

STATE OF ALABAMA:

COUNTY OF MOBILE:

PRELIMINARY

COVENANTS, RESTRICTIONS AND LIMITATIONS

OF

AZALEA BUSINESS PARK
SEMMES, ALABAMA

KNOW ALL MEN BY THESE PRESENTS, that Azalea Business Park, hereinafter referred to as "Owner" makes, publishes, and declares as follows:

WHEREAS, Owner is owner of all that real property in Mobile County, Alabama, known as Azalea Business Park, and more particularly described on that certain plat thereof recorded in Map Book 97 , Page 90 , of the records in the Office of the Judge of Probate of Mobile, Alabama; and,

WHEREAS, Owner is desirous of providing restrictive covenants regarding the development of all the lots into which said property has been sub-divided; and,

WHEREAS, Owner is desirous of providing for the orderly development of said property in a homogeneous fashion; NOW THEREFORE,

IN CONSIDERATION OF the premises, Owner does hereby restrict the development of the property by the adoption of the following restrictions which shall be applicable to all the above described property, and shall be deemed to be a restriction that attaches to the land and runs with the ownership thereof, as follows:

1. ARCHITECTURAL CONTROL COMMITTEE – No building, fence, utility pole, wall, outdoor sign, or other structure, nor any driveway or curb cut, shall be erected, constructed, placed, or altered on any lot until after:

(a) Two (2) copies of the final building or construction plans, specifications, and plot plans showing the proposed location of such building, fence, utility pole, wall, outdoor

sign or other structure, or any driveway or curb cut, shall have been submitted to and approved in writing by the Architectural Control Committee, as hereinafter constituted, as to the conformity and harmony of the external design with the existing structures and designs in the subdivision; and as to location of the building, fence, utility pole, wall, outdoor sign or other structure, or driveway or curb cut; and with respect to the topography and finished ground elevation;

(b) The said Architectural Control Committee, hereinafter referred to as “Committee”, shall indicate such approval, as required pursuant to sub-paragraph (a) above, by causing one (1) copy of said plans, specifications, and plot plan to be endorsed in writing to such effect and signed by at least one (1) member of the Committee;

(c) One copy of the final building or construction plans as outlined above in paragraph (a) must be signed by the Chairman or one of the Committee members, and shall indicate such approval, as required pursuant to sub-paragraph (a) above, and will be kept on job site at all time. One copy is to be retained by committee. Building plans must comply with City or County regulations and building permit issued before construction;

Covenants, Restrictions, and Limitations of
Azalea Business Park; Semmes, Alabama
Page 2

2. ARCHITECTURAL CONTROL COMMITTEE MEMBERS – The Architectural Control Committee shall be composed of three (3) members. None of the members of said Committee shall be entitled to any compensation for services rendered pursuant hereto. The actions of the Committee shall be governed by majority vote and may be evidenced by action of the Chairman and one (1) other member. The Chairman shall be elected by and from among the members of the Committee by a majority vote of the members. In the event of the death or resignation of any member, such vacancy shall be filled by a majority vote of the remaining members.

The Architectural Control Committee shall be composed of the following persons:

Mark W. Davis – 207 Tanner Williams Ct., Mobile, AL 36608

A majority of the members of the Committee shall have the authority to designate two (2) representatives to act for the Committee. Said representatives shall act in this capacity until revoked by the majority vote of the members of the Committee.

3. ERECTION OF BUILDINGS – No more than (1) building or other structure shall be erected, altered, placed, or permitted to remain on any lot at any given time without the approval of the Architectural Control Committee.

4. RE-SUBDIVISION PROHIBITED – No lot shall be divided or re-subdivided in any manner, except as approved by the Committee.

5. PROHIBITED STRUCTURES – No storage sheds, or detached structure, permanent or temporary, shall be permitted upon any lot except with the prior written consent of the Committee.

6. PERMITTED USES – All lots in the subdivision and each and every one thereof are hereby declared to be commercial lots and no lot shall be used except for commercial purposes.

7. MINIMUM BUILDING AREA – The ground floor area of any building on any lot, under air conditioning, must be shown on plans and meet all City and County requirements.

8. MINIMUM BUILDING SET-BACK LINES – No building shall be constructed on any lot nearer than twenty-five (25) feet to the right-of-way line of any street. No building shall be constructed nearer than five (5) feet to any side or back property line.

9. EXTERIOR BUILDING WALLS – The front exterior wall for all buildings shall be brick, stucco, metal, or glass. The side walls and rear wall may be factory painted metal sheeting, typical of pre-engineered metal buildings or brick or stucco. If factory painted metal is used for building front, decorative awnings or covered porch, it must be included in the design. Some brick, stucco, or glass must be included around office front of building. The Committee shall have the right to approve any construction material not in conformity with this particular restriction.

10. LOADING DOCKS – All loading docks, loading platforms and loading areas, service entrances, trash containers, outside air conditioning units, and other similar equipment must be constructed or located at the rear of the building lot by a wall or shrubbery so that it does not detract from Azalea Business Park, or the overall appearance of the building.

11. FENCES AND POLES – No fences, poles, walls or other structures may be located on any portion of any lot which a building could not be erected that is closer to the lot lines than the appropriate building set back lines as herein set forth.

12. STORAGE YARDS – All outdoor storage yards must be to the rear of the building or lot and must be screened with a wall or fence from public view so that same cannot be seen from any street or side street.

Covenants, Restrictions, and Limitations of
Azalea Business Park; Semmes, Alabama
Page 3

13. SIGNS – As herein provided, plans and specifications for the construction installation, or alteration of all outdoor signs shall be first submitted to and have the written approval of the Architectural Control Committee. In addition and not in limitation, the Committee shall have full authority to regulate, approve and disapprove, the size and height and other physical appearance of any sign or signs. The plans and specifications for the construction, installation, or alteration of all outdoor signs must be drawn to scale of one-quarter (1/4) inch to equal one (1) foot. All outdoor signs must be on the main building and maintained in an attractive manner. Any broken letters must be replaced.

14. PARKING AREAS - All parking areas shall be paved with asphalt paving or some higher grade paving unless otherwise approved in writing by the Committee. The Committee

recommends a minimum of one parking space for every 400 square foot of building. More spaces may be desired by property owner.

15. OPEN AREAS – Open areas of said lots shall be kept in a neat and orderly fashion at all times and nothing shall be done or permitted to be done on said lot which would constitute a nuisance, or a violation of any City, State, or Federal law, rule or regulation.

16. RESTRICTED BUSINESSES- No lot or building shall be used for the purpose of conducting a business commonly known as a junk yard, borrow pit, house trailer park or mobile home park. Any use by an owner of a lot other than for normal commercial office or retail business shall first be approved by the Architectural Control Committee.

17. NUISANCES – Neither trade or business activity nor noxious or dangerous activity of any kind whatsoever shall be carried on or upon any lot nor shall anything be done thereon which may be or become an annoyance, nuisance health hazard, or safety hazard to the other lot owners.

18. LANDSCAPING – The Architectural Control Committee shall have the right to require, as a condition for any approval sought by any owner of a lot, appropriate landscaping of any areas around any building to be constructed, or around fence or wall to be constructed.

19. PERMITTED ANIMALS – No animals, livestock, or poultry of any kind shall be raised, bred, harbored, or kept on any lot. Veterinarian Clinic is acceptable.

20. SEWERAGE FACILITIES – No individual septic tanks, and or private sewage systems shall be constructed, utilized, or permitted on any lot.

21. CARE OF LOTS – No weeds, underbrush, or other unsightly growths shall be permitted to grow or remain upon any part of the property. No refuse pile, trash, or unsightly objects shall be allowed to be placed or suffered to remain anywhere thereon. Trash, garbage, or other waste materials shall not be kept on any lot except in sanitary containers. All incinerators, garbage cans, and other equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition in the rear of any building or on the side at the rear lot line.

22. OUTDOOR LIGHTING – Street lights will be maintained by Alabama Power and expense will be shared by lot owners.

23. MINERAL OPERATIONS PROHIBITED – No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind whatsoever shall be permitted upon any lot. Nor shall oil wells, derricks, tanks, tunnels, mineral excavations, or shafts be erected or permitted to remain upon any lot.

24. DURATION OF RESTRICTIONS – The covenants, terms, conditions, restrictions, and limitations herein contained are to run with the land and shall be binding upon all parties and all persons claiming under them and shall ensure the benefit of, and shall be binding upon their, and each of their, heirs, executors, administrators, and assigns for a period of fifty (50) years from the date of the filing of these covenants in the Office of the Judge of Probate for Mobile County, Alabama.

25. COVENANTS TO RUN WITH LAND – No lot shall be conveyed, devised, leased or demised at any time hereafter except as being subject to the covenants, terms, conditions, restrictions, and limitations herein contained, and the obligations to observe and perform the same, and whether or not it be so expressed in the deeds or other instruments of conveyances of the property the same shall be absolutely subject to the covenants, terms, conditions, restrictions and limitations herein contained which shall run with and be appurtenant to the lands and every part thereof, as fully as if expressly contained in each and every contract, transfer and conveyance thereof, or concerning any part of the land or the improvements to be made thereof.

26. REMEDIES FOR BREACH OF COVENANTS – If there shall be any violation or attempted violation of any of the covenants, terms, conditions, restrictions, and/or limitations herein contained, it shall be lawful for the Committee upon a vote of a majority of its members in the name of this “Subdivision” , the “Subdivision” being named as the Party Plaintiff, to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate the same, to prevent such person or persons from so doing, or continuing to do so, or to recover damages for such violations or attempted violations, including without limitation, the right to require the removal of any structure or improvement erected in violation hereof.

27. PARTIAL INVALIDITY – Neither the invalidation of any of these covenants, terms, conditions, restrictions, and/or limitations, or any part thereof, by judgment or court order, nor the abandonment or waiver thereof, shall in anywise affect any of the other provisions which shall remain in full force and effect.

28. MODIFICATION OF RESTRICTIONS – Any one (1) or all of the covenants terms, conditions, restriction, and/or limitations herein set forth may be annulled, amended, or modified at any time by the instrument executed by the owners in fee simple of not less than eighty percent (80%) of the lots in said “Subdivision”, which said instrument shall be acknowledged by each of the persons signing the same and shall be recorded in the Office of the Judge of Probate Mobile County, Alabama; provided, however, that no annulment, amendment, or modification shall place an additional burden or restriction or requirement on any lot in said “Subdivision”, that said owner of which does not join in said amending instrument.

29. EASEMENTS – The utility, sewage, and drainage easements shown on the record plat of the subdivision are hereby adopted as part of these restrictions, and all lots in the subdivision shall be subject to such easements.

30. DESTRUCTION OF TREES – No trees on any lot in excess of six (6) inches in diameter, measured at three (3) feet ground elevation, shall be destroyed or removed without having obtained the prior written consent of the Committee

31. COMMON AREA, RETENTION POND AND DRAINAGE LINES – Common area, retention pond and drainage lines not maintained by City or County will be maintained and kept in good repair by all lot buyers. Any expense or cost for maintenance or repair will be shared by all lot owners after one (1) year from the date of acceptance of streets by County. A Lot Owners Association will be formed to handle this as outlined below in A, B, and C.

(a) Buyers hereby covenant and agree on behalf of themselves, and their successors and assigns, that they shall at all times hereafter maintain the said retention pond and drainage lines in good working order and they shall make any and all repairs needed from time to time at their own expense in order to keep the same in good working order. Buyers acknowledge and agree that these covenants and agreements are intended for the joint benefit of buyers and their successors and assigns, and the sellers and their successors and assigns.

(b) Buyers agree to defend, indemnify and hold harmless the sellers and their heirs, successors and assigns from and against all claims, actions, causes of action, lawsuits, costs, damages, liabilities and all related reasonable fees and expenses of any kind, incurred as a result of or arising in connection with the construction, operation and/or maintenance, or lack thereof, of the said retention pond and/or drainage lines.

(c) To the extent of any ambiguity in this agreement, the parties expressly agree that the covenants, agreements and obligations of buyers and their successors and assigns, and any property association or similar group to be formed in connection with buyers' subdivision, set forth herein shall be construed in the broadest sense possible to the end that each of them shall be obligated at all times, at their

Covenants, Restrictions and Limitations of
Azalea Business Park; Semmes, Alabama
Page 5

own expense, to properly maintain the said retention pond and drainage lines in all respects and to promptly cure any problems or defects in the same that may arise at anytime hereafter.

32. ARCHITECTURAL CONTROL COMMITTEE POWERS AND AUTHORITY – The Architectural Control Committee is hereby vested with the powers of enforcing the Restrictive Covenants as herein set forth according to the provisions of these Restrictive Covenants. Each and every lot owner agrees to and shall by virtue of ownership of each lot be to the obligations and duly adopted By-Laws and rules of the Architectural Control Committee. The Architectural Control Committee shall have the power and authority, among other things and among those things hereinto fore set forth, to make prorate assessments against all lot owners for enforcing the provisions of this agreement and for the purpose of maintaining lighting systems, general planning, landscaping and general upkeep, and other items as deemed appropriate for the general maintenance of the “Subdivision”. Further, the Architectural Control Committee shall have the power and authority to enforce, by appropriate legal action, the collection of any and all assessments which assessments shall be deemed a lien against the property owner and the real property owned. The Architectural Control Committee reserves the right to alter some lot lines if a second unit to Azalea Business Park is added. Plans for a second unit would be submitted to the Mobile Planning Commission and approved by them.

33. LIABILITY OF ARCHITECTURAL CONTROL COMMITTEE MEMBERS – Neither said Committee, nor any member thereof, nor any representative thereof, shall have or incur any liability whatsoever by reason of the enforcement or failure to enforce, any provision of this instrument; nor by reason of any approval or disapproval, or failure to approve, any such provision; nor by reason of any annulment, cancellation, amendment, modification or waiver hereof or hereunder; nor by reason of any other act or omission whatsoever.

IN WITNESS WHEREOF, Owner has caused this instrument to be executed on this the ____ day of _____, 20____.

AZALEA BUSINESS PARK, LLC

Member

Member

STATE OF ALABAMA:

COUNTY OF MOBILE:

Before me, a Notary Public, in and for said State and County, personally appeared MARK W. DAVIS, whose name is signed to the forgoing conveyance and who was made known to me, acknowledged before me this day that, being informed of the contents of the conveyance, he executed the same voluntarily on the day the same bears date.

Given under my hand and seal this the _____ day of _____, 20_____.

NOTARY PUBLIC, STATE AT LARGE

My Commission Expires: _____

Covenants, Restrictions and Limitations of
Azalea Business Park; Semmes, Alabama
Page 6

STATE OF ALABAMA:

COUNTY OF MOBILE:

Before me, a Notary Public, in and for said State and County, personally appeared _____, whose name is signed to the forgoing conveyance and who was made known to me, acknowledge before me this day that, being informed of the contents of the conveyance, he executed the same voluntarily on the day the same bears date.

Given under my hand and seal this the _____ day of _____, 20_____.

NOTARY PUBLIC, STATE AT LARGE

My Commission Expires: _____