

**DECLARATION OF RESTRICTIVE COVENANTS FOR
SETTER'S POINT SUBDIVISION**

STATE OF ALABAMA)
HOUSTON COUNTY)

THIS DECLARATION made this 30th day of June, 2005, by SOUTH WIND PROPERTIES, LLC, hereinafter called the Declarant.

WITNESSETH:

WHEREAS, Declarant is the owner of record of the following described real estate to-wit:

All property which encompasses Setter's Point Subdivision according to the map or plat of same as recorded in Plat Book 11, page 93, in the Office of the Judge of Probate for Houston County, Alabama.

WHEREAS, Declarant is desirous of establishing and placing the heretofore described subdivision under certain restrictive covenants to insure the use of the property for attractive purposes, to prevent nuisances, to prevent the impairment of the attractiveness of the property, to maintain the high quality and tone of the property, and thereby to secure to each site owner the free and full benefit and enjoyment of his or her site with no greater restrictions upon the free and undisturbed use of his or her site than is necessary to insure the same advantages to the other site owners.

NOW THEREFORE, Declarant does hereby adopt the following conditions, restrictions, covenants, and limitations, which shall apply in their entirety to all lots in Setter's Point Subdivision of Houston County, Alabama, and shall hereafter be included as a part of the consideration in transferring and conveying title to any or all of said lots of said Subdivision, and shall be binding on all parties having the right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

**I.
DEFINITIONS**

1. "Declarant" shall mean and refer to South Wind Properties, LLC, its successors and assigns.
2. "Common Area" shall mean and refer to that certain real property in the subdivision identified as a common area on the map or plat of the subdivision and utilized for the common use and enjoyment of the owners of lots in the subdivision.
3. "Architectural Review Committee" shall mean and refer to a committee of two or more persons appointed by the Declarant, its successors and/or assigns. The purpose of this committee is to review all lot improvements for conformance to the community design

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Luke Cooley, Judge of Probate, Houston County, Alabama

standards, before, during and after completion of the improvement.

4. "Maintenance Fees" shall mean and refer to expenditures made or liabilities incurred by the Declarant, its successors and/or assigns, and the Setter's Point Homeowners Association, used to promote the recreation, health and safety and welfare of the residents of the subdivision and for the improvement and maintenance of the common areas of the subdivision, or as otherwise authorized herein.

II. LAND USE AND BUILDING TYPE

1. The lots in the subdivision shall be used for single family residential purposes only. No building shall be erected, altered, placed, or permitted to remain on any lot other than one (1) detached single family dwelling not to exceed two stories in height, and a private garage.

2. The location and use of all structures built in the subdivision shall conform with the provisions of the zoning regulations of Houston County, Alabama, with the exceptions as hereinafter set forth. No building shall be located on any lot nearer to the front line or nearer to the side street line than the minimum building set back lines ("MBSL") which are as follows: front MBSL - thirty-five (35) feet except for all lots adjacent to Fuller Road which shall have MBSL of eighty (80) to one-hundred (100) feet; side MBSL - fifteen (15) feet; rear MBSL - forty (40) feet; side yard abutting a street MBSL - thirty-five (35) feet.

3. Garages with doors shall be "attached" to the residential dwelling either with common walls or walkway or porch that is also "attached". Garages shall be oriented such that their entrance is located on the side or back of the residential dwelling. Open carports are acceptable only on the back side of the residence.

4. Swimming pools must be constructed at ground level with the maximum elevation of the top of the pool limited to the ground slope necessary for proper drainage. Pool drainage shall be directed to avoid discharge onto adjoining lots. All pools must be enclosed by a fence as approved in item 5. Swimming pools and similar structures may be installed only after obtaining written approval as to type, location, construction material and design from the Architectural Review Committee pursuant to paragraph five (V) below.

5. No fence shall extend closer to the street or road than the back of house. All fences which parallel the streets or roads shall be constructed of wrought iron, brick or wood. All other fences shall be of wrought iron, brick, wood or chain link. No fence can be within thirty (30) feet of any road.

6. No satellite dishes or aerial type antennas shall be constructed or erected with the exception of an 18" or smaller dishes and only in an inconspicuous location.

7. No noxious or offensive activity shall be carried upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance in the neighborhood. In addition, no abandoned automobiles shall be parked on property or roadway. Automobiles shall be movable as to facilitate mowing.

8. All driveways shall be concrete. A concrete curb must be sawed into for

installation of the driveway. All yards shall be sodded with centipede as to eliminate a patchwork effect in the neighborhood. All front yards shall be solid sodded. All side yards shall be solid sodded to the back edge of the house. All back yards shall be either sodded or sprigged.

9. Outside structures must be constructed of like material as the house. The structure must be located behind the house and any such structure must comply with a MBSL of twenty (20) feet to the closest lot line.

10. No trailer, basement, tent, shack, temporary structure, garage, or other outbuilding erected or placed on any residential lot shall at any time be used as a residence temporarily or permanently, nor shall any structure of a temporary character be used as a residence.

11. Travel trailers and/or recreational vehicles shall not be used as a permanent residence while parked on any lot in the subdivision, nor used as a temporary or permanent residence while parked on any street in the subdivision. Travel trailers and/or recreational vehicles that are or become unsightly must be hidden from the view of the public, or adjoining lot owners.

12. Only the available water service shall be utilized. No outside water or sewer facilities shall be constructed and all utilities shall use underground lines, thereby consisting of a buried service only.

13. Construction or alteration of any lot area shall not result in increasing surface runoff to adjoining lots. The drainage of ditches shall not be altered nor in anyway disturbed in such a manner as to result in hindering the existing drainage patterns.

14. No sign of any kind shall be displayed to the public view on any lot except on a professional sign of not more than one (1) square foot including but not limited to property for sale or rent or signs used by builders to advertise property.

15. 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.

16. No garbage, trash, ashes, refuse, inoperative vehicles (that have been inoperative more than thirty (30) days) junk or other waste shall be thrown or dumped on any lot, nor are permitted to remain upon any such place. County garbage is picked up once a week. Trash containers must be removed within one day of pickup.

17. No excavation shall be permitted except that which is necessary for the construction of improvements as approved by the Architectural Review Committee defined below.

18. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat.

19. No oil drilling, oil development operation, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any lot. No derrick or other structures

designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any lot.

III. DWELLING QUALITY AND SIZE

1. No dwelling shall be any smaller than herein provided and must be approved prior to construction by the Architectural Review Committee pursuant to paragraph five (V).
2. The heated area of the main structure shall be not less than 1700 square feet for a one or two story dwelling and must be constructed of at least 65% brick veneer and must use architectural shingles. All houses must be built at least sixteen (16) inches off the ground on the front elevation. Construction must be completed within twenty-four (24) months of lot purchase date and the lot must be maintained until construction is completed.

IV. COMMON AREAS

1. No child under the age of thirteen (13) shall be allowed in any common area without adult supervision.
2. No motorcycles, four wheelers, go-carts, or other motorized recreational or all-terrain vehicle shall be allowed in the common areas of the subdivision.

V. ARCHITECTURAL REVIEW COMMITTEE

1. The Architectural Review Committee shall mean and refer to a committee of two or more persons appointed by Declarant, its successors and/or assigns. The members of this committee may be changed at any time by the Declarant, its successors and/or assigns. The initial Architectural Review Committee shall consist of C. Vince Wade and D. Michael Strickland
2. The purpose of this committee is to review all lot improvements for conformance to the community design standards, during and after completion of the improvement. No building shall be erected, altered, placed or permitted to remain on any building lot in the subdivision until the external design and location have been approved by the Architectural Committee.
3. All requests for approval shall be submitted in writing to the committee. In the event the Architectural Review Committee fails to approve or disapprove such design or location within thirty (30) days after plans have been submitted to the committee, which said submission shall be evidenced by written receipt from one or more members of the Architectural Review Committee, then the requirement of approval shall be deemed to have been waived.

VI. HOMEOWNER'S ASSOCIATION

1. Declarant shall cause to be formed an association to be known as SETTER'S

POINT HOME OWNER'S ASSOCIATION, INC., with the powers and duties as set forth below. Any purchaser of any lot in the subdivision is deemed to have consented specifically to this provision and does specifically agree to comply with the provisions as set out herein. Every owner of a lot in the subdivision shall be a member of the homeowner's association, except that only one membership shall be allowed per lot. Where lots are owned by more than one (1) owner, such owners shall, by written instrument, designate one (1) of such owners to be the sole voting member.

2. "Class A" membership consists of the owners of lots other than Declarant. Class A members are entitled to one (1) voter per each lot owned.

3. "Class B" membership consists of the Declarant only. Declarant shall be entitled to three (3) votes per each lot owned until such time as the total votes outstanding in Class A membership and Class B membership are equal.

4. The members of the association shall elect a Board of Directors that shall consist of not less than three (3) individuals, each of whom shall be a voting member, and said Board shall be elected at each annual meeting by the members of the Homeowner's Association.

5. The Board of Directors of the Homeowner's Association shall have the following duties, rights and powers:

- a. To adopt rules for the regulation and operation of the common areas and to change, modify or adjust, from time to time, the different and various classifications of maintenance fees.
- b. To levy and collect monthly, quarterly, annual or periodic maintenance fees, against and from owners; to collect delinquent maintenance fees by suit or otherwise; and to collect such other fees as are herein authorized.
- c. From funds collected, to provide for maintenance; management, insurance and other expenses pursuant to its obligations.
- d. To lease, acquire and sell real and personal property pursuant to its obligations.
- e. To enter upon the lots when necessary in connection with the duties outlined in these covenants.
- f. To enjoin or seek damages from the owners of the lots in the subject property for violation of these covenants or violation of any of the rules of said association.
- g. To suspend the voting rights and the right to use the common areas of the subdivision by a delinquent owner.
- h. To perform any task necessary to lawfully carry out these covenants of any of the rules of the association.

**VII.
MAINTENANCE FEES**

1. The owner of any lot by acceptance of a deed for such lot, whether or not it shall be expressed in such deed, is deemed to covenant and agree to pay to the Association such maintenance fees that are assessed by the Declarant, its successors and/or assigns, and/or the Homeowners Association, and agrees that such maintenance fees create a lien on the property.

**VIII.
MISCELLANEOUS**

1. These covenants are to run with the land and shall be binding on all parties and all parties claiming under them.

2. In the event any person or persons shall violate or attempt to violate any of the restrictive covenants herein, it shall be lawful for Declarant, its successors and/or assigns, and/or the homeowner's association, or any other person or persons owning real property situated in said subdivision, to prosecute any proceedings at law in or in equity against any person or persons violating or attempting to violate any covenant. If the party attempting to enforce these restrictive covenants shall prevail in any proceeding at law or at equity, such party shall be entitled to recover reasonable attorney fees and court costs, which will be assessed against the party which is found to be in violation of such restrictive covenants.

3. Violation of any restrictive covenant, except such violations as have been waived by failure to take action as provided in paragraph five (V) herein, shall give Declarant, its successors and/or assigns, the Homeowner's Association, or its duly designated representative, or the Architectural Review Committee, or its duly designated representative, the right to enter upon the property where such violations exist and summarily abate or remove the same at the expense of the owner and such entry and abatement or removal shall not be deemed as trespass.

4. Invalidation of any one of these restrictive covenants, or any part thereof, by judgment or court order shall in no way effect any of the other provisions that shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned has caused these covenants to be executed by its authorized member, who have affixed its seal, the day and year first above written.

SOUTH WIND PROPERTIES, LLC



Authorized Member

STATE OF ALABAMA)
HOUSTON COUNTY)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that the duly authorized officer of SOUTH WIND PROPERTIES, LLC, whose name is signed to the foregoing document and who is known to me, acknowledged before me on this date, that being duly informed of the contents of said document, he, as an authorized member with full authority to act thereon, executed the same voluntarily for said Company.

Given under my hand and seal this 30th day of June, 2005.

[Handwritten Signature]

Notary Public
My commission expires: *2/1/09*

Recording Fee 29.00
TOTAL 29.00

Vince Wade took originals
DothanAR
Dothan Agent Resources