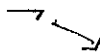


GEORGIA, LUMPKIN COUNTY  
CLERK OF SUPERIOR COURT

Filed 1:00 PM 11-17-05  
Recorded in Deed Book 036 Page 379

*Edward E. Tucker* 389  
EDWARD E. TUCKER, CLERK



Return Recorded Document  
to:

STATE OF GEORGIA)  
COUNTY OF LUMPKIN)

} ss.

BHR Group, LLC  
1275 Ben Higgins Rd.  
Dahlonega, GA 30533

**DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTIONS AND EASEMENTS FOR  
DEERWOODS**

THIS DECLARATION, made this 7th day of September 2005 by BHR Group, LLC, a Georgia Limited Liability Corporation (hereinafter referred to as "Developer").

**WITNESSETH:**

WHEREAS, Developer is the owner of certain real property lying and being "All that tract or parcel of land lying and being in Land Lots 516, 517, 535, and 536 of the 12<sup>th</sup> Land District, 1<sup>st</sup> Section of Lumpkin County, Georgia, containing 101.56 acres, more or less, as shown on a plat survey for Peter M. Lynch and Benjamin R. Dixon, dated October 23, 1967, prepared by Farley-Collins & Associates, recorded in Plat Book 1, Page 144 of the Lumpkin County, Georgia Plat Records." Said plats and the records thereof are incorporated herein by reference for a more complete and accurate description of the subject property.

WHEREAS, Developer desires to provide for architectural, landscaping and maintenance controls to preserve and enhance the property values in DEERWOODS, the aesthetic appearance and architectural harmony of the Property (as hereinafter defined) and the improvements thereon, and to this end desires to subject the real property described in Exhibit A to the covenants, conditions, restrictions, and easements hereinafter set forth, each and all of which is and are for the benefit of the Property and each owner thereof; and

NOW THEREFORE, Developer hereby declares that all of the real property described in Exhibit A attached hereto is hereby subjected to the terms and provisions of this Declaration and shall be held, transferred, sold, mortgaged, conveyed, leased, occupied and used subject to the covenants, conditions, restrictions, and easements hereinafter set forth, which are for the purpose of protecting the value and desirability of, and which shall touch and concern and run with the title to, the real property described in Exhibit A attached hereto, and shall be binding on all persons having any right, title or interest in all or any portion of said real property, their respective heirs, executors, administrators, legal representatives, successors, successors-in-title and assigns, and shall inure to the benefit of each and every owner of all or any portion thereof.

**ARTICLE I  
Definitions**

1.01 "Declaration" shall mean the covenants, conditions, restrictions and easements and all other provisions herein set forth in this entire document, as the same may be amended from time to time.

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1.02 "Developer" shall mean and refer to **BHR Group, LLC.**, a Georgia Corporation, and its successors and assigns. The Developer may transfer all of its rights, privileges and options as Developer to a successor-in-title to all or some portion of the Property, provided any such successor-in-title shall acquire for the purpose of development or sale all or some portion of such property, and provided further that such successor-in-title is designated as the "Developer" hereunder in the instrument of conveyance to any such successor-in-title by the grantor of such conveyance, which grantor shall be the "Developer" hereunder at the time of such conveyance; and provided further that upon such designation of such successor Developer, all rights of the former Developer in and to such status as "Developer" hereunder shall cease, it being understood that there shall be only one "Developer" hereunder at any given time.

1.03 "Lot" or "Lots" shall mean and refer to Tracts One thru Fifteen as shown on a Plat of Survey for **BHR Group, LLC.**, by Kelley Surveying, Georgia Registered Land Surveyor No.2313, of Kelley Land Surveying, Inc. Recorded in Plat Book 1 Page 144 of the Lumpkin County, Georgia Plat Records.

1.04 "Owner" shall mean and refer to the record owner, whether one or more Persons, including Developer, of the fee simple title to any Lot, but excluding those persons having such an interest under a Mortgage.

1.05 "Person" shall mean and refer to a natural person, corporation, partnership, Limited Liability Company, association, trust or other legal entity, or any combination thereof.

1.06 Plat" shall mean and refer to that certain "All that tract or parcel of land lying and being in Land Lots 516, 517, 535, and 536 of the 12<sup>th</sup> Land District, 1<sup>st</sup> Section of Lumpkin County, Georgia, containing 101.56 acres, more or less, as shown on a plat survey for Peter M. Lynch and Benjamin R. Dixon, dated October 23, 1967, prepared by Farley-Collins & Associates, recorded in Plat Book 1, Page 144 of the Lumpkin County, Georgia Plat Records." Said plats and the records thereof are incorporated herein by reference for a more complete and accurate description of the subject property as the same may be revised or amended from time to time.

1.07 "Property" shall mean and refer to that tract or parcel of land described herein as Deerwoods and recorded in Plat Book "All that tract or parcel of land lying and being in Land Lots 516, 517, 535, and 536 of the 12<sup>th</sup> Land District, 1<sup>st</sup> Section of Lumpkin County, Georgia, containing 101.56 acres, more or less, as shown on a plat survey for Peter M. Lynch and Benjamin R. Dixon, dated October 23, 1967, prepared by Farley-Collins & Associates, recorded in Plat Book 1, Page 144 of the Lumpkin County, Georgia Plat Records." Said plats and the records thereof are incorporated herein by reference for a more complete and accurate description of the subject property.

1.08 "Structure" shall mean and refer to: (i) any thing or object, the placement of which upon any Lot may affect the appearance of such Lot, including by way of illustration and not limitation, any building or part thereof, garage, porch, gazebo, shed, greenhouse or bathhouse, covered or uncovered patio, swimming pool, tennis court, basketball goal, fence, curbing, paving, wall, tree, shrub, sign, signboard, satellite dish, mailbox, driveway, temporary or permanent living quarters (including any house trailer or manufactured home), or any other temporary or permanent improvement to such Lot; (ii) any excavation, grading, fill ditch, diversion, dam, or other thing, object or device which affects or alters the natural flow of surface waters from, upon or across any Lot, or which affects or alters the flow of any waters in any natural or artificial creek, stream, wash or drainage channel from, upon or across any Lot; and (iii) any change in grade at any point on a Lot of more than six (6) inches.

1.09 "Subdivision" shall mean and refer to **DEERWOODS**.

## **ARTICLE II Development**

2.01 Development of Property. Except as otherwise set forth in this Declaration all Lots within the Subdivision shall be and are hereby restricted exclusively to single-family residential use and shall be subject to the standards and restrictions set forth in this Declaration. Developer shall have the right, but not the obligation, for so long as Developer owns any Lot primarily for the purpose of sale, to make improvements and changes to all Lots owned by Developer, including, without limitation, installation and maintenance of any water, drainage, sewer and other utility systems and facilities.

2.02 Interest Subject to Plan of Development. Every purchaser of a Lot shall purchase such Lot and every Mortgagee and lien holder holding an interest therein shall take title, or hold such security interest with respect thereto, with notice of this Declaration. Any provision of this Declaration to the contrary notwithstanding, the provisions of this Article II may not be abrogated, modified, rescinded, supplemented or amended in whole or in part without the prior written consent of Developer, so long as Developer owns a Lot primarily for sale.

## **ARTICLE III Property Rights and Easements**

3.01 General. Each Lot for all purposes shall constitute real property which shall be owned in fee simple and which, subject to the provisions of this Declaration, may be conveyed, transferred and encumbered the same as any other real property. Each Lot in the Subdivision shall be subject to those privileges, rights, restrictions and easements, if any, which are shown on the Plat as affecting such Lot, and such privileges, rights, restrictions and easements set forth herein.

## **ARTICLE IV Maintenance and Insurance**

4.0 Responsibilities of Owners. Unless specifically identified herein as being the responsibility of another Person, all maintenance and repair of Lots, together with all other improvements thereon or therein, exterior or interior, shall be the responsibility of the Owner of such Lot. Each Owner shall be responsible for maintaining his or its Lot in a neat, clean and sanitary condition, and such responsibility shall include, but not be limited to, the maintenance and care of all interior and exterior surfaces of all improvements, buildings and other structures located on the Lot (including repainting) and all landscaping. No building or Structure shall be permitted to fall into disrepair and each building and Structure on a Lot shall at all times be kept in good condition and repair and adequately painted or otherwise finished.

4.01 Costs. Each Owner shall also be obligated to pay for the costs incurred by other Owners for repairing, replacing, maintaining or cleaning any item which is the responsibility of such Owner but which responsibility such Owner fails or refuses to discharge.

**ARTICLE V**  
**Architectural Standards and Guidelines**

5.0 Purpose. In order to preserve the natural setting and beauty of the Subdivision, to establish and preserve a harmonious and aesthetically pleasing design for the Subdivision and to protect and promote the value of the Property, the Lots and all improvements located therein or thereon shall be subject to the restrictions set forth in this Article V. Every grantee of any interest in the Property, by acceptance of a deed or other conveyance of such interest, agrees to be bound by the provisions of this Article V.

5.01 Standards and Guidelines. The following standards and guidelines shall apply to the Subdivision:

(a) Architectural Design Guidelines.

(1) All homes and other Structures shall be site built of a conventional construction and shall be of traditional, contemporary, or rustic design, and homes shall be designed and constructed to have no less than 2,300 square feet of heated floor space on one level (Ranch dwelling) and no less than 2800 square feet of heated floor space on two (2) levels.

(2) Each home shall have central heating and air conditioning.

(3) BHR Group shall serve as an architectural committee and will approve all plans for each and every building and/or dwelling.

(b) Site Design Guidelines.

(1) Site preparation for construction of homes and other Structures shall be performed to minimize the flow of surface and storm water from one Lot to another. Sheet flow of water from one Lot to another is prohibited. The drainage for each Lot shall be designed and constructed to prevent silt.

(2) If horses are to be kept on property, fencing shall be sufficient for said horses and any, barn or stable for such horses shall be constructed on the Lot, the design and construction of which shall be of sufficient size to house all horses.

5.02 Building Restrictions. All Structures and other improvements shall be constructed in compliance with any and all applicable state, county and municipal zoning and building ordinances, codes, regulations and restrictions. The buildings, structures and improvements on the Lots, and the enclosed, heated living area (exclusive of garages, carports, porches, terraces, bulk-storage and basement) of residences constructed on the Lots, shall comply with the minimum building restrictions contained in the **Lumpkin County, Georgia** zoning conditions and requirements, as of the date of this Declaration, and as the same may be amended or revised, affecting the Property.

**ARTICLE VI**  
**General Covenants and Use Restrictions**

6.01 General. This Article sets forth certain use restrictions with respect to the Property that must be complied with by all Owners and occupants of Lots. Every grantee of

any interest in the Property, by acceptance of a deed or other conveyance of such interest, agrees to be bound by the provisions of this Article VI.

6.02 Residential or Business Use. Lots five through fifteen shall be used for single family residential purposes only, with only one residence constructed on each Lot, and no trade or business of any kind may be carried on therein, nor may any Owner run, operate, maintain or control his business from his Lot; provided that, the use of a portion of a residence as a home office or for "work at home" by an Owner or his tenant shall not be considered to be a violation of this covenant if such use is in conformance with all applicable zoning laws affecting the Property, does not unduly increase traffic flow or parking congestion and does not create regular customer, client or employee traffic or otherwise create a nuisance. The use of a residence or a portion thereof for business meetings, entertainment or the enjoyment or business of the Owner's employees, trustees, agents, clients or customers shall not be considered to be a violation of this covenant if such use is in conformance with all applicable zoning laws affecting the Property, does not unduly increase traffic flow or parking congestion and does not create regular customer, client or employee traffic or otherwise create a nuisance. Lots numbered one through four may be used for business purposes so long as access is directly from Ben Higgins Rd and not Twin Fawns Trail.

6.03 Site Built. All home places on a Lot shall be site built, and no mobile homes, manufactured homes, modular homes, or home moved from another location to the Lot shall be permitted on a Lot.

6.04 Subdivision of Lots. Lots shall not be subdivided to a size of less than 3 acres per lot, Lots may be combined to make larger Lots.

6.05 Construction of Improvements. Construction of all Structures on a Lot shall be completed within one (1) year of the commencement date of said construction. If any Structure on a Lot is not completed within such period, any Owner of a Lot or a group of Owners of Lots acting together, shall have the right, but not the obligation, to enter upon said Lot and to take such action as is necessary to secure and/or complete construction of said Structure, with the Owner of such Lot being personally liable to the Owner or Owners of the other Lot(s) taking such action, for the direct and indirect costs of securing the Structure and/or completing said Structure. The Owner or Owners of the other Lot(s) shall give notice to the Owner of such Lot prior to commencing any work.

6.06 Temporary Buildings; Accessory Structures. No temporary building, trailer, garage or building under construction shall be used, temporarily or permanently, as a residence on any Lot. No Structure of a temporary character, trailer, tent, shack, garage, barn, shed, or other outbuildings shall be permitted on the Property, permanently or temporarily.

6.07 Erosion Control. No activity that may create erosion or silt problems shall be undertaken on any Lot.

6.08 Antennae. In no event shall freestanding transmission or receiving towers be permitted.

6.09 Pets. Except for horses, no animals, livestock, birds or poultry of any kind shall be raised, bred or kept by any Owner upon any portion of the Property, provided that generally recognized house pets may be kept in residences, and further provided that such pet or pets are kept or maintained solely as domestic pets and not for any commercial purpose. No pet shall be allowed to make an unreasonable amount of noise or to become a nuisance. No pet shall be permitted to leave its droppings on any other Lot. All outdoor pets must be kept within a fenced area on a Lot.

6.10 Horses. Horses may be kept on a Minimum Three Acre Lot; provided that, if horses are to be kept on Lots, the Lot shall be fenced and a barn or stable for such horses shall be constructed on the Lot, of sufficient size to house all horses.

6.11 Nuisances. No rubbish or debris of any kind shall be dumped, placed or permitted to accumulate upon any portion of the Property, nor shall any nuisance or odors be permitted to exist or operate upon or arise from the Property, so as to render any portion thereof unsanitary, unsightly, offensive or detrimental to persons using or occupying any other portions of the Property. Noxious or offensive activities shall not be carried on in any Lot and each Owner, his family, tenants, guests, invitees, servants and agents shall refrain from any act or use of a Lot which could cause disorderly, unsightly or unkempt conditions, or which could cause embarrassment, discomfort, annoyance or nuisance to the occupants of other portions of the Subdivision or which would be in violation of any law or governmental code or regulation. Without limiting the generality of the foregoing provisions, no exterior speakers, horns, whistles, bells or other sound devices, except security and fire alarm devices used exclusively for such purposes, shall be located, used or placed within the Property. No hunting, target practice or other discharge of a firearm will be permitted at anytime. No bow and arrows, or other hunting/sportsman activities that may involve the use of dangerous or lethal "weapons" is permitted for use on the Property at anytime.

6.12 Screening. All trash and garbage containers, except on the days which such trash or garbage is collected, shall be placed either in the home or garage. Dumpsters shall not be permitted on any Lot, except during a period of construction. Lawn mowers, lawn tractors and other yard equipment shall be kept in the garage when not in use.

6.20 Motor Vehicles. Trailers. Boats. Etc. No vehicle without a current year tag, nor any vehicle which is inoperable, shall be permitted to remain on any Lot. No Owners or other occupants of any portion of the Property shall repair or restore any vehicle of any kind upon or within any Lot except (i) within enclosed garages or workshops. Mobile homes, including manufactured homes and trailers, with or without wheels, and similar items are not permitted to be parked or stored in driveways or roads at any time.

6.21 Hobbies or Activities. The pursuit of hobbies or activities which might tend to or do cause disorderly, unsightly or unkempt conditions shall not be undertaken on or in any Structure, Lot, yard, driveway, garage, or other place where such activity is visible from any road or other Lot.

6.22 Occupants Bound. The provisions of this Declaration shall also apply to all occupants of any Lot, whether or not specifically mentioned herein.

6.23 Zoning and Private Restrictions. None of the covenants, restrictions or easements created or imposed by this Declaration shall be construed as permitting any action prohibited by applicable zoning laws, or by the laws, rules or regulations of any governmental body having jurisdiction over the Property. In the event of any conflict between such laws, rules or regulations and the covenants, restrictions and easements created or imposed by this Declaration, the more restrictive provision shall govern and control.

6.24 Adjoining Landowners. Any person or person which owns land adjoining any lot of DEERWOODS and purchases said lot shall be bound by all covenants and restrictions unless contract for such purchase was signed and accepted by Developer prior to final approval of Deerwoods by Lumpkin County Planning Commission.

6.25 Utilities. It shall be the responsibility of the lot owner to provide utilities to said lot and residence. Owner must provide well for water, propane for gas and provide for electricity from the road to their specific homestead site.

6.26 Road. The developers will provide a paved road into the subdivision which abuts lots numbered one, and five through fifteen providing access to each of these lots. The road will be built according to County specifications. Lots two, three and four will have access from Ben Higgins Road to be provided by the subsequent owners. The subsequent owners will be responsible for maintaining and repairing the road and the decision to turn the road over to Lumpkin County or maintain it as a private road. The subsequent owners shall make this decision as soon as possible after the last parcel is sold.

## **ARTICLE VII Enforcement**

7.01 Enforcement. Each Owner and his family, tenants, guests and invitees shall comply strictly with the covenants, conditions, restrictions and easements set forth in this Declaration, as the same may be amended from time to time, and in the deed or other instrument of conveyance to his Lot, if any. Failure to comply with the provisions of this Declaration shall be grounds for instituting an action to recover sums due, for damages and/or for injunctive relief, such actions to be maintainable by the Developer, for so long as Developer owns any Lot primarily for the purpose of sale, or, in a proper case, by an aggrieved Owner or group of Owners. Should Developer or an aggrieved Owner or Owners employ legal counsel to enforce any of the foregoing, all costs incurred in such enforcement, including court costs and reasonable attorneys fees actually incurred, shall be paid by the violating Owner on demand, it being understood and agreed that such Owner shall be personally liable for such costs and expenses, together with damages for such breach. Inasmuch as the enforcement of the provisions of this Declaration are essential for the effectuation of the general plan of development contemplated hereby and for the protection of present and future Owners, it is hereby declared that any breach thereof may not adequately be compensated by recovery of damages and that Developer or any aggrieved Owner, in addition to all other remedies, may require and shall be entitled to the remedy of injunction to restrain any such violation or breach or any threatened violation or breach. No delay, failure or omission on the part of Developer or any aggrieved Owner in exercising any right, power or remedy herein provided shall be construed as an acquiescence thereto or shall be deemed a waiver of the right to enforce such right, power or remedy thereafter as to the same violation or breach, or as to a violation or breach occurring prior or subsequent thereto, and shall not bar or affect its enforcement. No right of action shall accrue nor shall any action be brought or maintained by anyone whatsoever against Developer or any Owner for or on account of any failure to bring any action on account of any violation or breach, or threatened violation or breach, by any person of the provisions of this Declaration, however long continued.

7.02 Self-Help. In addition to any other remedies provided for herein, the Developer, for so long as Developer owns any Lot primarily for the purpose of sale, or its or their duly authorized agents, shall have the power to enter upon a Lot to abate or remove, using such force as may be reasonably necessary, any erection, thing or condition which violates this Declaration. Unless an emergency situation exists, the Developer shall give the violating Owner ten (10) days' written notice of its intent to exercise self-help. If the Owner shall not have taken reasonable steps toward the cure or remediation of the violation complained of within such ten (10) day period, then the Developer shall have the right to exercise self-help without further notice or any hearing. All costs of self-help, including court costs and reasonable attorneys' fees, shall be assessed against the violating Owner and payable on demand.

## **ARTICLE VIII**

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## General Provisions

8.01 Amendments by Developer. During any period in which Developer owns a Lot primarily for sale, Developer may unilaterally amend this Declaration by an instrument in writing filed and recorded in the records of the Office of the Clerk of the Superior Court of Lumpkin County, Georgia without the approval of any Owner or Mortgagee; provided, however, that (i) in the event that such amendment materially alters or changes any Owner's right to the use and enjoyment of his Lot as set forth in this Declaration or adversely affects the title to any Lot, such amendment shall be valid only upon the written consent thereto by a majority in number of the then existing Owners affected thereby, or (ii) in the event that such amendment materially and adversely affects the security title and interest of any Mortgagee, such amendment shall be valid only upon the written consent thereto of all such Mortgagees so affected. Every Owner of a Lot, by acceptance of a deed or other conveyance therefore, thereby agrees that Developer may unilaterally amend this Declaration, subject to the provisions of subsections (i) and (ii), above, and to this end, every Owner hereby constitutes and appoints Developer the agent and attorney-in-fact of Owner to unilaterally amend this Declaration, subject to the foregoing subsections, and all the acts and doings of said agent and attorney-in-fact are hereby ratified and confirmed. The aforesaid agency hereby granted is coupled with an interest and is irrevocable by death or otherwise. Any amendment made pursuant to this Section 8.01 shall be certified by Developer as having been duly approved by Developer, and by such Owners and Mortgagees if required, and shall be effective only upon recordation or at such later date as shall be specified in the amendment itself. Each Owner, by acceptance of a deed or other conveyance to a Lot, agrees to be bound by such amendments as are permitted by this Section 8.01 and further agrees that, if requested to do so by Developer, such Owner will consent to the amendment of this Declaration or any other instruments relating to the Property (A) if such amendment is necessary to bring any provision hereof or thereof into compliance or conformity with the provisions of any applicable governmental statute, rule or regulation or any judicial determination which shall be in conflict therewith, (B) if such amendment is necessary to enable any reputable title insurance company to issue title insurance coverage with respect to any Lots subject to this Declaration, (C) if such amendment is required by an institutional or governmental lender or purchaser of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase mortgage loans on any Lot or other improvements subject to this Declaration, (D) if any such amendment is necessary to enable any governmental agency or reputable private insurance company to insure Mortgages on the Lots or other improvements subject to this Declaration, or (F) if such amendment is necessary to correct a scrivener's error in the drafting of this Declaration.

8.02 Amendments by Owners. The Owners of the Lots shall have the right to amend this Declaration by a majority vote of the Owners, but, in no event, shall more than one vote be cast for each Lot owned; provided that, the Developer, so long as the Developer owns a Lot primarily for sale, any such amendment shall require the affirmative, written consent of the Developer; and, further provided that, any such amendment that (i) materially alters or changes any Owner's right to the use and enjoyment of his Lot as set forth in this Declaration or adversely affects the title to any Lot, such amendment shall be valid only upon the written consent thereto by the Owner or Owners affected thereby, or (ii) in the event that such amendment materially and adversely affects the security title and interest of any Mortgagee, such amendment shall be valid only upon the written consent thereto of all such Mortgagees so affected.

8.03 Declaration Runs With Property. The provisions of this Declaration shall run with and bind title to the Property, shall be binding upon and inure to the benefit of all Owners and Mortgagees and their respective heirs, executors, administrators, legal representatives, successors and assigns. Every purchaser or grantee of any interest in the Property, by



acceptance of a deed or other conveyance therefor, thereby agrees that the provisions of this Declaration shall run with and bind title to the Property.

8.04 Term. This Declaration shall expire and shall have no further force or effect after twenty (20) years after the date of recording of this Declaration. However the then owners of the properties may renew this document, as they shall agree by majority rule.

8.05 Perpetuities. If any of the covenants, conditions, restrictions or other provisions of this Declaration shall be unlawful, void or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of United States President George W. Bush.

8.06 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. The provisions of this Declaration shall be given full force and effect notwithstanding the existence of any zoning ordinance or building codes which are less restrictive. The effective date of this Declaration shall be the date of its filing for record in the records of the Clerk of the Superior Court of Lumpkin County, Georgia. 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. This Declaration shall be construed under and in accordance with the laws of the State of Georgia.

8.07 Gender and Grammar. The singular wherever used herein shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations or other entities or to individuals, men or women, shall in all cases be assumed as though in each case fully expressed.

8.08 Severability. Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be effective and valid, but if the application of any provision of this Declaration to any person or to any property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given effect without the invalid provision or application, and to this end the provisions of this Declaration are declared to be severable.

8.09 Rights of Third Parties. This Declaration shall be recorded for the benefit of Developer, the Owners and their Mortgagees as herein provided, and by such recording, no adjoining property owner or third party shall have any right, title or interest whatsoever in the Property or in the operation or continuation thereof or in the enforcement of any of the provisions hereof, and, subject to the rights of Developer and Mortgagees as herein provided, the Owners shall have the right to extend, modify, amend or otherwise change the provisions of this Declaration without the consent, permission or approval of any adjoining owner or third party.

8.10 No Trespass. Whenever the Developer and their respective successors, assigns, agents or employees are permitted by this Declaration to enter upon or correct, repair, clean, maintain, preserve or do any other action within any portion of the Property, the entering thereon and the taking of such action shall not be deemed to be a trespass.

8.11 Notices. Notices required hereunder shall be in writing and shall be delivered by hand or sent by United States Mail, postage prepaid. All notices to Owners shall be delivered or sent to the addresses of such Owners' respective Lots. Notices sent by United

States Mail shall be deemed effective on the third day after mailing. Notices delivered in person shall be effective on the date of delivery. All notices to Developer shall be delivered or sent to 1275 Ben Higgins Road, Dahlonega Georgia 30533 or to such other address as Developer may from time to time notify the Owners. Notices to Mortgagees shall be delivered or sent to such addresses as such Mortgagees specify in writing to the Owners, the Developer.

8.12 No Liability. Developer has, using best efforts and all due diligence, prepared and recorded this Declaration so that each and every Owner shall have the right and the power to enforce the terms and provisions of this Declaration against every other Owner. However, in the event that this Declaration is, for any reason whatsoever, unenforceable by an Owner (or any other person) in a court of law or otherwise, Developer shall have no liability of any kind as a result of such unenforceability, and each and every Owner, by acceptance of a deed conveying a Lot, acknowledges that Developer shall have no such liability.

8.13 Security. NOTWITHSTANDING ANY PRIVACY WALL AND/OR FENCE SERVING THE SUBDIVISION, DEVELOPER MAKES NO REPRESENTATIONS OR WARRANTIES WITH REGARD TO THE EFFICACY OF SUCH STRUCTURES FROM A SAFETY OR SECURITY STANDPOINT. EACH OWNER, OCCUPANT, GUEST OR INVITEE, AS APPLICABLE, ACKNOWLEDGES AND UNDERSTANDS THAT THE DEVELOPER IS NOT AN INSURER AND THAT EACH OWNER, OCCUPANT, GUEST AND INVITEE ASSUMES ALL RISKS OF PERSONAL INJURY AND PROPERTY DAMAGE.

**IN WITNESS WHEREOF**, Developer has caused this Declaration to be executed in its name under seal, as of the day and year first above written.

Signed, sealed and delivered in the presence of:

DEVELOPER:

The BHR Group, LLC.

By: Janet L. Hunter (Seal)  
Janet L. Hunter

Kathleen R. Manzella  
Kathleen R. Manzella

Terisa Haeger  
Unofficial Witness

Sworn to and subscribed before me this the 17<sup>th</sup> day of November, 2005.

Adrienne Avery  
Notary Public  
Commission Expiration Date:



## EXHIBIT A

Legal Description:

"All that tract or parcel of land lying and being in Land Lots 516, 517, 535, and 536 of the 12<sup>th</sup> Land District, 1<sup>st</sup> Section of Lumpkin County, Georgia, containing 101.56 acres, more or less, as shown on a plat survey for Peter M. Lynch and Benjamin R. Dixon, dated October 23, 1967, prepared by Farley-Collins & Associates, recorded in Plat Book 1, Page 144 of the Lumpkin County, Georgia Plat Records."

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