



20051027000730260 1/28 \$87.25
Madison Cnty Judge of Probate, AL
10/27/2005 12:34:23PM FILED/CERT

DECLARATION
OF
COVENANTS, CONDITIONS AND
RESTRICTIONS
FOR
WOODMILL TRACE TOWNHOMES

+ This instrument prepared by:
Keith S. Jones
WOLFE, JONES & BOSWELL
905 Bob Wallace Avenue
Huntsville, Alabama 35801
(256) 534-2205

CONTENTS

ARTICLE	SECTION	PAGE
I.	DEFINITIONS	
	1. Association	5
	2. Properties	5
	3. Owner	5
	4. Common Area	5
	5. Area of Common Responsibility	5
	6. Lot	5
	7. Mortgage or Mortgagee	5
II.	PLAN OF DEVELOPMENT	
	1. Phase I.	6
	2. Subsequent Phases.	6
	3. Incremental Development	6
III.	PROPERTY RIGHTS	
	1. Owner's Easement of Enjoyment.	6
	2. Delegation of Use.	8
	3. Owner's Right to Ingress, Egress and Support and Easements Therefore	8
	4. Easements of Encroachment	9
	5. Use of Common Area	9
	6. Rules and Regulations.	9
	7. Lot Use and Building Restrictions	10
IV.	ASSOCIATION MEMBERSHIP AND VOTING RIGHTS	
	1. Membership	12
	2. Voting	13
V.	MAINTENANCE	
	1. Association's Responsibility	13
	2. Owner Responsibility	13
VI.	INSURANCE AND CASUALTY LOSSES	
	1. Insureds	14
	2. Coverage	14
	3. Premiums and Deductibles	15
	4. Proceeds	15
	5. Individual Insurance	15
VII.	ANNEXATION AND TRANSFER OF PROPERTY	15
VIII.	RIGHTS AND OBLIGATIONS OF THE ASSOCIATION	
	1. The Common Area and Area of Common Responsibility	16
	2. Personal Property and Real Property for Common Use	16
	3. Implied Rights	16
IX.	ASSESSMENTS	
	1. Annual Assessment.	17
	2. Creation of the Lien and Personal Obligation of Assessments	17
	3. Computation of the Annual Assessment	18
	4. Special Assessments.	18
	5. Notice of Meeting.	18
	6. Lien for Assessments	18
	7. Effect of Nonpayment of Assessments	18

	Remedies of the Association	19
8.	Date of Commencement of Annual Assessments	19
9.	Notice of Assessment Status.	20
X.	PARTY WALLS	
1.	General Rules of Law to Apply.	20
2.	Sharing of Repair and Maintenance.	20
3.	Weatherproofing.	20
4.	Right to Contribution Runs with Land	20
XI.	ARCHITECTURAL CONTROL COMMITTEE	
1.	Committee Membership	21
2.	Committee Authority.	21
XII.	GENERAL PROVISIONS	
1.	Enforcement.	21
2.	Severability	22
3.	Covenants, Conditions and Restrictions Run with Land	22
4.	Notice of Sale, Lease or Mortgage.	22
5.	Amendments	22
6.	Indemnification.	23
XIII.	MORTGAGE PROVISIONS	
1.	Consent of Owners Required	23
2.	Payment of Taxes	24
3.	No Priority.	24
4.	Notice of Default	24
5.	Management Agreement Limitations	25
EXHIBIT A		24

DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
WOODMILL TRACE TOWNHOMES

This Declaration of Covenants, Conditions and Restrictions for Woodmill Trace Townhomes is made this 26th day of OCTOBER, 2005, by Diltina Development, Inc., an Alabama corporation, hereinafter collectively together with any successors who may take the properties described herein for purpose of development and hereinafter referred to as Declarant.

WITNESSETH:

WHEREAS, Declarant is the owner of the real property described in Exhibit "A" attached hereto and incorporated herein by reference. Declarant desires to subject said property to the provisions of this Declaration and to create thereon a community of single family attached housing. Declarant desires to provide a flexible and reasonable procedure for the overall development of the property and to establish a method for the administration, maintenance, preservation, use, and enjoyment of such property as is now or may hereafter be submitted to this Declaration.

NOW, THEREFORE, Declarant hereby declares that all of the property described in Exhibit "A" and any additional property as may by subsequent amendment be added to and subjected to this Declaration, hereinafter "Properties", shall be held, sold, and conveyed subject to the following easements, restrictions, covenants and conditions which are for the purpose of protecting the value and desirability of and which shall run with the real property submitted to this Declaration and which shall be binding on all parties having any right, title, or interest in the described properties or any part thereof, their heirs, successors, successor-in-title and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

Definitions

Section 1.

Association shall mean and refer to Woodmill Trace Townhomes Owners Association, Inc., an Alabama nonprofit corporation, its successors and assigns. The Board of Directors, shall be the elected body having its normal meaning under Alabama corporate law.

Section 2.

Properties shall mean and refer to the real property described in Exhibit "A" attached hereto and shall further refer to such additional property as may hereafter be annexed by amendment to this Declaration.

Section 3.

Owner shall mean and refer to the record owner, whether one or more persons or entitled, of any Lot which is part of the Properties but excluding in all cases any party holding the fee simple title merely as security for the performance of an obligation.

Section 4.

Common Area shall mean all real and personal property and easements and other interest herein, together with the facilities and improvements located thereon, now or hereafter owned by the Association for the common use and enjoyment of the Owners.

Section 5.

Area of Common Responsibility shall mean and refer to the Common Area together with those areas, if any, which become the responsibility of the Association.

Section 6.

Lot shall mean a portion of the Properties other than the Common Area intended for any type of independent ownership, use and occupancy as a residence by a single household. Lots shall be shown on the plats of survey which have been or will be subsequently filed, or amendments thereto.

Section 7.

Mortgage or Mortgagee. Mortgage shall mean and refer to a contract by which an

Owner of real estate binds his Lot (and improvements thereon) in favor of a lender to secure a debt such Owner owes to the lender. Mortgagee shall refer to the holder of the mortgage who is entitled to such payment under such mortgage.

ARTICLE II

Plan of Development

Section 1. Phase 1

The improvements of Phase I shall consist of nineteen (37) town homes and shall be constructed by Declarant substantially in accordance with legal description and proposed site plan at Exhibit "B" attached hereto and made a part hereof.

This Declaration may be amended as to the Phase I improvements by the filing of such additional plans as may be required to accurately describe the improvements of Phase I. No such amendment shall change the location of any town home, after such town home has been deeded by Declarant, without the prior written consent of the Owner and the mortgagee thereof, if any.

Section 2. Subsequent Phases

Subsequent phases, if developed, shall be constructed in substantial conformity with the plans and specifications of Phase I to include architectural style and size of townhouses.

Section 3. Incremental Development

Declarant, in its sole discretion, may develop the project on an incremental basis by filing amendments to this Declaration at the time of or before the recordation of the first conveyance of a town home in any subsequent phase.

ARTICLE III

Property Rights

Section 1. Owner's Easement of Enjoyment.

Every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to easements reserved for the Declarant and to the following provisions:

- (a) The right of the Association to charge reasonable admission and other fees for

the use of any facility now or hereafter situated or constructed upon the Common Area.

(b) The right of the Association to suspend an Owner's voting rights and right to use the facilities for any period during which any assessment of the Association, or of any other association, if any, as may be made a part of the Properties, against said Owner's Lot remains unpaid, and for any infraction by an Owner of the Association's rules and regulations for the duration of the infraction and for an additional period thereafter not to exceed thirty (30) days.

(c) The right of the Declarant with regard to the Properties which may be owned for the purpose of development to grant easements in and to the Common Area contained within the Properties to any public agency, authority or utility for such purposes as in Declarant's discretion benefit the Properties or portions thereof and the Owners thereof.

(d) The right of the Association to borrow money for the purpose of improving the Properties or any portion thereof, or acquiring additional Common Area, or for constructing, repairing or improving any facilities located or to be located on the Properties, and to get as security for the payment of any such loan a mortgage conveying all or any portion of the Common Area; provided, however, that the lien and encumbrance of any such mortgage given by the Association shall be subject and subordinate to any and all rights, interests, options, easements and privileges herein reserved or established for the benefit of Declarant or any Owner, and to the holder of any mortgage, irrespective of when executed, given by Declarant or any Owner encumbering any Lot or other property located within Woodmill Trace Townhomes.

(e) The right of the Association to dedicate or transfer all or any portion of the Common Area to any public agency, authority or utility for such purpose and subject to such conditions as may be agreed to by the members of the Association. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer (1) has been signed by at least seventy-five percent (75%) of the votes which the members of the Association present or represented by proxy are entitled to cast at a meeting duly called for such purpose, and (2) has

been accepted by the appropriate agency of government to which it is dedicated or transferred.

(f) The right of Declarant and its successors or assigns to use the Common Area, including, without limitation, all roadways and streets, for ingress and egress to developed and undeveloped parts of Woodmill Trace Town homes for all lawful purposes, including, without limitation, for constructing, maintaining, repairing or building roadways and streets, sidewalks, entrance walks, mail boxes (if in central locations), lighting, recreational amenities, residences, buildings, maintenance facilities or any other improvements.

Section 2. Delegation of Use.

Any Owner may delegate in writing his or, her right of enjoyment to the Common Area and facilities to the members of his or her family, tenants and social invitees subject to reasonable regulation by the Board and only in accordance with procedure the Board may adopt. The maximum number of social invitees shall be two unless special arrangements in writing are made with the Board.

Section 3. Owner's Right to Ingress, Egress and Support and Easements Therefor

Each owner shall have the right to ingress and egress over, upon and across the Common Area necessary for access to his or her Lot and shall have the right to lateral support. Such rights shall be appurtenant to, shall run with the land and shall pass with the title to each Lot. For the purpose of exercising said rights and for maintenance as hereinafter set out, the Declarant hereby grants to the Woodmill Trace Town homes Home Owners Association, Inc., and to each Lot Owner a permanent easement over, upon and across that portion of the real property as described in Exhibit "A" over which said sidewalks pass.

Each owner of any Lot over which said sidewalks pass, whether or not it shall be so expressed in such deed, is deemed to have granted to the Association and to the other Lot Owners a permanent easement of ingress and egress over, upon and across said sidewalks. Said easements shall be appurtenant to, shall run with the land and shall pass with the title to each Lot.

Section 4. Easements of Encroachment

The Declarant shall construct on each of the aforesaid lots a townhouse and garage. In the matter of the construction and completion of each of said townhouses, and garages, certain eaves, siding, roof overhangs, utility meters and brick veneer attached to the structural walls will or may encroach over into the air space and onto the property of an adjoining or contiguous lot. There is hereby created on each of said lots so affected an easement for said encroachments or overhangs created by said construction. In addition to the valid easements for each of said encroachments or overhangs, there is also granted the right to maintain and repair, the same so long as said encroachments and overhangs shall and do exist. In the further event that any structure comprising a said townhouse is totally destroyed and then rebuilt, the Owners of said townhouse so affected agree that said encroachments and easements shall be permitted in the matter of the reconstruction and the right of maintenance shall continue to exist. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat. There shall be reciprocal appurtenant easements between adjacent Lots for the maintenance and repair of a party wall or walls or fence or fences, if any.

Section 5. Use of Common Area

Except for the right of ingress and egress as set out above, the Owners are hereby prohibited and restricted from using any of the Properties outside their respective Lots except as may be allowed by the Association's Board of Directors or as may be expressly permitted in this Declaration or the By-Laws.

Section 6. Rules and Regulations

The Board of Directors may establish reasonable rules and regulations concerning the use of the Common Area and Area of Common Responsibility and facilities located thereon, including the imposition of reasonable user fees and limits upon the number of permitted guests. Additionally, the Board of Directors may establish rules and regulations concerning use of the Lots, including architectural and environmental controls. Copies of such regulations and amendments thereto shall be furnished by the Association to all Owners prior to the rule's effective date. Such regulations shall be binding upon the Owners, their families, tenants, guests, invitees and agents until and unless such regulation, rule or requirement be specifically overruled, canceled or modified by the Board or, in a regular or special meeting, by the vote of

the members. The Board shall have the authority to impose reasonable monetary fines and other sanctions, and monetary fines may be collected by lien and fore-closure as provided in Article IX.

Section 7. Lot Use and Building Restrictions.

Except as may be otherwise expressly provided in this Declaration, each Lot shall be used for residential purposes only, and no trade or business of any kind may be conducted. Lease or rental of a Lot or any building thereon for residential purposes shall not be considered to be a violation of this Covenant so long as the lease is in compliance with reasonable rules and regulations as the Board of Directors may promulgate. Any lessee or tenant shall in all respects be subject to the terms and conditions of this Declaration, the By-Laws, and the rules and regulations adopted hereunder. Without the prior written consent of the Association's Board of Directors, nothing shall be done or kept in any Lot or in the Common Area or any part thereof to increase the rate of insurance on the Properties or any part thereof over what the Association, but for such activity, would pay. Noxious, destructive or offensive activity or any activity constituting an unreasonable source of annoyance shall not be carried on in any Lot or in the Common Area or any part thereof, and the Association shall have standing to initiate legal proceedings to abate such activity. Each Owner shall refrain from any act or use of his or her Lot which could reasonably cause embarrassment/ discomfort or annoyance to other Owners, and the Board of Directors shall have the power to make and to enforce reasonable rules and regulations in furtherance of this provision.

No structure of a temporary character, mobile home, basement, tent, shack, garage, barn or other outbuilding shall be used on any lot at any time as a residence, either temporarily or permanently. The utility buildings and garages of the original plans and construction do not apply here.

Woodland Homes of Huntsville, Inc., or their designee shall be allowed to advertise the property during the construction and sales period with a sign of not more than five square feet advertising the property for sale or rent. Subsequent to all homes being constructed, all signs shall be displayed in windows with no yard signs permitted.

No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any lot, nor shall oil wells, tanks, tunnels, mineral

excavations or shafts be permitted upon or in any lot. No derrick or other structure designed for use in boring for oil, or any other substance, shall be erected, maintained or permitted upon any lot.

No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or other household pets may be kept, provided that they are not kept, bred or maintained for any commercial purposes. All pet owners shall be responsible for sanitation and clean-up associated with their pets to include clean-up in outside areas.

No lot shall be used or maintained as a dumping ground for rubbish, trash, garbage, or other waste, and same shall not be kept on any lot except in sanitary containers. All incinerators or other equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition.

No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two (2) and six (6) 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 (25) feet from the intersection of the street lines, or in the case of a rounded property corner from the intersection of the street lines extended, except as provided in the plat. The same sight line limitations shall apply on any lot within ten (10) 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, and the contrary herein notwithstanding, no fence or wall shall be located any closer to the street than the minimum building setback line.

Each Townhome shall have four (4) designated parking areas which shall include two (2) in the garage and two (2) in the driveway. These areas are the only areas designated for Owners as Owners shall not be allowed to use the streets or alley ways for parking. No parking shall be allowed in alley ways. The parking areas shall not be used for dead storage of vehicles, nor for the parking of trailers, boats, canoes, trucks (except for pickups and vans), campers, motor homes, motorcycles or off the road vehicles without the prior written approval of the Board of Directors. The Board of Directors may, in its discretion, assign specific parking spaces to the Townhome Owners and change the assignment of such specific parking spaces from time to time. The Board of Directors shall also have the authority to remove any unauthorized vehicles.

ARTICLE IV

Association Membership and Voting Rights

Section 1. Membership

Every person who or entity, including Declarant, which is the record owner of a fee or undivided fee interest in any Lot that is subject to this Declaration shall be deemed to have a membership in the Association. The foregoing is not intended to include persons who or entities which hold an interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate the Owner's membership. No Owner, whether one or more persons, shall have more than one membership per Lot owned. In the event of multiple Owners, votes and rights of use and enjoyment shall be as provided herein. Ownership of a Lot shall be the sole qualification for membership, which shall be appurtenant to and may not be separated from such ownership. The rights and privileges of membership, including the right to vote, may be exercised by a member or the member's spouse, but in no event shall more than one vote be cast for each Lot.

Section 2. Voting.

The Association shall have one (1) class of membership, consisting of all Owners including the Declarant. The membership shall initially consist of Declarant who shall be entitled to thirty-seven (37) votes. The maximum number of votes of the Association shall be equal to the number of Townhomes then recorded and owned.

ARTICLE V

Maintenance

Section 1. Association's Responsibility.

The Association shall maintain and keep in good repair the Common Area to include lighting fixtures, upkeep of the clubhouse and pool. Additionally, the Association shall maintain and keep in repair the sidewalks over which all Owners have a right of ingress and egress as set out in Article III Section 3 herein. Such maintenance shall be funded by the General Assessment to be assessed as provided herein against all Lots subject to this Declaration. There shall be an individual lawn maintenance fee that will fund the upkeep of each individual owner's lawn and

landscaping. This service will be performed by a licensed landscape/lawn maintenance company. Maintenance, other than lawn care, of the courtyard area behind each townhome shall be the responsibility of the townhome owner.

In the event the Association ceases to exist, or otherwise fails to perform as specified herein, each owner shall be jointly and severally liable for said maintenance. This maintenance shall include, without limitations, maintenance, repair and replacement of all landscaping and improvements situated on the common area.

Section 2. Owner Responsibility.

(a) All maintenance of Lots, garages and fences thereon, unless specifically identified as being the responsibility of the Association, shall be the responsibility of the Owner of such Lot. Said maintenance shall be in accordance with the rules and regulations of the City of Huntsville and the Association.

(b) In the event that the Board of Directors of the Association determines that:

(i) Any Owner has failed or refused to discharge properly his obligations with regard to the maintenance, repair or replacement of items for which he is responsible hereunder; or

(ii) The need for maintenance, repair or replacement which is the responsibility of the Association hereunder is caused through the willful or negligent act of an Owner, his or her family, guests, lessees or invitees, and is not covered or paid for by insurance in whole or in part;

then, in that event, the Association, except in the event of an emergency situation, shall give the Owner written notice of the Association's intent to provide such necessary maintenance, repair or replacement, at Owner's sole cost and expense. The notice shall set forth with reasonable particularity the maintenance, repairs or replacement deemed necessary. The Owner shall have fifteen (15) days within which to complete said maintenance, repair or replacement, or in the event that such maintenance, repair or replacement is not capable of completion within said fifteen (15) day period, to commence such work which shall be completed within a reasonable time. If any Owner does not comply with the provisions hereof, the Association may provide any such maintenance, repair or replacement at Owner's sole cost and expense; and said cost shall be

added to and become a part of the assessment to which such Owner is subject and shall become a lien against the Lot. Any fee not received within fifteen (15) days of the due date shall be deemed late and the Association shall have the right to pursue legal actions to recover said fee to include any reasonable attorney fees. There will not be a landscape sprinkler system in place and thus each lot owner shall be responsible for watering of lawns, plants, shrubs and beds on each owners individual lot. Should any of the foregoing need replacement as result of lack of water, the lot owner shall be responsible for replacing the item with an identical item within the time specified by the Board. If any Owner does not comply with the provisions hereof, the Association may provide any such replacement at Owner's sole cost and expense.

ARTICLE VI

Insurance and Casualty Losses

Section 1. Insureds.

Insurance policies upon the Common Areas and Areas of Common Responsibility covering the items described below shall be purchased by the Board for the benefit of the Association, the members, and any mortgagees, as their interests may appear, as is determined by the Board of Directors to be desirable. If insurance is purchased, provision shall be made for the issuance of certificates of insurance and such policies and endorsements shall be deposited with and held by the Secretary.

Section 2. Coverage.

Insurance shall cover the following, when available:

- (a) public liability in such amounts and with such coverage as shall be determined by the Board of Directors;
- (b) such other insurance as the Board of Directors may from time to time determined to be desirable.

Section 3. Premiums and Deductibles.

Premiums upon insurance policies and that portion of any covered loss not compensated for because of the loss deductible clause of the policy shall be paid by the Association as a

common expense, but charged to members, as appropriate.

Section 4. Proceeds.

The proceeds received by the Association from any indemnity paid under an insurance policy shall be held by the Board of Directors. After deduction of all reasonable expenses of the Board in administering such proceeds, the net proceeds shall be used to repair the damages for which claim was made under the policy.

Section 5. Individual Insurance.

By virtue of taking title to a Lot subject to the terms of this Declaration, each Owner covenants and agrees with all other Owners and with the Association that each individual Owner shall carry blanket all-risk casualty insurance. Each individual Owner agrees to provide the Association with evidence of insurance annually at time of renewal. Each individual Owner further covenants and agrees that in the event of a partial loss or damage and destruction resulting in less than total destruction, the individual unit Owner shall proceed promptly to repair or reconstruct the damaged structure in a manner consistent with the original construction. In the event that the structure is totally destroyed, the Owner agrees to rebuild the structure in a manner consistent with the original construction.

ARTICLE VII

Annexation and Transfer of Property

Subject to the consent of the Declarant thereof, upon the affirmative vote of seventy-five percent (75%) of the members of the Association present or represented by proxy at a meeting duly called for such purpose, the Association may annex real property. Any real property annexed shall be made subject to the provisions of this Declaration and the jurisdiction of the Association by filing for record in the Probate Records of Madison County, Alabama, a supplemental amendment in respect to the property being annexed. Any such supplemental amendment shall be signed by the President and the Secretary of the Association, and any such annexation shall be effective upon filing unless otherwise provided therein. The time within which and the manner in which notice of any such meeting of the members of the Association,

called for the purpose of determining whether additional property shall be annexed, and the quorum required for the transaction of business at any such meeting, shall be as specified in the By-Laws of the Association for regular or special meeting as the case may be.

ARTICLE VIII

Rights and Obligations of the Association

Section 1. The Common Area and Area of Common Responsibility.

The Association, subject to the rights of the Owners set forth in this Declaration, shall be responsible for the exclusive management and control of the Common Area and all improvements thereon (including furnishings and equipment related thereto and the Area of Common Responsibility), and the sidewalks, brick pedestals, and lawns, and shall keep it in good, clean, attractive and sanitary condition, order and repair, pursuant to the terms and conditions hereof.

Section 2. Personal Property and Real Property for Common Use.

The Association through action of its Board of Directors may acquire, hold and dispose of tangible and intangible personal property and real property.

Section 3. Implied Rights.

The Association may exercise any other right or privilege given to it expressly by this Declaration or the By-Laws, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

ARTICLE IX

Assessments

Section 1. Annual Assessment.

The annual assessment for common expenses provided for herein shall be used for the general purposes of promoting the recreation, health, safety, welfare, common benefit and enjoyment of the Owners and occupants of Lots, and of maintaining the Properties, all as may be

specifically authorized from time to time by the Board of Directors. The annual assessment shall include limited lawn maintenance, electricity expense for lighting public alleys, liability insurance for common areas and maintenance, ad valorem (property) taxes on common areas, fees for preparation and filing of corporate tax returns, if applicable, and other expenses as decided by the Woodmill Trace Townhomes Home Owners' Association, Inc.

Section 2. Creation of the Lien and Personal Obligation of Assessments.

Each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association for each Residential Unit owned and in accordance with the provisions hereof (a) annual assessments or charges, (b) special assessments, such assessments to be established and collected as hereinafter provided, and (c) specific assessments against any particular Lot which are established pursuant to the terms of this Declaration, including, but not limited to, reasonable fines as may be imposed in accordance with Article III, Section 6, hereof. All such assessments, together with interest at the highest rate allowable under the laws of Alabama from time to time relating to usury for residential real estate loans, costs, and reasonable attorney's fees, shall be a charge on the lot and shall be a continuing lien upon the Lot against which each assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time the assessment arose, and his or her grantee shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance. Assessments shall be paid in such manner and on such dates as may be fixed by the Board of Directors which may include, without limitation, acceleration of the annual assessment for delinquents unless the Board otherwise provides, the assessments shall be payable as decided by the Board.

Section 3. Computation of the Annual Assessment.

The Board of Directors of the Association shall annually consider the maintenance, insurance and other needs and responsibilities of the Association, including both short and long term reserves. It shall thereafter fix the assessment, if any, to be levied against each Lot during the succeeding fiscal year.

Section 4. Special Assessments.

In addition to the annual assessments authorized above, the Association may levy in any assessment year a special assessment, applicable to that year only. Any special assessment shall have the assent of at least a majority of the total vote of the Association who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice of Meeting.

Written notice of any meeting called for the purpose of taking any action authorized under Section 4 shall be sent to all members not less than seven (7) days in advance of the meeting. At the first such meeting called, the presence of members or proxies entitled to cast over fifty percent (50%) of all the votes of the members shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. Lien for Assessments.

All sums assessed against any Lot pursuant to this Declaration, together with interest as provided herein, shall be secured by a lien on such Lot in favor of the Association. Such lien shall be superior to all other liens and encumbrances on such Lot except only for:

- (a) tax liens in favor of the federal, state or local government; and
- (b) all sums unpaid on a first mortgage of record. Any first mortgagee who obtains title to a Lot pursuant to the remedies provided in the mortgage or foreclosure of the mortgage will not be liable for unpaid assessments which accrued prior to acquisition of title except to the extent all Owners become responsible. All other persons acquiring liens or encumbrances on any Lot after this Declaration shall have been recorded in said records shall be deemed to consent that such liens or encumbrances shall be inferior to future liens for assessments as provided herein, whether or not prior consent be specifically set forth in the instruments creating such liens or encumbrances.

Section 7. Effect of Nonpayment of Assessments: Remedies of the Association.

Any assessments which are not paid when due shall be delinquent. Any assessment delinquent for a period of more than ten (10) days shall incur a late charge in an amount as the Board may determine from time to time, but not to exceed the lesser of Twenty-Five Dollars (\$25.00) or the maximum amount allowable under the laws of the State of Alabama. The Association shall cause a notice of delinquency to be given to any member who has not paid within ten (10) days following the due date. If the assessment is not paid within thirty (30) days from the due date, a lien shall attach, and shall include the late charge, interest on the principal amount due at the maximum allowable rate from the date first due and payable, all costs of collection, reasonable attorney's fees actually incurred, and any other amount; provided or permitted by law. In the event that the assessment remains unpaid after sixty (60) days from the due date, the Association may as the Board shall determine institute suit to collect such amounts or to foreclose its lien. Each Owner, by his or her acceptance of a deed to a Lot vests in the Association or its agent the right and power to bring all actions against him or her personally for the collection of such charges as a debt or to foreclose the aforesaid lien in the same manner as other liens for the improvement of real property. The lien provided for in this Article shall be in favor of the Association and shall be for the benefit of all other Owners.

The Association, acting on behalf of the Owners, shall have the power to bid on the residence at any foreclosure sale or to acquire hold, lease, mortgage and convey the same. No Owner may waive or otherwise escape liability for the assessments provided for herein, including by way of illustration, but not limitation, abandonment of his or her Lot.

Section 8. Date of Commencement of Annual Assessments.

The annual assessments provided for herein shall commence as to all Lots as shall be determined by the Board.

Section 9. Notice of Assessment Status.

Any Owner, contract purchaser, lender considering a loan of funds on a Lot, or mortgagee shall be entitled upon request to a statement from the Association or its manager setting forth the amount of the assessment past due and unpaid against an Owner's Lot. Such request shall be in writing, delivered to the manager's or the registered office of the Association and shall state an address to where the statement is to be directed. Payment of a fee not to exceed

Ten Dollars (\$10.00) may be required as a prerequisite to the issuance of such a statement.

ARTICLE X

Party Walls and Fences

Section 1. General Rules of Law to Apply.

Each wall which is built as a part of the original construction of any structure and any fence placed on the dividing line between two or more Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law, including the City Code of Huntsville, Alabama, regarding party walls and fences and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 2. Sharing of Repair and Maintenance.

The reasonable repair and maintenance of party walls and fences not covered by insurance shall be shared by the Owners who make use of the wall or fence in proportion to such use. Repair of such walls and fences shall be done in a time conscious manner not to exceed 30 days from the date of notice from the Board regarding repairs.

Section 3. Weatherproofing.

Notwithstanding any other provisions of this Article, an Owner who by his or her negligence or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 4. Right to Contribution Runs with Land.

The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land, shall run with the land and shall pass to such Owner's successors in title.

ARTICLE XI

Architectural Control Committee

Section 1. Committee Membership.

The initial Architectural Control Committee is composed of Michael W. Friday. On or

before, but not later than, the completion of the last unit or on resignation, the initial Architectural Control Committee shall be dissolved and the Architectural Control Committee shall then be composed of the Board of Directors of Woodmill Trace Townhomes Home Owners Association, Inc., as provided in the By-Laws of said organization. A majority of the Committee may designate a representative to act for it. Neither the members of the Committee, nor its designated representative, shall be entitled to any compensation for services performed pursuant to this Covenant.

Section 2. Committee Authority.

The authority of the Architectural Control Committee shall include the approval of exterior paint colors, brick type and color, roof type and color of shingles, elevations and landscaping. The builder and the subsequent Owner of a townhouse shall not change or deviate from those selections approved by the Architectural Control Committee unless such deviation or change is approved in writing by the Committee.

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

ARTICLE XII

General Provisions

Section 1. Enforcement.

Each Owner and occupant shall comply strictly with the By-Laws and with the administrative rules and regulations adopted pursuant thereto, as either of the same may be lawfully amended from time to time, and with the Covenants, Conditions and Restrictions set forth in this Declaration and in the deed or lease to his or her Lot. Failure to do so shall be grounds- for an action to recover sums due, for damages or injunctive relief or both, maintainable by the Board of Directors on behalf of the Association, or, in a proper case, by an aggrieved Owner. The Board of Directors may also impose fines or other sanctions, collection of

which shall be as provided for in Article IX hereof. Failure by the Association or any Owner to enforce any of the foregoing shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability.

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

Section 3. Covenants, Conditions and Restrictions Run with Land.

The Covenants, Conditions and Restrictions herein shall run with the land and shall be binding on all parties for a period of twenty-five (25) years from the date of the recordation of this Declaration of Records of Madison County, Alabama, after which time said Covenants, Conditions and Restrictions shall be automatically extended for successive periods of ten (10) years unless amended as herein set out.

Section 4. Notice of Sale, Lease or Mortgage.

In the event an Owner sells, leases or mortgages the Owner's property, the Owner will be required to give to the Association in writing, the name of the purchaser, lessee, or mortgagee of the property. Owner agrees to provide to the Association a copy of lease and signed documentation that the purchaser, lessee or mortgagee has received a copy of the regulations and restrictions governing subject property.

Section 5. Amendments.

These Declarations may be amended unilaterally at any time and from time to time by Declarant (a) if such amendment is necessary to bring any provision hereof into compliance with any applicable governmental statute, rule, or regulation or 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 the Residences subject to this Declaration; (c) if such amendment is required by an institutional or governmental lender or purchaser of Mortgage loans, including, for example, without limitation the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, or a State or National Bank, to enable such lender or purchaser to make or purchase Mortgage loans on the Residences

subject to this Declaration; or (d) if such amendment is necessary to enable any governmental agency or reputable private insurance company to insure Mortgage loans on the Residences subject to this Declaration; provided, however, any such amendment shall not adversely affect the title to any Owner's property unless any such Owner shall consent thereto in writing.

Further, as long as Declarant owns a Townhome and from six months from the date Declarant has sold its last Townhome in subject subdivision, Declarant may unilaterally amend this Declaration for any other purpose; provided, however, any such amendment shall not adversely affect title to the property of any Owner without the consent of the affected Owner or Occupant.

The Covenants and Restrictions of this Declaration may also be amended by an instrument signed by not less than sixty-six and two thirds percent (66 2/3%) of the members. Any amendment must be properly recorded in the public records of Madison County, Alabama. Notwithstanding any provision of this Declaration to the contrary, no amendment to this Declaration shall divest Declarant of any rights or powers specifically provided for Declarant or reserved in Declarant, including, without limitation, Declarant's right to use and develop the Properties.

Section 6. Indemnification.

The Association shall indemnify every officer and director against any and all expenses, including counsel fees, reasonably incurred by or imposed upon any officer or director in connection with any action, suit or other proceeding (including settlement of any suit or proceeding if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer or director. The officers and directors shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or directors may also be members of the Association), and the Association shall indemnify and forever hold each such officer and director free and harmless against any and all liability to others on account of any contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer or director, or former officer or director, may be entitled. The Association may in the discretion of its Board of Directors as a common expense maintain

adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is available at a reasonable cost.

The Association shall indemnify and hold harmless the Owners, including Declarant, of the sidewalks set out in Article III, Section 3 herein against any and all claims, actions, causes of action or liability arising from the use by any person or persons of said sidewalks set out in Article III, Section 3. The Association may in the discretion of its Board of Directors as a common expense maintain adequate personal injury liability insurance on said sidewalks, if such insurance is available at a reasonable cost.

ARTICLE XIII

Mortgage Provisions

The following provisions apply to the Properties, and none may be amended without the consent of at least two-thirds (2/3) of the first lot owners:

Section 1. Consent of Owners Required.

Unless all institutional holders of first mortgages in Woodmill Trace Townhomes have given their prior approval, the Association shall not be entitled to:

- (a) by act or omission seek to abandon, alienate, release, partition, hypothecate, subdivide, encumber, sell, or transfer any common property owned, directly or indirectly by the Association, for the benefit of the Lots; provided, however, the granting of easements for public utilities or for other public purposes consistent with the intended use of such common property shall not be deemed a transfer within the meaning of this clause;
- (b) change the method of determining the obligations, assessments, dues or other charges which may be levied against an Owner;
- (c) by act or omission change, waive or abandon the system of regulations and enforcement established in this Declaration for architectural design or the exterior appearance and maintenance of Lots, and the maintenance of the Common Area;
- (d) use insurance proceeds for losses to any common property for other than repair, replacement or reconstruction of such common property.

Section 2. Payment of Taxes.

First mortgagees of Lots may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any common property and may pay overdue premiums on insurance policies, or secure new insurance coverage on the lapse of a policy, for such common property. First mortgagees making such payments shall be owed immediate reimbursement therefor from the Association.

Section 3. No Priority.

No provision of this Declaration or the By-Laws gives or shall be construed as giving any Owner, or any other party, priority over any rights of the first mortgagee of a unit pursuant to its mortgage in the case of a distribution to such unit owner of insurance proceeds or condemnation awards for losses to or a taking of common property.

Section 4. Notice of Default

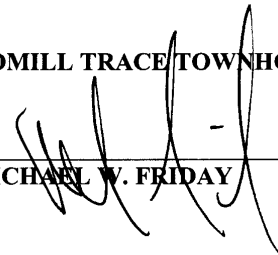
Notwithstanding anything contained herein which might otherwise be construed to the contrary, a first mortgagee, upon request, will be entitled to written notification from the Association of any default in the performance by an Owner of a Lot, in which such mortgagee has an interest, of any obligation under the development documents which is not cured within sixty (60) days.

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration under seal this 26th day of OCTOBER, 2005.

WOODMILL TRACE TOWNHOMES

BY: _____

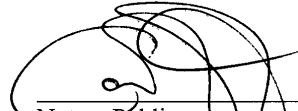
MICHAEL W. FRIDAY



STATE OF ALABAMA
COUNTY OF MADISON

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Michael W. Friday, whose name is signed to the foregoing Declaration, and who is known to me, acknowledged before me on this day, that he signed the foregoing Declaration voluntarily on the day the same bears date.

Given under my hand this 26th day of OCTOBER, 2005.



Notary Public CATHY FONTAINE
EXPIRES: 04/16/08

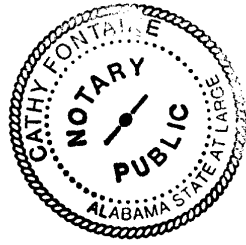
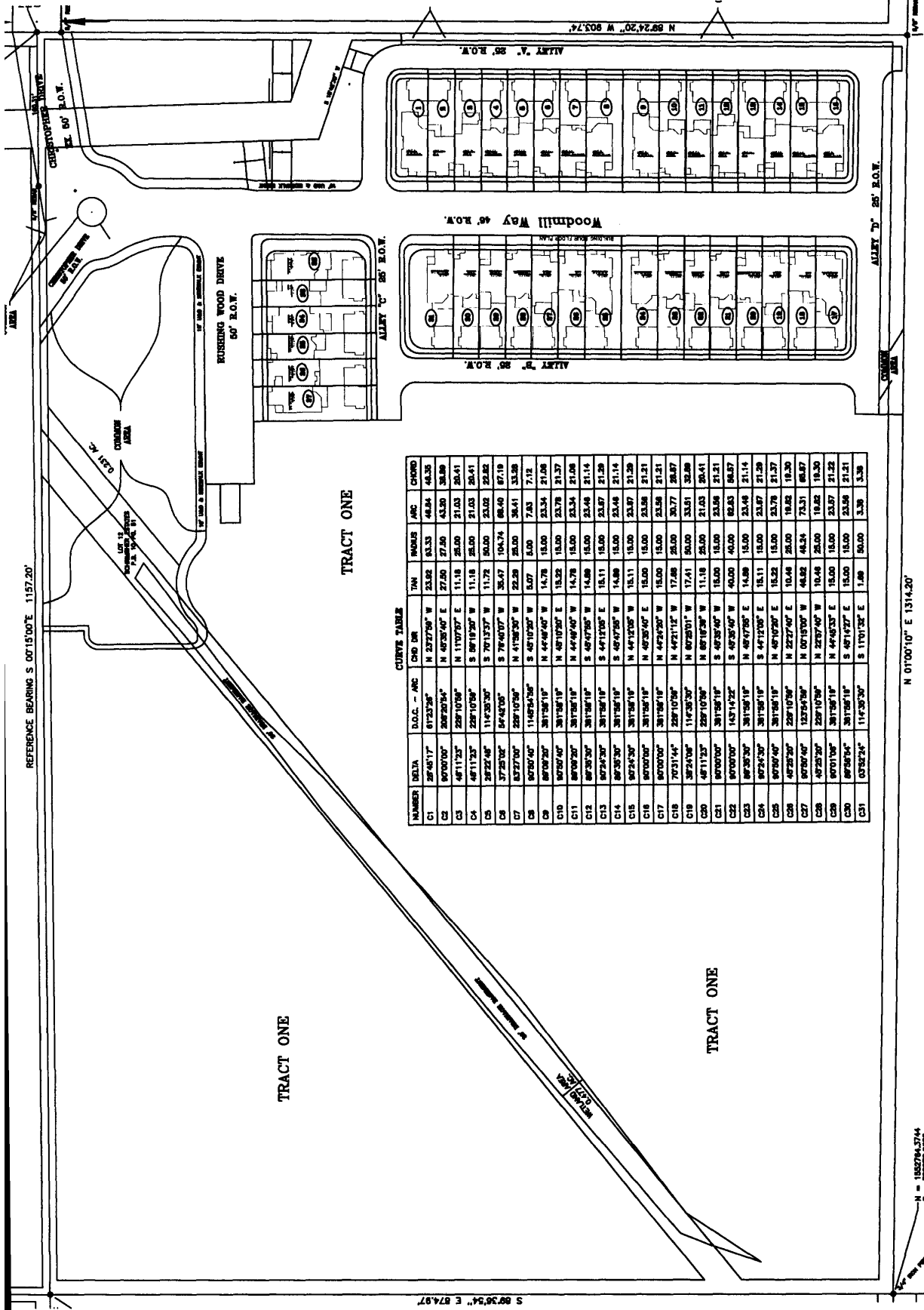


EXHIBIT "A"

LOTS 1 THRU 37, A RESUBDIVISION OF WOODMILL TRACE PHASE ONE, A RESUBDIVISION OF LOT 12 SCHRIMSHER ESTATES RECORDED IN PLAT BOOK 10, PAGE 51, AS RECORDED IN DOCUMENT NUMBER 20041124000527490, AS RECORDED IN DOCUMENT NUMBER 20050915000626540, IN THE OFFICE OF THE JUDGE OF PROBATE OF MADISON COUNTY, ALABAMA.



TRACT ONE

TRACT ONE

TRACT ONE

CURVE TABLE

NUMBER	DATA	B.C.C. - ARC	CHG. DIR.	TRM.	NUMBER	ARC	CHORD
C1	29°48'17"	61°23'38"	N 23°27'36" W	23.62	33.33	46.84	43.35
C2	80°00'00"	269°30'54"	N 46°28'40" E	27.50	27.50	43.00	38.89
C3	48°11'32"	229°10'58"	N 1°10'57" E	11.18	26.00	21.83	26.41
C4	48°11'32"	229°10'58"	S 89°12'30" W	11.18	26.00	21.83	26.41
C5	29°22'46"	114°23'30"	S 79°13'37" W	11.72	50.00	33.02	25.82
C6	37°25'02"	54°42'03"	S 79°40'07" W	20.47	104.74	68.40	87.19
C7	83°27'00"	229°10'58"	N 41°28'30" W	22.28	26.00	36.41	33.88
C8	80°30'40"	114°23'30"	S 48°10'30" W	5.07	50.00	7.83	7.12
C9	86°09'20"	361°28'18"	N 48°49'40" W	14.78	15.00	23.54	21.58
C10	80°30'40"	114°23'30"	N 48°10'30" E	15.22	15.00	23.54	21.58
C11	89°08'20"	361°28'18"	N 44°49'40" W	14.78	15.00	23.54	21.58
C12	89°24'20"	361°28'18"	S 49°47'50" E	14.88	15.00	23.48	21.14
C13	89°24'20"	361°28'18"	S 44°12'50" E	15.11	15.00	23.87	21.29
C14	89°24'20"	361°28'18"	S 49°47'50" W	14.88	15.00	23.48	21.14
C15	89°24'20"	361°28'18"	N 44°12'50" W	15.11	15.00	23.87	21.29
C16	89°08'20"	361°28'18"	N 49°28'40" E	15.00	15.00	23.58	21.21
C17	89°08'20"	361°28'18"	N 49°49'40" W	15.00	15.00	23.58	21.21
C18	70°31'44"	229°10'58"	N 44°21'12" W	17.89	26.00	30.77	28.87
C19	38°24'08"	114°23'30"	N 80°20'01" W	17.41	50.00	33.51	32.89
C20	48°11'32"	229°10'58"	S 89°12'30" W	11.18	15.00	21.83	26.41
C21	80°00'00"	361°28'18"	S 46°28'40" W	18.00	40.00	62.83	66.87
C22	80°00'00"	143°14'22"	S 49°47'50" E	14.88	15.00	23.48	21.14
C23	89°24'20"	361°28'18"	N 48°49'40" E	15.11	15.00	23.87	21.29
C24	89°24'20"	361°28'18"	N 49°10'30" E	15.22	15.00	23.78	21.37
C25	49°28'20"	229°10'58"	N 22°27'40" E	10.48	26.00	19.82	19.30
C26	49°28'20"	123°45'08"	N 00°19'00" W	46.82	46.84	73.51	68.87
C27	80°00'00"	123°45'08"	N 22°27'40" W	10.48	26.00	19.82	19.30
C28	49°28'20"	229°10'58"	N 22°27'40" E	10.48	26.00	19.82	19.30
C29	80°00'00"	361°28'18"	N 44°49'40" E	15.00	15.00	23.58	21.21
C30	89°24'20"	361°28'18"	S 49°47'50" E	15.00	15.00	23.58	21.21
C31	03°32'24"	114°23'30"	S 1°10'12" E	1.89	50.00	3.39	3.39

N 01°00'10" E 1314.20'

N = 152784.3744
E = 388872.9008