

DECLARATION OF PROTECTIVE COVENANTS AND RESTRICTIONS FOR HIDDEN HOLLOW SUBDIVISION

THIS DECLARATION, made this 5th day of June, 1987, by DAVID F. CANTRELL (hereinafter referred to as "Declarant").

WITNESSETH:

WHEREAS, Declarant is the owner of the real estate property more particularly described in Exhibit "A" attached hereto and by this reference made a part hereof (hereinafter referred to as the "Property"); and

WHEREAS, Declarant desires to develop a high quality subdivision to be composed of duplexes and triplexes, and to be known as "Hidden Hollow Subdivision" and to provide for the maintenance, preservation, control and proper development of the Property, including, without limitation, provisions for the physical appearance and compatibility of individual building sites and improvements constructed thereon; and

WHEREAS, Declarant deems it desirable to protect the owners of building sites with the Property against improper development and use of surrounding sites and buildings as would impair or depreciate the value thereof; and

WHEREAS, Declarant desires to provide adequate setbacks, landscaped areas and off-street parking in order to promote the general welfare of the Property; and

WHEREAS, Declarant desires to subject the Property to the covenants, restrictions, easements, agreements, charges and liens hereinafter set forth, each of which is for the protection and benefit of the Property and for the benefit of all subsequent owners of any part of the Property and shall inure to the benefit of and run with the title to the Property;

NOW, THEREFORE, Declarant hereby declares that the Property is subjected to this Declaration, and the Property shall be held, transferred, sold, conveyed, used, occupied and encumbered subject to this Declaration, and subject to the covenants, restrictions, easements, agreements, charges and liens hereinafter set forth; provided, however, that any portions of the Property which shall hereafter be dedicated to the State of Georgia or Hall County, Georgia, for public right-of-way purposes or other public purposes shall not then be further subject to this Declaration. Every grantee or beneficiary of any interest in any portion of the Property, by acceptance of a deed, lease, usufruct or other conveyance or transfer of such interest, whether or not it shall be as expressed in any such deed or other conveyance or transfer and whether or not such grantee or beneficiary shall consent in writing thereto, shall take title to such property subject to the Declaration and to the terms and conditions hereof and shall be deemed to have assented to the terms and conditions hereof, whether or not any reference to this Declaration is contained in the instrument by which such person or entity acquires its interest in any portion of the Property.

ARTICLE I
PERMITTED USES

Section 1.01. The Property shall be used solely as residential lots, with the exception of Lot 1 which shall be authorized to include a commercial office as a part of a triplex unit. No structure shall be erected, altered, placed or permitted on any lot, other than one detached duplex or triplex dwelling, which shall not exceed three stories in height above the ground. Each duplex must contain a minimum of 1,000 square feet in each unit and a minimum of 2,000 square feet within the structure. Each triplex shall contain a minimum of 1,000 square feet in each unit and a minimum of 3,000 square feet within the structure. All uses shall comply with the zoning regulations of Hall County, Georgia, or any other public authority having jurisdiction over the Property. If such permitted uses of this Declaration are inconsistent with said zoning regulations, the standards herein contained shall be deemed cumulative and in addition to said zoning regulations, and not in lieu of any such regulations.

Section 1.02. No noxious or offensive trades, services or activities shall be conducted on the Property or any portion thereof that may be or become a public nuisance or annoyance to other owners of any portion of the Property by reason of unsightliness or excessive emission of odors, fumes smoke, vibrations, dirt, dust, glare, wastes or noise.

ARTICLE II
PLAN APPROVAL

Section 2.01. No improvements shall be erected or placed on any building site within the Property until a site rendering, plans and

specifications showing such improvements, including, without limitation, means of vehicular and pedestrian ingress and egress, curb cuts, parking, landscaping, grading, exterior building materials and side and front elevations have been submitted to and approved in writing by Declarant (which approval shall be furnished or withheld in the sole discretion of Declarant) with respect to:

- (a) conformity and harmony of external design with existing or other proposed structures upon the Property;
- (b) the location of the improvements on the building site;
- (c) the effect of the anticipated use thereof upon adjacent structures, uses and operations;
- (d) the location of the improvements with respect to the topography, grade and finished ground elevation; and
- (e) the general purpose or effect of the standards provided in this Declaration;

provided, however, that Declarant shall not be liable for damages by reason of mistaken judgment or negligence of himself; his agents or employees, arising out of or in connection with the approval or disapproval of any such site rendering, plans and specifications.

Section 2.02. The aforesaid site rendering, plans and specifications shall be submitted to Declarant by the owner of any portion of the Property upon which any construction of improvements is contemplated (the "Applicant"), prior to the commencement of construction in connection therewith, and the submission of said site rendering, plans and specifications shall be accompanied by a written request for the approval thereof,

pursuant to the terms and conditions of this Declaration, Declarant shall not unreasonably withhold approval of any such site rendering, plans and specifications submitted pursuant to the provisions hereof, and the failure of Declarant to disapprove any such plans within thirty (30) days after submission and receipt by Declarant of said plans shall be deemed to be approval of such plans.

Section 2.03. The Applicant shall construct the improvements proposed in accordance with the site rendering and plans and specifications as approved by Declarant. If the Applicant wishes to make any changes to the site rendering whatsoever or if the Applicant wishes to make any changes to the plans and specifications that would affect the exterior appearance of the improvements, the changes must be submitted to Declarant for review in accordance with the procedures set forth in this Article II.

Section 2.04. All construction work shall, upon approval by Declarant of the plans therefor, be commenced with due diligence and dispatch and shall be completed within 180 days from the date construction commences, and upon completion the site shall be fully landscaped as provided herein and in such plans.

Section 2.05. All improvements upon the Property shall be construed in conformity with existing building codes of Hall County, Georgia, or any other public authority having jurisdiction over the Property. The Declarant may require that all plans and specifications for such improvements shall be prepared by a registered architect or engineer.

Section 2.06. The terms and conditions of this Article II, and all approval rights contained herein shall remain in full force and effect notwithstanding the loss, damage or destruction, by whatever cause, of all or any portion of the improvements constructed in accordance with this Article II. Any subsequent reconstruction, renovation, refurbishing or rebuilding of any such lost, damaged or destroyed improvements shall be performed and completed in accordance with the terms and conditions of this Article II.

Section 2.07. No building site within the Property shall be split, divided or subdivided for sale, resale, gift, transfer or otherwise; however, individual residential structures may be sold or leased as condominium units. No lot shall be used for the construction of a roadway thereon for access to other property not contained in "Exhibit A", without the written approval of Declarant.

ARTICLE III
SETBACKS AND BUILDING TO LAND RATIOS;
PARKING AND OTHER RESTRICTIONS

Section 3.01. All buildings shall be set back a minimum of forty (40) feet from the front lot line, fifteen (15) feet from any sideyard property line and twenty-five feet from the rear lot line. No structure shall be constructed which is nearer than thirty (30) feet from any structure on an adjacent lot.

Section 3.02. No fencing shall be placed, altered, or permitted to remain on a lot until the designing location and materials are approved in writing by Declarant.

Section 3.03. No clothes line shall be permitted on any lot. All playground equipment shall be placed to the rear of the dwelling.

Section 3.04. No boats, trailers, campers or other motorized vehicles with less than four wheels shall be parked on any lot or on the streets serving the Property. All permitted vehicles shall be parked in properly designated parking spaces and no off-road parking in other areas will be permitted.

ARTICLE IV LANDSCAPING

Every building site shall be landscaped in accordance with plans and specifications submitted to and approved by Declarant. All disturbed or graded ground areas of a building site shall be grassed or covered with plants or landscaping materials. Landscaping shall be completed within ninety (90) days of occupancy or completion of the building, whichever event shall first occur. To the extent feasible, existing trees shall not be cut, but shall be incorporated into the landscaping plans.

ARTICLE V OUTSIDE STORAGE

No materials, supplies or equipment shall be stored in any area within the Property except in a closed building or behind a visual barrier screening such area so that such stored items are not visible from the neighboring residences or streets. Garbage and refuse containers shall be concealed by means of a screened wall or fence of a material similar to and compatible with that of the adjoining building. All such elements

shall be integral to the concept of the building planning and shall be located in the most inconspicuous manner reasonably possible.

ARTICLE VI

SITE AND BUILDING MAINTENANCE: LIENS

Section 6.01. Every owner of a site within the Property shall maintain all buildings, landscaping, fences, drives and other structures and improvements located thereon in good and sufficient repair, and said owner shall keep such premises planted, the lawns cut, shrubbery trimmed, windows cleaned and glazed and otherwise maintain such sites in an aesthetically pleasing manner, reasonable wear and tear excepted. All areas upon any such site shall be free at all times from debris, papers, excessive leaves, branches and trash of all kinds. Any structure, landscaping or driveway in any site within the Property which is damaged by the elements, vehicles, fire or any other cause either:

(a) shall be repaired by the owner of such site as promptly as the extent of damage will permit, or

(b) shall be removed by the owner of such site so as to maintain an aesthetically pleasing appearance.

Any building or structure located upon any site within the Property which should become vacant for any reason shall be locked and completely secured in order to reasonably prevent unauthorized entry.

Section 6.02. Upon notification by Declarant to any occupant or owner of any site within the Property that said building or site occupied or owned by such party does not conform with the requirements of

this Declaration, such person or entity shall, within seventy (72) hours for the grounds maintenance and within fifteen (15) working days for building repair and maintenance, cause such site or building to conform with the requirements of this Declaration. In the event of noncompliance therewith, Declarant may cause such building or site to conform herewith at the expense of the owner or occupant of said property, and any sums expended by Declarant in so doing shall be:

- (a) the personal obligation of the owner of said building site or condominium unit within the Property at the time when the expenses are incurred by Declarant, and
- (b) a charge and continuing lien on the building site or condominium unit in question against which each such expense is made.

Upon the failure of said owner to pay Declarant for the sums incurred hereunder on demand, interest shall accrue on such sums until they are paid at the simple interest rate of fifteen (15%) percent per annum, and Declarant shall have the rights alternatively or simultaneously:

- (a) to sue for, obtain and collect a judgment for the amount owed by said owner, including interest, together with all costs of collection, including attorneys' fees equaling fifteen (15%) percent of the amount owed, and
- (b) to file and enforce a lien against the aforementioned building site or condominium unit for such sums, interest and costs of collection.

Any such lien shall be created in the same manner as liens are created

pursuant to O.C.G.A. § 44-14-261 et seq. as now or hereafter amended, or as such liens may otherwise or hereafter be treated pursuant to statutory authority. The amount secured by any such lien shall include the costs of preparing and filing any complaint to foreclose upon or otherwise to enforce such lien. Moreover, in the event a judgment against an owner of a building site or condominium unit within the Property is obtained pursuant to this Section 6.02, the amount of such judgment shall bear interest at the simple interest rate of fifteen (15%) percent per annum and shall include all costs of the action brought to obtain such lien, including attorneys' fees in an amount equal to fifteen (15%) percent of the total amount of the principal and interest for which such judgment shall have been rendered.

Section 6.03. Notwithstanding any provision herein to the contrary no violation of any of the covenants or restrictions herein shall defeat or render invalid the lien of any deed to secure debt or mortgage made in good faith and for value against all or any portion of the Property; provided, however, that any holder of any such deed to secure debt or mortgage in actual possession of all or any portion of the Property, or any purchaser at any foreclosure sale under any such deed to secure debt or mortgage, or any grantee in a deed in lieu of foreclosure of any such deed to secure debt or mortgage shall be bound by and subject to the covenants and restrictions contained herein as fully as any other owner of any portion of the Property following such possession or acquisition of title.

Section 6.04. Notwithstanding any provision herein to the contrary, all assessments and charges with respect to any building site or condominium unit within the Property and the corresponding lien established hereunder therefor, shall be subordinate to the lien of any deed to secure debt or mortgage made in good faith and for value and placed upon that particular building site or condominium unit within the Property; however, any sale or transfer as a part of any foreclosure proceeding under any such deed to secure debt or mortgage shall not relieve such building site or condominium unit within the Property and the owner thereof from liability for any assessments or charges accruing after such sale or transfer, including without limitation a sale or transfer to the holder of such deed to secure debt or mortgage who shall have purchased the building site or condominium unit in question as part of such foreclosure proceeding.

Section 6.05. The responsibilities for maintenance and upkeep set forth in Section 6.01 above shall be assigned to a Property Owners Association, which shall be composed of the owners of the building sites within the Property. Only the owners of building sites upon which residential structures have been constructed shall have voting rights. Said Property Owners Association shall establish the fee to be charged for each property owner and shall include the maintenance of the common areas within the Property. The failure of any owner to pay the fees or assessments established by the Property Owners Association shall entitle the Property Owners Association to take the action and to claim a lien

and obtain a judgment against said owner as set forth in Section 6.02 above.

ARTICLE VII
DURATION OF RESTRICTIONS

The covenants and restrictions of this Declaration shall run with the title to and bind the Property, and shall inure to the benefit of and be enforceable by Declarant, or the owner or owners of any portion of the Property, or the respective legal representatives, heirs, successors and assigns thereof, for a period of twenty (20) years from the date of recordation of this Declaration in the Office of the Clerk of the Superior Court of Hall County, Georgia. Upon the expiration of said twenty-year period, this Declaration shall be automatically renewed and extended, as permitted by the laws of the State of Georgia, for successive renewal periods of ten (10) years each unless expressly terminated by an instrument executed by Declarant or his successors in interest in accordance with the provisions of Article XI hereof and duly recorded in the aforesaid records of Hall County, Georgia.

ARTICLE VIII
ENFORCEMENT OF RESTRICTIONS

Section 8.01. Enforcement of the covenants and restrictions contained herein and of any other provisions hereof shall be effected, at the election of the party seeking enforcement thereof, by

- (a) proceedings at law against any person or persons violating or attempting to violate such covenants, restrictions or provisions, or

- (b) injunction or restraining order in equity to enforce compliance herewith, or
- (c) suit for damages, or
- (d) by an appropriate proceeding at law or in equity against the land or the owner or occupant thereof to enforce any lien, charge or obligation arising by virtue hereof.

The failure of Declarant or of any owner or occupant to enforce any of said covenants and restrictions when, in his reasonable opinion, such waiver or variance will not be detrimental to the development of the Property as a high quality residential subdivision, shall in no event be deemed a waiver of his rights to enforce said covenants and restrictions thereafter. All remedies provided in this Declaration, or at law or in equity, shall be cumulative and not exclusive.

Section 8.02. Any and all of the rights, powers and reservations of Declarant herein contained may be assigned to any person, corporation or association which owns all or any portion of the Property and which will assume the duties of Declarant pertaining to the particular rights, powers and reservations assigned, and upon any such person, corporation or association's evidencing its consent in writing to accept such assignment and assume such duties, he or it shall, to the extent of such assignment, assume such duties, and he or it shall, to the extent of such assignment, have the same rights and powers and be subject to the same obligations and duties as are given to and assumed by Declarant herein. The term "Declarant" as used herein includes all such assignees, and their heirs, successors and assigns. Any assignment or appointment

made under this section shall be in recordable form and shall be recorded with the Office of the Clerk of the Superior Court of Hall County, Georgia.

ARTICLE IX
ARCHITECTURAL CONTROL COMMITTEE

Section 9.01. At such time as Declarant no longer owns any property which comprises a portion of the Property or at such earlier time as Declarant may elect, his duties under this Declaration shall terminate and shall be of no further force and effect, whereupon Declarant shall notify the owners of the building sites within the Property, and said owners shall form the Architectural Control Committee (hereinafter referred to as the "Committee"). The membership of the Committee shall be composed of one (1) delegate of the owner of each building site within the Property, and in the event that the same person or entity shall own more than one building site within the Property, such owner shall have one (1) delegate (or one vote) for each building site within the Property owned by such person or entity. The Committee shall be formed for the purpose of being a successor-in-interest of the Declarant

- (a) to review and approve or disapprove, as the case may be, site renderings, plans and specifications and related matters, as provided in Article II hereof;
- (b) to enforce the covenants and restrictions contained in this Declaration as provided in Article VI hereof; and
- (c) to act pursuant to the easements reserved as provided in Article X hereof.

Notice of the formation of the Committee shall be filed for record in the Office of the Clerk of the Superior Court of Hall County, Georgia.

Section 9.02. The Committee shall, at its election, be permitted to conduct its activities and perform its duties hereunder as a non-profit corporation or other appropriate entity for the performance and observance of such duties. The Committee shall conduct its affairs by majority vote upon the presence of at least one-fourth (1/4) of all delegates which have been duly designated by the representative building site owners within the Property. The chairman of the Committee shall be elected upon the first meeting of the Committee and annually thereafter, upon majority vote of the delegates present. The chairman shall call all meetings with not less than one (1) week's prior written notice to all other delegates.

Section 9.03. The owners of the building sites within the Property shall hold the Committee and its duly authorized officers and agents harmless from and against all liability in connection with their actions undertaken in accordance with this Declaration, except such actions or omissions resulting from the gross negligence of the Committee or its duly authorized officers and agents.

ARTICLE X
RESERVATION OF EASEMENTS

Declarant hereby establishes and reserves for Declarant, its successors and assigns, a perpetual, alienable and releaseable easement and right in favor of Declarant and any public utility companies, for the benefit of the Property, upon, over and under a strip of land ten (10) feet in width along the front, rear and each sideline of every building

(2)

site within the Property or any portion thereof, for ingress, egress, installation, replacement, repair and maintenance of all utilities including, but not limited to, water, sewer, telephones, gas and electricity. By virtue of this easement, it shall be expressly permissible for such utility company to erect and maintain the necessary equipment and to affix and maintain utility wires, circuits and conduits on, across and under that portion of the property described hereinabove or any portion thereof. The easements provided for herein shall in no way affect any other recorded easements on the Property and shall not preclude Declarant or any other owner from granting specific easements to any utility company or other appropriate entity for the installation and maintenance of utilities. Declarant hereby further establishes and reserves for Declarant, its successors and assigns, a perpetual, alienable and releaseable easement and right in favor of Declarant, his agents and employees, to enter upon the Property or any portion thereof for the purpose of inspecting and determining compliance with the terms and conditions of this Declarant; provided, however, except in the event of bona fide emergencies, the rights provided by this easement shall be exercised only during daylight hours and then, whenever practicable, only after advance notice to and with the permission of the owner or owners directly affected thereby.

ARTICLE XI
AMENDMENTS AND RESCISSION

Owners, including Declarant, owning in the aggregate seventy-five (75%) percent of the individual lots comprising the Property shall have the right to establish and declare such amendments, modifications

and supplements to this Declaration, or to rescind this Declaration, as such owners shall from time to time deem to be appropriate and which are in compliance with the zoning ordinances of Hall County, Georgia, or any other public authority having jurisdiction over the Property. Any amendment, modification, supplement or rescission of this Declaration shall be evidenced by the recording of any appropriate instrument in the records of the Clerk of the Superior Court of Hall County, Georgia, which instrument

- (a) shall be executed with the same formalities as are required for the execution of a deed;
- (b) shall be signed by the owners of at least seventy-five (75%) percent of the individual lots comprising the Property;
- (c) shall set forth therein the total lots owned by each signatory of said instrument.

Any owner of a site within the property may assign to any other owner, or to any lessee of an owner under a lease, the right hereinabove granted to amend, modify, supplement or rescind, in conjunction with other owners, this Declaration; provided, however, that each and every such assignment shall be evidenced by an appropriate written instrument recorded in the records of the Clerk of the Superior Court of Hall County, Georgia.

ARTICLE XII

Upon the written request of Declarant, or his agent or successor, to the owners of lots in said Property, each such owner shall execute a condominium declaration whereby all of his lots in Property are made subject to a condominium agreement in accordance with the provisions of

the Georgia Condominium Act (O.C.G.A. Sec. 44-3-70 et seq.) Said condominium agreement shall include, but shall not be limited to the following:

- (a) The creation of a condominium owners' association in which each structure shall be allocated one vote, which vote shall be apportioned according to the number of condominium units in said structure;
- (b) an agreement whereby the restrictions contained in those Restrictive Covenants are made the restrictions applicable to the property submitted for inclusion in the condominium agreement;
- (c) an agreement whereby the responsibilities and obligations for the maintenance and upkeep of common areas and condominium units, shall become the responsibilities of the condominium owners association, and the assessment of costs for such activities shall be enforceable through the attachment of liens against individual units, if cost assessments are not paid.

ARTICLE XIII
SUPPLEMENTAL RESTRICTIONS

As individual building sites are sold and conveyed by Declarant, the seller may place additional restrictions and protective covenants against such building site within the Property, which additional restrictions and protective covenants shall be supplemental to this Declaration and not in derogation hereof.

ARTICLE XIV
EFFECT OF INVALIDATION

If any provision of this Declaration is held to be invalid by any court of competent jurisdiction, the invalidity of such provision shall not affect the validity of the remaining provisions of this Declaration, and all covenants, restrictions, easements, agreements, charges and liens contained herein shall be deemed to be severable each from the other without qualification.

ARTICLE XV
SUCCESSORS AND ASSIGNS

This Declaration and the covenants, restrictions, agreements, charges and lien rights contained herein shall be binding upon, and inure to the benefit of the successors, successors-in-title and assigns of Declarant and all owners, tenants, lessees, invitees, agents and employees of any portion or portions of the Property, except that the rights, powers and reservations of Declarant as the "Declarant" hereunder may not and cannot be assigned or transferred other than as provided in Section 8.02 hereof.

ARTICLE XVI
HEADINGS

Article headings are inserted for convenience only and are not intended in any way to define, limit or enlarge the scope or intent of the particular Article or Section to which they refer.

IN WITNESS WHEREOF, Declarant has caused this Declaration to be
duly executed under seal the day and year first above written.

DECLARANT:

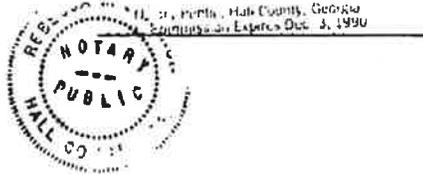
David F. Cantrell
DAVID F. CANTRELL

Signed, sealed and delivered
this 5th day of June,
1987, in the presence of:

J. Nathan Deal
Witness

Rebecca S. Branon
Notary Public (AFFIX SEAL)

My Commission Expires:



GEORGIA, HALL COUNTY, CLERK
SUPERIOR COURT
FILED IN OFFICE, THIS 8 DAY OF June
1987 AT 10:15 P.M. RECORDED IN BOOK NO.
115 PAGE 284-304 THIS 9 DAY OF
June, 1987
Dwight S. Wood
DWIGHT S. WOOD, Clerk
ahg, D+J

EXHIBIT A

All that tract or parcel of land lying and being in Land Lots 97 and 98 of the Tenth Land District, Hall County, Georgia, and being known as Hidden Hollow Subdivision, as shown on a plat prepared by Robert E. Horlbeck, Registered Land Surveyor, dated November 28, 1986, which is recorded in Plat Book 121, Pages 222-223 of the Hall County Plat Records, to which reference is made for a more complete and accurate description. Said Hidden Hollow Subdivision consists of Lots 1-33, Block A, as shown on said plat.