

Deed Doc: COVE
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RETURN RECORDED DOCUMENT TO:
Franklin, Taulbee, Rushing, Snipes & Marsh, LLC
Scott A. Hodglin, Esq.
12 Stebald St.
Statesboro, Georgia 30458

Clerk Superior Court, BULLOCH County, Ga.
Bk 01685 Pg 0126-0136

(SPACE ABOVE THIS LINE FOR RECORDING DATA)

STATE OF GEORGIA

COUNTY OF BULLOCH

DECLARATION OF RESTRICTIVE COVENANTS
SMITHCREEK PLANTATION SUBDIVISION

THIS DECLARATION OF PROTECTIVE COVENANTS, made and published this 23 day of August, 2006, by KEN-PARK, LLC, a Georgia limited liability company, hereinafter referred to as "the Developer".

WITNESSETH:

THAT, WHEREAS, Developer is the owner of a tract of land known as **SMITHCREEK SUBDIVISION**, as shown by a plat recorded in Plat Book 63, page 172, Bulloch County Records; and

WHEREAS, it is to the interest, benefit and advantage of Developer and to each and every person who shall hereafter purchase any lot in said subdivision that certain protective covenants governing and regulating the use and occupancy of the same be established, set forth and declared to be covenants running with the land; and

WHEREAS, Developer deems it desirable to have a committee to administer said conditions and restrictions, and do hereby name Brandon Parker and Everett Kennedy, III as the permanent committee to serve during the life of this contract and to be hereinafter referred to as the committee, with the understanding and agreement that each original member may appoint a successor member to serve for him or her and the committee may be increased from three to five by mutual consent of the above named original members and/or their successors of the committee. New members of the committee shall be elected by a majority of the committee for a term of five years. A majority vote of the committee shall determine a decision in all questions referred to the committee. The committee shall be known as the "Architectural Control Committee."

NOW, THEREFORE, in consideration of the premises, Ken-Park, LLC, (hereafter sometimes referred to as "developer") for its successors and assigns and its future grantees do hereby name place and impose the following conditions, restrictions, covenants, reservations, easements, liens and charges as detailed hereinafter, on real property located in the County of Bulloch, State of Georgia, and being more particularly described as follows:

All that certain lot, tract or parcel of land located in the 1547th G. M. District of Bulloch County, Georgia, being known and designated as Lots 1 through 23 of Smithcreek Subdivision as shown on a Final Plat of Smithcreek Subdivision prepared by James M. Anderson, Surveyor, on plat of survey dated July 24, 2006, recorded in Plat Book 63, Page 172, Bulloch County Records.

The aforesaid plat and the description thereon are by reference incorporated herein for a more complete and accurate description.

No property other than that described above shall be deemed subject to this Declaration of Protective Covenants, unless and until specifically made subject thereto. The developer may, from time to time, subject additional real property to the restrictions, covenants, reservations, liens and charges herein set forth by appropriate reference hereto.

1. LAND USE AND BUILDING TYPE:

(a) None of said lots may be improved, used or occupied for other than private residential purposes and no flat, duplex, or apartment house, though intended for residential purposes, may be erected thereon. Any residence erected or maintained thereon shall be designated for occupancy by a single family.

(b) No professional office, business, trade or commercial activity of any kind shall be conducted in any building or on any portion of any lot, block or building site.

(c) All building sites in the tract shall be known and described as residential building sites.

(d) No structures shall be erected, altered, placed or permitted to remain on any building site other than one detached single family dwelling not to exceed two and one-half stories in height, a private garage for not more than three cars, and other outbuildings clearly incidental to residential use of the premises.

(e) All fences must be approved by the Committee and must be black vinyl coated with a maximum height of four (4) feet.

(f) No animals, livestock, or poultry of any kind other than house pets, shall

be kept or maintained on any part of said property. Dogs and cats may be kept upon said property provided that they are not kept, bred, or maintained for any commercial use or purposes. No more than two (2) dogs per household.

(g) No noxious, offensive or illegal activity shall be carried on upon any lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood or any residents. No trash, paper, garbage, or refuse of any kind shall be dumped on other lots or adjoining lands. The discharge of firearms is prohibited.

(h) All decorative yard items must be approved by the Committee.

(i) No clothes line except spindle type shall be permitted and then only to the portion of the lot to the rear of the house.

(j) No greenhouses will be permitted upon the premises without the consent of the Architectural Control Committee. No building or structure shall be erected, placed or altered on any lot until the construction plans and specifications and plan showing location of the structure have been approved by the committee as to quality of workmanship and materials, harmony of external design with existing structures, and as to location with respect to topography and finish grade elevation. No fence or wall shall be erected, placed or altered on any lot unless similarly approved. Actual sample of exterior materials such as brick, stone, siding, roof shingles, etc. as well as exterior color schemes must be submitted for approval. The approval must be in writing from the committee. In the event the committee fails to approve or disapprove said design or location within forty-five (45) days after submission of a written request, then such approval shall not be required provided the design and location are in harmony with existing structures and locations in the tract, and do not violate any restrictive covenant. If the finished building does not comply with the plans and specifications as submitted, the committee retains the right to make the changes necessary for compliance. These changes will be at the owner's expense. All house sites and driveways must be staked out and such site approved before tree cutting or grading is begun.

(k) Thirty (30) year architectural shingles shall be used on all single family dwellings.

(l) The front of each single family dwelling shall contain a "two (2) block height front" over and above the footers. Each single family dwelling shall be bricked from the ground to the floor.

(m) The roof of each single family dwelling shall contain at least an eight/twelve pitch.

(n) No above ground pool shall be allowed on any lot. All mailboxes will be supplied by the developer in exchange for a mailbox fee to be paid by each owner.

(o) All rafters shall be constructed "16 inches on center".

(p) Centipede sod shall be installed in all yards on the front and both sides of each house. The sod shall extend from each house to the side and front lot lines.

(q) An underground sprinkler system shall be installed on each lot to service the required sod areas described in paragraph (p) above.

(r) Each lot owner shall install a minimum of eight, three gallon shrubs in front of each house.

(s) No lots may be held for speculative purposes without the express written consent of Developer. Construction of a single family residence must be commenced within twelve (12) months of the purchase of a Lot in the Subdivision from Developer or its assignee by a prospective homeowner or builder. In the event that a Lot owner (or his successors or assigns) fails to commence construction of a single family residence on the Lot within twelve (12) months of purchase from Developer as required by this subsection (s), Developer or its assignee shall have a right to re-purchase the Lot upon ten (10) days written notice to Lot owner or his successors or assigns for a purchase price equal to 90% of the amount paid to Developer by Lot owner (excluding all closing costs). This restriction and right to purchase shall be null and void following the earliest to occur of two events: (i) substantial completion of the construction of a single family residence on the Lot or (ii) two years from the date of recording of the Warranty Deed from Developer for the Lot with the Bulloch County Clerk of Court. This right to repurchase in Developer shall be subordinate to any security deed of a lender placed on the Property securing a loan used for the purpose of purchasing the Lot or constructing or financing a single family residence located on the Lot.

(t) Each single family residence constructed on a Lot in the Subdivision shall be fully completed within twelve (12) months from the date the construction commences on said building.

2. DWELLING QUALITY AND SIZE. The minimum floor area of any main dwelling structure, exclusive of open porches, terraces, patios, carports and garages, constructed on those lots described herein shall be:

Single story, brick veneer, masonry or frame: 1,400 square feet of heated area;

Story and one-half: ground floor - 1,200 square feet on ground floor, with minimum total square footage of 1,800 square feet of heated area;

Two-story, brick veneer, masonry, or frame: 2,000 square feet of heated area; ground floor 1,000 square feet minimum.

The minimum floor area herein referred to shall not include basements, attics, garages, or open porches of any type.

No dwelling house shall be erected without providing a parking space consisting of a durable surfaced area, enclosed in the dwelling house sufficient in size to store one standard automobile. Said garage shall be connected by a paved driveway of hot-mix asphalt or concrete connecting the parking space (garage) with a street and permitting ingress and egress of any automobile. Driveway and walkways must be completed prior to occupancy of the dwelling. Provided, however, that if said paved driveway must extend more than one hundred (100) feet in order to connect said garage to the street, the committee may waive this connecting requirement by doing so in writing, provided that a minimum drive from the street shall not be less than one hundred (100) feet. The driveway connection at the street and mail box shall be approved by the committee as to structural design, quality of workmanship, and harmony of external design with existing driveways and mailboxes. The approval must be in writing from the committee. In the event the committee fails to approve or disapprove said design within forty-five (45) days after submission of a written request, then such approval shall not be required, provided, however, said design does not violate any restrictive covenant and is in harmony with existing standards in the neighborhood. No plumbing vent or heating vent shall be placed on the front side of the roof, nor shall any concrete block be left exposed after completion of construction. No garage or car port may open towards the front of the lot unless it is approved in writing prior to construction by the Architectural Control Committee.

Construction of all houses within the Subdivision shall include the installation of a garage door which must be a minimum of 16 feet in width and seven feet in height.

3. BUILDING LOCATION. No building shall be located on any lot nearer to the front lot line or nearer to the side street than the minimum building setback lines shown on the recorded plat. No building or structure of any kind shall be located nearer than ten feet to an interior lot line, except, that a two foot side yard shall be required for a garage or other permitted accessory building located sixty feet or more from the minimum building setback line. No dwelling shall be located on an interior lot nearer than thirty feet to the rear lot line; swimming pools, the highest projection of which shall not exceed three feet, and outdoor fireplaces not to exceed six feet in height, may be erected and maintained within the rear set-back but not nearer than twenty feet from the rear lot line of any lot. Detached garages not more than one story in height may be erected and maintained within the rear set-back but not nearer than ten feet from the rear line of any lot. No such improvements, however, may be placed in or upon land reserved for easements. For the purpose of this covenant, eaves and steps shall not be considered as a part of a building, provided, however, that this shall not be construed to permit any portion of a building on a lot to encroach upon another lot. Exceptions to the requirements of this paragraph may be made by the committee in such instances as the committee shall deem warranted in order to prevent an unnecessary or undue hardship. Notwithstanding anything to the contrary herein, the

committee shall have the right to permit reasonable modifications of the set-back requirements if, in the discretion of the committee, strict enforcement of these set-back provisions work a hardship.

4. SUBDIVISION OF LOTS. No lot shall be subdivided for sale or otherwise so as to reduce the total lot area shown on the recorded maps or plats, except by and with the consent of the committee. No street shall be extended into or connected with adjoining properties except by written consent of the committee, it being the will and intent of the committee that certain streets as designated on the plat shall remain dead end drives, or circles with park areas in such designated areas, to remain as such unless otherwise determined by the committee.

5. EASEMENTS.

(a) No title to land in any street is intended to be conveyed, or shall be conveyed to the grantee under any deed, or to the purchaser under any contract of purchase, unless expressly so provided in such deed or contract or purchase.

(b) Developer reserves an easement in and right at any time in the future to grant a fifteen foot right of way over, under and along the rear line of each lot for the installation and maintenance of poles, lines, conduits, pipes and other equipment necessary or useful for furnishing electric power, gas, telephone service, or other utilities including water and sewerage service. Developer also reserves an easement in and right at any time in the future to grant a ten foot right of way over, under and along the front line of each lot for the same uses and purposes.

(c) Developer may include in any contract or deed hereafter made additional protective covenants and restrictions not inconsistent with those contained herein.

(d) No dwelling house, garage, outbuildings, or other structures of any kind shall be built, erected or maintained upon any such easements and said easements shall, at all times, be open and accessible to public and quasi-public utility corporations, and other persons erecting, constructing or servicing such utilities and quasi-public utilities, and to developer, its successors and assigns, all of whom shall have the right of ingress and egress thereto and therefrom, and the right and privilege of doing whatever may be necessary in, under and upon said locations for the carrying out of any of the purposes for which said easements, reservations and rights of way are reserved, or may hereafter be reserved.

(e) Drainage flow shall not be obstructed nor be diverted from drainage or utility easements as designated above or on the recorded plat. The developer reserves a ten foot strip along the rear of all lots for drainage purposes, said easement being within the fifteen foot easement referred to in subparagraph (b) above.

(f) Any other easements shown on the plat are also reserved;

6. NUISANCES/ANNOYANCES/PROHIBITED ACTIVITIES.

(a) No noxious or offensive trade or activity shall be carried on upon any building site nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood or any resident thereof.

(b) No temporary building, mobile home, tent, shack, garage, barn, or other outbuilding erected on a building site covered by these covenants shall at any time be used for human habitation temporarily or permanently, nor shall any structure of a temporary character be used for human habitation.

(c) No oil drilling, development, or refining operations, mining, quarrying, or operation of sand and gravel pits, no soil removal or topsoil stripping, or operations of any kind shall be permitted upon or in any of the building sites in the tract described herein, nor shall oil wells, tanks, tunnels, mineral excavations, or shafts be permitted upon or in any of the building sites covered by these restrictions.

(d) All above ground tanks must be screened from the road and shall have a capacity of no larger than 30 gallons.

(e) No motor vehicle shall be permitted to remain on the premises for more than thirty (30) days in an inoperative condition, and no car repairs of a major nature may be carried on upon the premises. No lot or yard may be used as a parking area for heavy equipment such as excavating, grading or tractor equipment or heavy trucks such as school buses, transport trucks, and dump trucks. Pickup trucks are acceptable.

(f) All outside radio, television antennas and satellite dishes must be attached to the rear of the premises and must be approved in advance by the Committee. Any outside radio or television antenna or dish shall be installed on the rear side of the roof. A satellite dish may not be placed upon the premises unless it is approved in advance by the Architectural Control Committee. The Committee may further require any dish, if approved, to be located and screened by appropriate plantings or otherwise so as to be unobtrusive.

(g) No window air conditioning units may face any access way without prior approval of the committee.

(h) All playground equipment shall be placed on the rear of the property. No skate board ramps or similar structures shall be built without the prior approval by the Committee.

(i) All boats, boat trailers, travel trailers and campers shall be kept in the garage or carport.

(j) No structures of any kind will be built, or fixtures or objects placed on any lot without prior approval of the Committee as to location, design, external appearance, and harmony with existing standards of the neighborhood. All construction plans or requests for approval submitted to the Committee shall be reviewed and a response given within ten (10) days of receipt.

(k) Notwithstanding anything other provision contained herein, no builder may have more than two (2) unsold "spec" houses in the Subdivision at any time without the express written consent of Developer.

7. SIGNS. No signs, advertisements, billboards, or advertising structures of any kind may be erected or maintained on any of the lots hereby restricted without the consent in writing of the committee, provided however, that permission is hereby granted for the erection and maintenance of not more than one advertising board on each lot, or tract as sold and conveyed, which advertising board shall not be more than two (2) square feet in size and may be used for the sole and exclusive purpose of advertising for sale or lease, the lot or tract upon which it is erected.

8. GARBAGE AND REFUSE DISPOSAL. No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage, or other waste shall not be kept except in sanitary containers. All equipment for the storage of such material shall be kept in a clean and sanitary condition and at a location which is unobtrusive. No trash or garbage shall be burned on any lot.

9. SEWAGE DISPOSAL.

(a) Individual sewage disposal shall be permitted; however, said systems shall be designed, located and constructed in accordance with the requirements, standards, and recommendations of the Georgia Department of Public Health. Approval of such systems as installed shall be obtained from such authority.

(b) Provided, however, that at such time, during the term of these covenants, as a sewage collection system shall be provided for the entire subdivision, any lot which then has an individual sewage disposal system shall be connected to the subdivision's sewage collection system. The cost of making such connection shall be borne by the owners of any such lots at the time of connection including any tap-in fee.

10. STREET LIGHTING. Each lot within the subdivision shall, at the option of the Architectural Control Committee, be subject to a monthly charge for street light service provided for said subdivision, payable to the electric power company or other entity or to Developer, or its successors or assigns if it is providing such services. Payment shall commence when service is installed and shall be in an amount equal to the net cost of said service determined on a pro rata basis plus reasonable allowances for repair and replacement. This paragraph shall not be construed to require developer or its successors or assigns to provide street light service.

11. LIENS.

(a) The cost of making the connection to the sewage collection system for the entire subdivision provided for in Paragraph 9 of these restrictive covenants, and the monthly charge for street light service provided for in Paragraph 10 of these restrictive covenants, shall be liens or encumbrances on the land and acceptance of each of the several deeds to lots in this subdivision, not including thereby a mortgagee or lender under a properly recorded mortgage or deed to secure debt, shall be construed to be a covenant to pay said cost and charge. The person or parties responsible for providing said sewage system to the subdivision and electric light service shall have the right to take and prosecute all actions or suits, legal or otherwise, which may be necessary to collect the charges required to be made by the lot owners under the provisions of Paragraphs 9 and 10 of these restrictive covenants.

(b) The liens hereby reserved, however, shall be at all times subordinate to the lien of any mortgagee or lender of any sums secured by a properly recorded mortgage or deed to secure debt, to the end and intent that the lien of any mortgage shall be paramount to the liens imposed herein.

12. PRIVATE WATER SUPPLY SYSTEM. No individual water supply system, including but not limited to individual wells or water furnished from any off-premises water supply system, shall be permitted on any single lot as long as a potable supply of water is provided by the water system installed by Developer or its successors or assigns. This water system shall be subjected to a Deed of Trust in order to meet State and Federal operating requirements, and that at developer's election, requirements of VA, FHA, FMHA, GNMA, FNMA, GRSA or any lending agency or insurer of loans in order to assure financing for residences, and all present and future owners agree to the recording and/or amending of such deed from time to time and agree to execute any documents as are necessary to facilitate such purposes and hereby give developer an irrevocable power of attorney to execute any such amendments as may be necessary, in developer's opinion from time to time to accomplish such purposes.

Initially the "tap-in fee" shall be Seven Hundred and 00/100 (\$700.00) Dollars and shall be paid to the owner of the water system. Said "tap-in fee" shall be set annually by the owner of the water system.

13. SIGHT DISTANCE AT INTERSECTION. No fence, wall, hedge, or shrub planting which obstructs sight lines at elevations between two and six feet above the roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points twenty-five feet from the intersection of the street lines, or in the case of a rounded property corner from the intersection of the street property lines extended. The same sight-line limitations shall apply to any lot within ten feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at

sufficient height to prevent obstruction of such sight lines.

14. TERM. These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of twenty-five (25) years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by a majority of the then owners of the lots has been recorded, agreeing to change said covenants in whole or in part. Provided, that paragraph 12 hereof shall not expire except with the consent of the owner of the community water system.

15. ENFORCEMENT. Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenants either to restrain violation or to recover damages.

16. SEVERABILITY. Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

17. LIMITATION OF RESTRICTIONS. Nothing uttered herein shall be held or construed to impose any restrictions on or easements in any lands of Developer other than the land specifically designated on page 2 of these protective covenants as being subject to said protective covenants.

18. TRANSFER OF GRANTOR'S RIGHTS. Developer may assign and transfer its rights as developer hereunder, as a member of the Architectural Control Committee, and as provider of sewer (if any is ever provided), street lights, or water services, and any assignee shall have all of the same rights hereunder as Developer. In the event that the original committee members, Brandon Parker and Everett Kennedy, III, and/or their appointed successors, resign as members of the Architectural Control Committee, said committee membership shall be selected by a majority of the owners of lots in Smithcreek (or majority of all owners if restrictions have subsequently been applied to other phases of Smithcreek). Such resignation shall terminate all terms of office of all members and members shall thereafter be selected by the lot owners for such terms of office as the lot owners may establish by majority decision.

19. FORMATION OF HOMEOWNERS ASSOCIATION/TRANSFER OF STREETS, COMMON AREAS AND RESPONSIBILITIES. Upon completion of the paving of all streets, installation of street lights, electrical and water services, and the sale of eighty (80%) percent or more of the lots of Smithcreek, Developer (or its successors and assignees) may at any time during the term of this agreement form a Homeowners Association and assign or convey to such Homeowners Association all rights, interests and future responsibilities in or to non-dedicated streets, entrances, signage, street lights or other common use property or properties of lot owners of Smithcreek. Upon such transfers each lot owner of Smithcreek agrees to membership in such Homeowners Association and acceptance of such transfers and future maintenance of the same. Such Homeowners Association shall be governed by a

board of directors selected by a majority of the owners of lots of Smithcreek with owners having one vote per lot.


20. VENUE/JURISDICTION. By accepting a deed to a Lot located in the Subdivision, excluding a mortgagee or lender accepting a mortgage deed to secure debt on any Lot, an owner of a Lot agrees to submit to the jurisdiction and venue of the courts of Bulloch County, Georgia, for any action against such owner or owners arising under these covenants, whether at law or in equity.

IN WITNESS WHEREOF, the undersigned, as Managers of Ken-Park, LLC have caused this instrument to be executed the day and year first above written.

KEN-PARK, LLC:

BY: 
EVERETT KENNEDY, III, Manager

BY: 
BRANDON PARKER, Manager


Witness


Notary Public
My Commission Expires: _____

[SEAL]



RETURN RECORDED DOCUMENT TO:

SCOTT A. HODGIN
FRANKLIN, TAULBEE, RUSHING, SNIPES & MARSH, LLC
12 SIEBALD STREET
P. O. BOX 327
STATESBORO, GA 30459
(912) 764-9055

Clerk Superior Court, BULLOCH County, Ga.
Pg 01729 Pg 0216-0217

STATE OF GEORGIA

COUNTY OF BULLOCH

**FIRST EXTENSION OF
DECLARATION OF RESTRICTIVE COVENANTS
SMITHCREEK PLANTATION SUBDIVISION**

THIS EXTENSION OF DECLARATION OF PROTECTIVE COVENANTS, made and published this 15th day of February, 2007, by KEN-PARK, LLC, a Georgia limited liability company, hereinafter referred to as "the "Developer".

WITNESSETH:

WHEREAS, KEN-PARK, LLC is the Developer and Owner of Lots 24 through 46 of property know as "Smithcreek Subdivision", as shown on that certain plat recorded in Plat Book 63, Page 172, Bulloch County Records; and

WHEREAS, it is the interest, benefit and advantage of the Developer and to each and every person who shall hereafter purchase any lot in said development that certain protective covenants governing and regulating the use and occupancy of the same be established, set forth and declared to be covenants running with the land.

NOW, THEREFORE, in consideration of the premises, the Developer, its

successors and assigns and these future grantees do hereby name, place and impose certain conditions, restrictions, reservations, easements, liens and charges as more particularly set out in that certain Declaration of Covenants and Restrictions of Smithcreek dated August 23, 2006, and recorded in Deed Book 1685, Page 126, on the following described property in Bulloch County, Georgia, and by reference thereto incorporate all of the contents thereof as fully herein as if included as a part of these declarations, to-wit:

All that certain lot, tract or parcel of land located in the 1547th G. M. District of Bulloch County, Georgia, being known and designated as Lots 24 through 46 of Smithcreek Subdivision as shown on a Final Plat of Smithcreek Subdivision prepared by James M. Anderson, Surveyor, on plat of survey dated July 24, 2006, recorded in Plat Book 63, Page 172, Bulloch County Records.

The aforesaid plat and the description thereon are by reference incorporated herein for a more complete and accurate description.

IN WITNESS WHEREOF, the owner has caused this instrument to be executed the day and year first above written.

KEN-PARK, LLC:

BY: 
EVERETT KENNEDY, III, Manager

BY: 
BRANDON PARKER, Manager

Signed, sealed and delivered
in the presence of:

Witness

Notary Public

My Commission Expires: _____

