

Plat Book 35, Page 268

Return to
P & A Devp
1170 Lakindra Dr
Watkinsville GA
30677

AMENDED AND CORRECTED
DECLARATION OF PROTECTIVE COVENANTS
CARLTON PLACE SUBDIVISION
ATHENS-CLARKE COUNTY, GEORGIA

FILED IN OFFICE
CLERK SUPERIOR COURT
CLARKE COUNTY, GEORGIA

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RECORDED
BOOK 1887 PAGE 415
DATE 3-1-00
KIMBERLY LOGAN, CLERK

STATE OF GEORGIA

COUNTY OF ATHENS-CLARKE

THIS DECLARATION OF PROTECTIVE COVENANTS, made and published this
29 day of Feb 2000, by P & A DEVELOPMENT, LLP, of Oconee
County, Georgia, and hereinafter identified as "Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner of property located in Athens-Clarke County,
Georgia, being known as Carlton Place Subdivision, said property being more particularly
described and delineated in Exhibit "A" attached hereto and made a part hereof.

WHEREAS, Declarant desires to subject the real property described in Exhibit "A" to the
provisions of this Declaration, and it is to the interest, benefit and advantage of each and every
party who shall hereafter purchase or acquire any of the above referenced lots that certain
protective covenants regulating and governing the use and occupancy of said lots be established,
set forth and declared covenants running with the land; and

NOW, THEREFORE, for and in consideration of the premises and the benefits to be
derived, Declarant does hereby set up, establish, promulgate and declare the following protective
covenants to apply to the lands described in Exhibit "A" attached hereto and to all persons or
entities owning or acquiring said lots, or any of them hereafter; and these protective covenants
shall become effective immediately and run with the land and shall be binding on all persons or
parties claiming under and through Declarant until such time as said covenants may be extended,
modified or terminated, in whole or in part, as hereinafter provided, to wit:

1. DEFINITIONS.

- A. "The Architectural Control Committee" shall mean and refer to a
committee initially comprised of Declarant which hereby specifically
reserves the right to designate one or more representatives to act on behalf
of or in the place of it, including a homeowners association or other entity
responsible to the owners of lands in said subdivision. Membership and
procedures of said committee are set forth hereinafter.
- B. "Association" shall mean and refer to the Carlton Place Subdivision
Homeowner's Association, its successors and assigns.

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- C. "Common Area" means all real and personal property submitted to the Declaration which is owned or leased by the Association for common use and enjoyment of the members.
- D. "Declarant" shall mean and refer to P & A DEVELOPMENT, LLP or any successors in title to the said property described in Exhibit "A" attached hereto.
- E. "Declaration" means this recordable instrument creating covenants upon property which covenants are administered by a property owners' association in which membership is mandatory for all owners of lots in this subdivision.
- F. "Lot" shall mean any plot of land located within the subdivision which constitutes a single dwelling site designated on any plat of survey recorded in the Office of the Clerk of Superior Court of Athens-Clarke County, Georgia, as well as any building or any portion of any building located thereon which is intended for independent residential use.
- G. "Lot Owner" or "Owner" shall mean and refer to the record owner, whether one or more persons, of the fee simple title to any lot located within the subdivision, excluding, however, any person holding such interest merely as security for the performance or satisfaction of any obligation.
- H. "Person" means any natural person, as well as a corporation, joint venture, partnership (general or limited), association, trust or other legal entity.

2. **LAND USE.** Said lots shall be used for residential purposes only, with each lot being used as a single-family residential lot; but, in the event some lot(s) should not meet septic tank requirements of the Athens-Clarke County Health Department or the State Department of Health or should not be suitable for a building site; then said lot(s) may be used for recreational purposes, including parks and playgrounds, and/or any other use(s) compatible with a residential subdivision, including all uses as may be presently or hereafter authorized under single-family residential zoning provisions of the Athens-Clarke County, Georgia, Zoning Ordinance. No boundary line(s) of any lot(s) may be changed; and no lot or portion of a lot may be used as access to any adjoining property without the express, written consent of Declarant or its designated representative.

3. **BUILDING REQUIREMENTS.** No structure or improvement of any description shall be erected, placed or altered on any lot unless and until the construction plans and specifications thereof have been submitted to and approved by the Architectural Control Committee, as defined herein, as to quality of workmanship and materials and harmony of external design and surroundings.

No building shall have concrete blocks for the exposed finished material. Concrete blocks may be used as foundations only. This provision shall not prevent a masonry type house with stucco type exterior walls.

4. **DWELLING SIZE.** No dwelling shall be constructed, erected, placed, altered or maintained on said lots consisting of less than one thousand, three hundred (1,300) square feet of heated floor space, exclusive of porches, garages, basements and deck areas.

5. **BUILDING LOCATION.** No building shall be located on any lot nearer to the front lot line or nearer to the side street line than the minimum building set-back line of 30 feet, as shown on the recorded plat. And no building or structure shall be located on any lot nearer than 16 feet to any interior property line nor nearer than 25 feet to any rear property line. The Athens-Clarke County Planning & Zoning Commission shall have the authority to grant slight adjustments to the above requirements if it is found that these requirements impose an undue hardship on a property owner in locating the site for a home. Approval for any such exception must be in writing. For the purpose of this covenant, carports and open porches shall be considered as a part of a building; but eaves and steps shall not be considered a part of a building.

6. **GARAGES.** Two-car garages are mandatory and must have garage doors installed, unless otherwise permitted in writing by the Architectural Control Committee.

7. **FENCES.** No fence or wall shall be erected, placed, or altered on any lot nearer to any street than the front building line of the dwelling thereon, unless otherwise approved in writing by the Architectural Control Committee.

8. **EASEMENTS.** Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat. In addition to those easements shown on the recorded plat, easements for installation and maintenance of utilities and drainage facilities including the right to trim or cut trees, if necessary, are hereby reserved over five (5) feet of each side of each lot and over the rear ten (10) feet of each lot.

9. **NUISANCES.** No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. An excessive number of vehicles shall not be permanently parked on the street in front of any lot. No motor home, travel trailer, camper, boat, trailer of any kind, tractor or other farm equipment, motorcycle or inoperable vehicle shall remain on the street or parked in the front or side yards of any lot. Such vehicle, if parked or stored on a lot, shall be to the rear of the residence and not generally visible from the street.

Trucks, buses or any vehicle with tonnage in excess of 3/4 ton shall not generally be permitted to park on the streets, driveways, or lots for more than one hour unless loading and unloading, and no vehicle of any size which normally transports flammable or explosive cargo may be kept in the subdivision at any time.

10. **TEMPORARY STRUCTURES.** No trailer, basement, tent, shack, garage,

detached carport, barn or other out-building erected or placed on any tract of land 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 at any time nor shall any pre-assembled nor factory-built structure nor "log home" be placed thereon as a residence, but only conventional constructed, permanent dwellings shall be erected thereon.

11. **CLOTHES LINES AND AIR CONDITIONERS.** No clothes lines, drying racks or fences used for drying clothes shall be constructed, erected or maintained nearer the front street line than the rear line of the residence constructed on said tract of land or any extension of said rear line to the side lines of said street. Air conditioning units must be placed at the rear or side of the structure; and if on a side, must be screened by a fence or shrubbery. No window-unit air conditioners shall be visible from the front street.

12. **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, or one sign of not more than five square feet advertising the property for sale or rent, or signs used by builder or realtor to advertise the property during the construction and initial sales period.

13. **OIL AND MINING OPERATIONS.** No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any lot, nor permitted upon any lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any lot.

14. **LIVESTOCK AND POULTRY.** No animals, livestock or poultry of any kind shall be housed, maintained, 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.

15. **GARBAGE AND REFUSE DISPOSAL.** No lots shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept on any lot except in sanitary containers. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition. All sanitary containers must be removed from the street within twenty-four hours of the pick-up of trash and/or garbage.

16. **SUBDIVIDING OF LOTS.** There shall be no subdividing of lots without the express written permission of the Athens-Clarke County Planning & Zoning Commission.

17. **UTILITIES.** All utilities shall be underground. No earth-station satellite receiving/transmitting dish antennae or similar apparatus shall be erected or placed on any lot unless specifically approved by the Architectural Control Committee as to design and/or location. Exterior antennae for radio or television reception shall be placed at the rear of the roof or any chimney. No ham radio antennae or similar antennae for transmitting or receiving radio or television signals shall be permitted. Solar heating and/or collection panels and equipment, if approved, must be placed at the rear or side of the dwelling and not generally visible from the front street.

18. **SIGHT DISTANCE AT INTERSECTIONS.** No fence, wall, hedge, or shrub planting which obstructs sight lines at elevations between 1 and 10 feet above the roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property line and a line connecting them at points 25 feet from the intersection of the street lines, or in the case of a rounded property corner, such points being 25 feet from the intersection of the street property lines extended. The same sight line limitations shall apply on any lot within 15 feet from the intersection of a street property line with the edge of a driveway.

19. **SEWAGE DISPOSAL.** No individual sewage disposal system shall be permitted on any lot unless such system is designed, located and constructed in accordance with the requirements, standards and recommendations of the Georgia Department of Public Health and the Athens-Clarke County, Georgia, Health Department. Approval of such systems, as installed, shall be obtained from such authorities.

20. **HOMEOWNERS' ASSOCIATION.** Every owner of a lot in the subdivision shall be a member of the Association. If title to a lot is held by more than one person, each of such persons shall be members. Membership shall be appurtenant to the lot to which it appertains and shall be transferred automatically. Notwithstanding the above, each lot shall be entitled to one (1) vote in the Association. The Association will be formed when 75% of lots are sold.

21. **ASSESSMENTS.** Assessments against the lot owners shall be made to raise funds to pay any common expenses of the subdivision and contribute a pro rata share of the maintenance of the common areas of the subdivision and shall be governed by the following provisions:

- A. **Liability.** Each lot owner shall be liable to the Association for all sums as are lawfully assessed by the Association against him or his lot or lots in accordance with the terms and provisions of this Declaration. In addition to exercising the remedies provided for herein, the Association may enforce such liability by an action at law to recover all amounts assessed against each unit owner in accordance with the provisions of this Declaration.
- B. **Creation of the Lien and Personal Obligation for Assessment.** Each owner of any lot by acceptance of a deed or other conveyance thereof, whether or not it shall be expressed in any such deed or other conveyance, covenants and agrees to pay to the Association assessment which shall be fixed, established and collected as herein provided; however, nothing contained herein shall be construed to obligate Declarant to pay assessments on lots prior to the sale of said lots.
- C. **Purpose.** Assessments shall be levied against the lot owners and the lots to defray the common expenses of the subdivision. The common expenses of the subdivision shall be all of the expenditures which are made or incurred by or on behalf of the Association in connection with the exercise of its powers and responsibilities and shall include but not be limited to the following:

- (i) Management fees, if any, and expenses of administration of the Association;
- (ii) The expense of performing the maintenance and any necessary restoration of roadway landscaping and landscaping on traffic islands;
- (iii) Common utility bills and charges for other common services, including but not limited to water and power;
- (iv) Premiums for all insurance policies maintained by the Association;
- (v) The expenses of performing the maintenance, repair, renovation, restoration and replacement work which is the responsibility of the Association hereunder;
- (vi) Such other costs and expenses as may be determined from time to time by the Association to be common expenses; and
- (vii) The creation and maintenance of such reserve funds as are required to be maintained by the Association under any article contained herein.

D. Collection. In addition to all other remedies provided by law, the Association may enforce collection of the assessments for which a lot owner is liable together with all other amounts as may be owed by such lot owner to the Association, as hereinafter provided:

- (i) In the event that any lot owner shall fail to pay any installment of any assessment levied against him within ten (10) days after such installment shall be due and payable and within five (5) days after written notice is mailed to the lot owner, the entire unpaid balance of such assessment for the remainder of the fiscal year may, at the option of the Association, be accelerated and be declared immediately due and payable in full, without notice to such lot owner.
- (ii) In the event that any lot owner shall fail to pay within five (5) days after the same shall be due, any amounts due and payable to the Association, such lot owner shall be liable for the payment of and shall pay in addition to the amounts due the Association:

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- (a) A late charge equal to ten (\$10.00) dollars or ten (10%) percent of the amount so due, whichever is greater;
 - (b) Interest on the amount so due and the aforesaid late charge appertaining thereto, from the date same were due and payable at the rate of ten (10%) percent per annum, until paid;
 - (c) The cost of collection, including court costs, the expenses of sale, any expenses required for the protection and preservation of the lot and reasonable attorney's fees actually incurred; and
 - (d) In the event the Association shall seek to foreclose its lien on the lot of such owner, the fair rental value of the lot from the time of the institution of suit until sale of the unit at foreclosure (or until the judgment rendered in such suit is otherwise satisfied).
- (iii) All sums lawfully assessed by the Association against any lot owner whether for the share of the common expenses pertaining to that lot, fines, or otherwise and all reasonable charges made to any lot owner or lot for material furnished or services rendered by the Association at the owner's request to or on behalf of the lot owner or lot shall from the time the sums become due and payable be the personal obligation of the lot owner and constitute a lien in favor of the Association on the lot prior and superior to all other liens whatsoever except:
- (a) Liens for ad valorem taxes on the lot;
 - (b) The lien of any first priority mortgage covering the lot and the lien of any mortgage recorded prior to the recording of the Declaration; or
 - (c) The lien of any secondary purchase money mortgage covering the lot, provided that neither the grantee nor any successor grantee of the mortgage is the seller of the lot.

The recording of this Declaration shall constitute record notice of the existence of the lien and no further recordation of any claim of lien for assessment shall be required.

- (iv) The rights of a lot owner and all persons entitled to occupy the lot of such owner, to use the common elements shall be suspended for the period of time any amount due and owing to the Association in regard to any lot owned by such owner shall remain unpaid; provided, however, that no such suspension shall deny any lot owner or the occupants of any lot access to the lot owned or occupied nor cause any hazardous or unsanitary condition to exist.
- (i) Fee for Statements of Amounts Due. The Association may require the payment of a fee, not to exceed ten (\$10.00) dollars as a prerequisite to its issuance of any statement pursuant to this Declaration.

22. DAMAGE TO OR DESTRUCTION OF COMMON ELEMENTS. Repair, reconstruction or rebuilding of the common elements following damage or destruction to all or any portion of the common elements shall be governed by the following provisions:

- A. Estimates of the Cost of Repair. As soon as practicable following the occurrence of any damage to or destruction of any portion of the common elements, the Association shall obtain reliable and detailed estimates of the cost of repairing and restoring such portion of the common elements so damaged or destroyed to substantially the same condition as such portion of the common elements were in prior to the occurrence of such damage and destruction and shall proceed with the filing and adjustment of all claims arising under insurance, if any, maintained by the Association as a result of such damage or destruction.
- B. Determination to Repair, Reconstruct or Rebuild. Any damage to or destruction of the common elements will be repaired, reconstructed or rebuilt unless the owners of the lots to which seventy-five (75%) percent of the votes in the Association are allocated shall determine within forty-five (45) days after the occurrence of the casualty not to repair, reconstruct or rebuild the same.
- C. Manner of Repair, Reconstruction or Rebuilding. All repairs, reconstruction or rebuilding to be made as a result of damage by fire or other casualty shall be made in accordance with the following provisions:
 - (i) The damage shall be repaired, reconstructed or rebuilt substantially in accordance with the plans and specifications

for such damaged property prior to the occurrence of such damage;

- (ii) All of the work of repairing, reconstruction or rebuilding any portion of the common elements, the damage to or destruction of which caused the payments of insurance benefits under insurance policies maintained by the Association, if any, shall be performed under the supervision of the Association which in discharging such supervisory responsibility shall be authorized to employ such building supervisors and architects as the Association shall deem to be in the best interest of the Association.

D. Cost of Repairs, Reconstruction and Rebuilding. The cost of repairing, reconstructing or rebuilding any portion of the common elements which shall be damaged or destroyed shall be paid with any insurance proceeds which shall be paid to the Association on account on such damage or destruction. If such insurance proceeds are not sufficient or not available to defray such cost of repair, reconstruction or rebuilding, then the Association may levy a special assessment against all of the lot owners and lots to raise the excess funds necessary to defray such cost.

23. ARCHITECTURAL CONTROL COMMITTEE. Membership on this committee is set forth hereinabove under definitions and a majority of this committee may designate a representative to act for it. In the event of death or resignation of any member of the committee, the remaining member(s) shall have full authority to designate a successor. Neither the members of the committee nor its designated representative shall be entitled to any compensation for services performed pursuant to this covenant. At any time the then record owners of a majority of the lots shall have the power through a duly written instrument to change the membership of the committee or to restore to it any of its powers and duties.

The committee's approval or disapproval as required in these covenants shall be in writing. Should the committee or its designated representative fail to approve or disapprove within 30 days after the plans and specifications have been submitted to it, or in any event, if no suit to enjoin construction has been commenced prior to the completion thereof, approval will not be required and the related covenant(s) shall be deemed to have been fully complied with.

The committee shall have the right during reasonable hours to enter upon and inspect any lot and improvement thereon for the purpose of ascertaining whether the installation, construction, alteration or maintenance of any improvement or the use of any lot or improvement is in compliance with the provisions of this Declaration; and the committee shall not be deemed to have committed a trespass or other wrongful act solely by reason of such entry or inspection.

24. TERM. These covenants are to run with the land and shall be binding on all parties and persons claiming under them for a period of twenty (20) years from the date these covenants

area recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless and until an instrument signed by the majority of the then record owners of said lots (calculated on the basis of one lot, one vote) has been recorded agreeing to change said covenants in whole or in part.

25. **ENFORCEMENT.** Should any owner or other party having an interest in any property governed hereby violate or attempt to violate any of the covenants herein, it shall be lawful for any other owner of any other real property governed hereby to prosecute any proceedings at law or in equity against the party violating or attempting to violate any such covenants and either to prevent such violation or attempted violation or to recover damages or other dues for such violation.

26. **SEVERABILITY.** Invalidation of any one of these covenants by judgment or court order shall in no wise affect any other provision, all of which shall remain of full force and effect.

27. **MISCELLANEOUS.** All properties and grounds shall be maintained in a neat and orderly fashion at all times. To this end, each lot owner shall maintain the street right-of-way between the pavement and actual property line. Landscaping as approved by the Architectural Control Committee shall be installed within 180 days of occupancy or completion of construction, whichever first occurs. Driveway surfaces must be of concrete or asphalt construction and adequately maintained. Play equipment must be located no nearer the front street than shall be permitted for any purpose. No decorative sculptures or the like shall be permitted on front lawns or any place visible from any street. Each lot shall have at least 2500 square feet of sod in the front yard. All mailbox receptacles shall be wrought iron and of like design.

28. **SUBDIVISION ENTRANCE AND AMENITIES.** Declarant shall maintain the subdivision entrance until such time as the responsibility therefor may be delegated to a homeowner's association and/or other organization or entity representative to or for the benefit of said subdivision as may be determined in the sole discretion of Declarant. A reasonable pro rata cost for maintenance of the entrance and said amenities may be assessed to each occupied lot in the subdivision.

29. **APPLICABILITY.** These restrictions, covenants and conditions shall apply only to the property described in Exhibit "A" attached hereto and no other. No representations or warranties are made with respect to development of any other property owned by Declarant in Athens-Clarke County, Georgia, or elsewhere; the right being expressly reserved by Declarant, its successors and assigns, to develop any property other than the specific lots and portions of lots referred to herein in any manner it in its discretion may choose or deem proper.

30. **NO WAIVER.** Except as specifically provided herein, no failure of either the Architectural Control Committee or Declarant to act upon any matter for consideration shall be deemed a waiver of the pertinent requirements of these covenants. Anything done or any action taken by anyone in violation of these covenants shall be deemed a continuing violation; and no approval thereof shall be implied by a failure of the Declarant and/or Architectural Control Committee to act thereon.

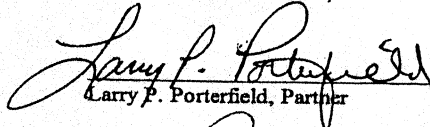
31. INTERPRETATION. In all cases the provisions set forth or provided for in this Declaration shall be construed together and given that interpretation or construction which will best effect the intent of the general plan of development. The provisions hereof shall be liberally interpreted and, if necessary, they shall be so extended or enlarged by implication as to make them fully effective.

32. CAPTIONS. The captions of each article and section hereof as to the contents of each article and section are inserted only for convenience and are in no way to be construed as defining, limiting, extending or otherwise modifying or adding to the particular article or section to which they refer.

The above and foregoing amended and corrected declaration of protective covenants is hereby made to amend and correct the declaration of protective covenants filed for record in the records of the clerk of superior court of Athens-Clarke County in Book 1884, page 464, on February 18, 2000.

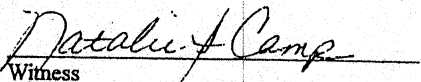
IN WITNESS WHEREOF, the undersigned being the Declarant herein have executed this instrument under their seals this 29 day of February, 2000.

P & A DEVELOPMENT, LLP

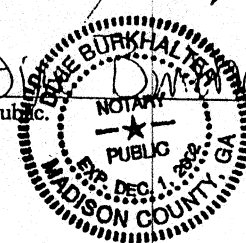
 (SEAL)
Larry P. Porterfield, Partner

 (SEAL)
David C. Adams, Partner

Signed, sealed and delivered in the presence of:


Witness


Notary Public.



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