that certain deed recorded in Real Property Book 1714, page 252, and power easement not of record but apparent on visual inspection.

WHEREAS, Audrey L. Powers and Mary F. N. Davis as owners of all of the lots contained in Belle Isle Subdivision, Unit Three, are desirous of imposing additional restrictive covenants thereon; therefore, they do hereby impose the following protective and restrictive covenants regarding the use of said property:

1. Land Use and Building Type - All lots in said subdivision shall be known and described as residential lots. No structure shall be erected, altered, placed or permitted to remain on any residential building lot other than one detached single-family dwelling not to exceed two (2) stories in height and a private garage for not more than two (2) cars. Provided, however, that the owners of Lots 4 and 5 may, after obtaining the necessary governmental permits, dredge or dig into the said lots from Halls Mill Creek boatslips and erect boathouses thereon; provided, however, that only one boathouse may be erected per lot.

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2. Building Location - No building shall be located on any lot nearer than twenty-five (25) feet to the front line, or, except as to Lots 1 and 8, 2 and 7, and 3 and 6, nearer than twenty-five (25) feet to the rear lot line, and on Lots 4 and 5, nearer than twenty-five (25) feet to Halls Mill Creek, forming the rear lot line, with respect to the rear set back line. No building shall be located nearer than ten (10) feet to an interior lot line; however, the sum of the two side yards shall equal twenty (20) feet. For the purpose of this covenant, eaves, steps, or porches shall not be considered as part of the building, provided, however, that this shall not be construed to permit any portion of the building on a lot to encroach upon another lot.

3. Type and Size of Building - No building shall be erected, altered, placed or permitted to remain on any lot other than one single-family dwelling which shall not be more than two (2) stories in height and shall have habitable area, exclusive of basements, open porches and garages of at least 1200 square feet, whether it be one or two stories in height; provided, however, that a detached garage, storage building, or other outbuilding may be erected or permitted to remain upon any lot only if the prior written approval of Audrey L. Powers or Mary F. N. Davis and the Architectural Control Committee is obtained.

4. Nuisances - No noxious or offensive trade or activity shall be carried on or maintained on any lot in said subdivision, nor shall anything be done thereon which may be or become any annoyance, or a nuisance to the neighborhood. No lot shall be used as a base of operation for any craft having an unmuffled engine or motor.

5. Swimming Pools - No swimming pools shall be constructed, placed, altered or maintained upon any lot without the prior written approval of the Architectural Control Committee of the type, design and location thereof. Any such swimming pool must also be constructed, equipped and maintained in accordance with the regulations, standards and recommendations of the appro-

priate city, county and state authorities.

6. Temporary Structures - No trailer, mobile home, basement, shack, garage, garage apartment, barn or other outbuilding shall at any time ever be used as a residence, temporarily or permanently, nor shall any structure of a temporary character ever be used as a residence. Not more than one travel trailer, mobile home or other recreational vehicle may be stored or kept on any lot in this subdivision unless prior written consent is obtained from the Architectural Control Committee.

7. Garbage and Refuse Disposal - No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage, or other waste shall not be kept except in sanitary containers. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

8. Animals and Poultry - No animals, livestock, or poultry of any kind, shall be raised, bred or kept on any lot, except that dogs, cats or other household pets may be kept provided that they are not kept, bred or maintained for any commercial purpose. In no event shall more than two household pets be kept on any lot at any one time.

9. Signs - No sign of any kind shall be displayed to the public view on any lot except one professional sign of not more than one square foot, one sign of not more than five (5) square feet advertising the property for sale or rent, or signs used by a builder to advertise the property during the construction and sales period.

10. Oil Drilling - No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any lot. No derrick or other structure designed for use in boring for oil, or gas shall be erected, maintained or permitted upon any lot.

11. Fences - No fence, wall, or hedge shall be permitted within an area ten (10) feet in depth running parallel to and having as its outer boundary, the front lot lines of each lot. No fence, wall, or hedge exceeding two feet in height shall be constructed in an area between the interior line of the aforesaid ten foot strip and the rear of any home unless a particular exception due to desirable architectural treatment is obtained from the Architectural Control Committee. In no event will a metal chain link or similar type utility fence be permitted in the foregoing area between the rear of a home and the interior line of the ten foot strip. Under no circumstances will a fence in excess of eight feet in height be permitted.

12. Easements - All the easements shown on the recorded plat of said subdivision are hereby adopted as part of these restrictions. Except as to lots 6, 7, and 8, an easement is reserved over, across, and under a strip ten feet in depth running parallel to, and having as its outer boundary, the front lot lines of each lot in said subdivision fronting on Higgins Road for the purpose of installing, repairing, and maintaining or conveying to the proper parties so they might install, repair, and maintain electric power, water, telephone service and gas for the aforesaid lots, and all contracts and conveyances covering any of the said lots are hereby made subject to this easement.

13. 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 thirty (30) years from the date of these covenants, after which time said covenants shall be automatically extended for successive periods of ten years unless an instrument, signed by a majority of the then owners of the lots, agreeing to change said covenants in whole or in part, has been recorded.

14. Enforcement - Shall be by proceeding at law or in equity against any person or persons violating or attempting to violate any covenant, either to restrain violation or to recover damages.

15. Amendments - Any or all of the restrictions herein may be annulled, amended or modified at any time by an instrument executed by the record owners at least 51% of the lots in said subdivision, provided, however, that no amendment shall place an additional burden or restriction on lots in said subdivision which bind any lot, the owner of which does not join in said amendment, and provided further that Audrey L. Powers and Mary F. N. Davis, their heirs and assigns, must approve such amendments, modifications, or annulments so long as they shall own any lots in said subdivision and the adjacent lands under its control.

16. Severability - Invalidity of any of these covenants by judgment or court decree shall in no way affect any of the other provisions which shall remain in full force and effect.

17. Architectural Control Committee and Procedure - The Architectural Control Committee, as to all of the lots shown on the plat designated as Belle Isle Subdivision, Unit Three, shall be composed of William M. Lyon, James Lee Oswalt, and Lamar Oswalt Barnett. A majority of the committee may designate a representative to act for the committee. In the event of death or resignation of any member of the committee, the remaining members thereof have full authority to designate a successor. Neither the members of the committee, not its designated representative, shall be entitled to any compensation for service performed pursuant to this covenant. Should the Architectural Control Committee or its designated representative fail to approve or disapprove such plans and specifications in writing within thirty (30) days after submission, such approval will not be required, but such lot shall be and remain in all other respects subject to these restrictions. If such plans and specifications are disapproved, written notice of such disapproval shall be given to the submitting lot owner at the address furnished by him with the plans and specifications. Such notice will set forth the elements disapproved and the reason therefor but need not contain any suggestions as to the corrective measures to be taken.

The said Architectural Control Committee may, at any time and from time to time, delegate or assign to any other person, entity, or committee, in whole or in part, the right and authority granted by this section or by any other section of the restrictive covenants granting a discretionary right or authority to the Committee and, in all events the decision of the Committee shall be final.

No building shall be erected, placed or altered on any lot until the construction plans and specifications and a plan showing the location of the structure have been approved by the Architectural Control Committee relating to such lot as to quality of workmanship and materials, harmony of exterior design with existing structures and as to location with respect to topography and finish grade.

18. Wharves or Docks - The only structure permitted to be erected within the limits of Halls Mill Creek upon which lots 4 and 5 abut is a wharf or dock not exceeding thirty (30) feet in length running parallel to said canal and extending in depth no more than five (5) feet into said creek. No roof, shelter or other permanent structure, except hand rails, benches and tie pilings, may be built or erected on any such wharf or dock. The location and type of construction of the said wharf or dock shall be approved by the United States Corps of Engineers, plus any and all other regulatory authorities, local or otherwise, and finally by the Architectural Control Committee.

19. Resubdivision - No lot contained in Belle Isle Subdivision, Unit Three, shall be resubdivided at any time.

20. Lots 1 and 8, 2 and 7, 3 and 6 - In all event lots 1 and 8, 2 and 7, and 3 and 6, are to be conveyed as three parcels each composed of two lots. It is the intention of these restrictions that lots 1 and 8 be conveyed together, lot 2 and 7 be conveyed together, and lots 3 and 6 be conveyed together; and that same may not be resubdivided or otherwise separated at any time and in any fashion.

IN WITNESS WHEREOF, the said Audrey L. Powers and Mary F. N. Davis have caused these presents to be executed and hereunto set their hands and seals on this the 5 day of January, 1978.

Audrey L. Powers (SEAL)
AUDREY L. POWERS

Mary F. N. Davis (SEAL)
MARY F. N. DAVIS

State of Alabama
County of Mobile

I, the undersigned notary public in and for said state and county, hereby certify that Audrey L. Powers and Mary F. N. Davis whose names are signed to the foregoing instrument, and who are known to me, acknowledged before me on this day that, being informed of the contents of said instrument, they executed the same voluntarily on the day the same bears date.

Given under my hand and notarial seal this the 5 day of January, 1978.

James Lee O'Connell
Notary Public
MY COMMISSION EXPIRES 3-22-81

RECORD FEE 11.00
STATE OF ALA. MOBILE CO.
I CERTIFY THIS INSTRUMENT
WAS FILED ON

JAN 10 3 28 PM '78

RECORDED
DEED TAX & ...
BEEN FILED ON THIS INSTRUMENT.
John L. H. H. H.
JUDGE OF PROBATE

This instrument was prepared by

William M. Lyon, Jr.
McFadden, Riley & Parker
718 Downtowner Boulevard
Mobile, Alabama 36609

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