

1DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR GREENWAY PLACE

This Declaration of Covenants, Conditions and Restrictions for Greenway Place Phase I is made this _____ day of _____, 2006 by Greenway Development Company, L.L.C., an Alabama limited liability company (hereinafter referred to as “Declarant”).

STATEMENT OF DECLARATION

Whereas, Greenway Development Company, LLC is the owner and developer of the property herein described;

Whereas, it is the desire and intention of the owner to sell the property herein described and to impose on it mutual, beneficial restrictions under a general plan or scheme of improvement for the benefit of all the lands in the development and the future owners of those lands;

Now therefore, the Property herein described shall be held, sold, and conveyed subject to the following covenants, conditions, restrictions, reservations, assessments and other provisions set forth in this Declaration, which shall run with the property, shall bind all parties having any right, title, or interest in any part of the property, their successors and assigns, and shall inure to the benefit of each owner thereafter and which shall read as follows:

DEFINITIONS

Accessory Structure: “Accessory structure” shall mean and refer to any detached minor building or structure which has a use incidental to the main purpose and use of the premises as a whole.

Dwelling: “Dwelling” shall mean and refer to any building located on a lot which is intended for the shelter and housing of one family.

Family: “One family” shall mean and refer to: (i) any number of individuals related by blood, marriage or adoption living together as one housekeeping unit, (ii) no more than 3 unrelated individuals living together as one housekeeping unit, or (iii) two unrelated individuals living together as one housekeeping unit with any number of individuals related by blood, marriage or adoption.

Lot: “Lot” shall mean and refer to any tract or parcel of land which is designated by number upon the recorded plat of the property.

Lot Line: “Lot line” shall mean and refer to any boundary of a lot as shown on the subdivision plat duly recorded in the office of the Judge of Probate of Morgan County, Alabama.

Owner: “Owner” shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any lot situated upon the property. Notwithstanding any applicable theory of mortgage, “owner” shall not mean or refer to any mortgagee unless and until such mortgagee has acquired title pursuant to foreclosure or proceeding in lieu of foreclosure.

Property: The “property” shall mean and refer to the real property legally described on Exhibit “A” attached hereto, which is also known as the Greenway Place subdivision Phase I within the Corporate limits of the Town of Trinity and is platted on record with the Judge of Probate of Morgan County, together with such additional property as is hereafter subjected to this Declaration by a Supplemental Declaration.

Structures: “Structures” shall mean and refer to anything erected or constructed, the use of which requires more or less permanent location on or in the ground, or attached to something having a permanent location on or in the ground. Any fence is deemed a structure.

Vehicle: “Vehicle” shall mean and refer to boats, boat trailers, motor homes, mobile homes, house trailers, motorcycles, minibikes, scooters, go-carts, trucks, campers, buses, vans and automobiles.

ARTICLE I USE RESTRICTIONS- PHASE I

1. **In General.** The property shall be used only for residential and related purposes, which purposes may include, without limitation, offices for any property manager retained by the Declarant or business, sales or real estate offices for Declarant. Declarant shall be exempt from application of the provisions of this Article. Furthermore, nothing herein shall be interpreted to prohibit the development and use of common properties used for open or recreation purposes.

2. **Additional Restrictions.** The property herein described and its future owners shall be subject to the following use restrictions:

a. Accessory Structures. Any accessory structures placed or constructed on any lot must be designed and constructed of the same or similar exterior

materials as the dwelling constructed thereon, and must be in harmony with the dwelling constructed thereon. Prior to any accessory structure being built or placed on a lot, approval, in writing, must be obtained from the Architectural Review Committee as described herein.

b. Animals And Pets. No animals, reptiles, livestock, wildlife or poultry of any kind shall be raised, bred or kept on any portion of the property, except that dogs, cats or other usual or common household pets may be permitted on a lot, but must be confined in a way that will prevent such pets from straying beyond the confines of an individual lot. Dogs which are household pets shall, at all times whenever they are outside a residence, be on a leash or otherwise be confined in a manner acceptable to the Architectural Review Committee, established herein later. No household pet that has caused damage or injury may be walked on the Property.

c. Antennas, Satellite Dishes. No exterior antennas, aerials, satellite dishes, or other apparatus for the transmission of television, radio, or other signals of any kind shall be placed, allowed, or maintained upon any unit or lot, except as permitted by the Architectural Review Committee.

d. Exterior Decorations And Similar Items. Exterior decorations, including without limitation, sculptures, fountains, flags and similar items must be approved in writing by the Architectural Review Committee.

e. Garbage Cans, Tanks, Etc. Garbage cans, storage tanks mechanical equipment, including, without limitation, electrical meters, gas meters and air conditioning compressors, or other similar items shall be located or screened so as to be concealed from view of neighboring lots and streets. All rubbish, trash and garbage shall be stored in appropriate containers with lids and regularly removed from the property and shall not be allowed to accumulate thereon.

f. Business Use. No trade or business may be conducted in or from any lot except that an owner or occupant may conduct business activities so long as; (1) The existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the lots; (2) The business activity conforms to all zoning requirements for the property; (3) The business activity does not involve persons coming onto the property who do not reside in the property or door to door solicitation of residents of the property; (4) The business activity is consistent with the residential care of the property and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security of safety of other residents of the property.

g. Drainage. Catch basins and drainage areas are for the purpose of natural flow of water only. No obstructions or debris shall be placed in these areas. No person, other than Declarant may obstruct or re-channel the drainage flows after location and installation of drainage swales, storm sewers or storm drains. Declarant hereby reserves for itself a perpetual easement across the property for the purpose of altering drainage and water flow. Within any slope control area established by the Developer or drainage easement on any recorded subdivision plat, no structure, planting, or other materials shall be placed or permitted to remain, nor shall any activity be undertaken, which may damage or interfere with established slope ratios, create erosion or earth control problems, or change the direction of flow of drainage channels, or obstruct or

retard the flow of water through drainage channels. The slope control areas of each Lot or other parcel and all improvements in them shall be maintained continuously by the Owner, except for those improvements for which public-authority or Utility Company is responsible.

h. Firearms. The discharge of firearms within the property is prohibited. The term “firearms” includes “B-B” guns, pellet guns, and other firearms of all types, regardless of size.

i. Garages. Each dwelling shall have a garage with functional doors, which must be attached to the dwelling. Carports are not permitted.

j. Ingress/Egress. Ingress or egress from the rear of any lot to a public street shall be strictly prohibited.

k. Irrigation. No sprinkler or irrigation system of any type which draws from any body of water within the property shall be installed, constructed or operated by any person, other than Declarant.

l. Mailboxes And Exterior Hardware. The style and design of all mailboxes, lettering and numbering and exterior hardware must be in accordance with the design guidelines, and the Architectural Review Committee will designate the style of mailboxes.

m. Maintenance of Lots.

(1) Detention Pond. Detention pond shall be located on and maintained as part of Lot 19, as recorded on the plat of record in the Office of the Probate Judge of Morgan County. Owners of Lot 19 shall have the sole responsibility of maintenance and upkeep of the Detention pond. Said owners shall maintain the Detention pond in a manner satisfactory to the Town of Trinity and in accordance with the overall purpose and function of Detention ponds.

(2) Entrance Monuments. Owners of record of Lot 8 and Lot 9, as recorded on the plat of record in the Office of the Probate Judge of Morgan County, shall be responsible for maintenance and upkeep of any entrance monument which is located on the respective lot.

(3) Exterior Walls of Structures. All buildings, Structures and other improvements shall be constructed in full compliance with all applicable ordinances, rules and regulation of the Town of Trinity, Alabama. The exterior of all buildings shall be restricted to brick. Other materials may be used for architectural accent as approved by the Architectural Control Committee, as herein setout. Vinyl eaves, soffits, and gables are allowed only as approved by the Architectural Control Committee. Only wood, vinyl or aluminum framed windows shall be permitted on any dwelling or accessory structure constructed, unless other specifications are approved in writing by the Architectural Control Committee.

(4) Foundations. Block foundations and block walls shall not be exposed or visible and must be faced and covered as provided in the preceding section, Exterior Walls of Structures.

(5) Landscaping. No weeds, underbrush or other unsightly growth shall be permitted to grow or remain upon any lot, and no refuge or unsightly objects shall be allowed to be placed or suffered to remain upon any lot. All landscaping,

sprinkler systems and any property structure, improvement and appurtenance shall be kept in good, safe, clean, neat and attractive condition. Excluding the portion of the lot directly underneath the dwelling and structures, a minimum of 90% of the total area of each lot shall be sodded grass, except as otherwise permitted by the Architectural Control Committee.

(6) Minimum Square Footage. No dwelling, which costs less than \$100,000.00 based upon cost levels prevailing on the date these covenants are recorded, shall be constructed or Permitted on any lot. It being the intention and purpose of this covenant to assure that all dwellings shall be of quality and workmanship and materials substantially the same or better than that which can be produced on the date these covenants are recorded at the minimum costs stated herein for the minimum permitted dwelling size. The ground floor area of the main dwelling, exclusive of one-story open porches, garages and unheated storage areas, shall not be less than 1,800 square feet for a one-story dwelling, nor less than 1,400 square feet for the main level of a dwelling of more than one-story, provided, however, that in no event shall the total floor area of the entire dwelling, exclusive of one-story open porches, garages and unheated storage areas, be less than 1,800 square feet.

(7) Nuisance. No portion of the property shall be used, in whole or in part, for the storage of any property or thing that will cause it to appear to be in an unclean or untidy condition or that will be obnoxious to the eye, nor shall any substance, thing, or material be kept upon any portion of the property that will omit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort or serenity of the occupants of the surrounding units. No obnoxious, illegal or offensive activity shall be carried upon any portion of the property.

(8) Occupancy. Occupancy of each dwelling shall be limited one family, as defined in above-referenced 'DEFINITIONS'.

(9) Outside Clotheslines and Poles. No outside clotheslines or poles for attaching wires or lines for the purpose of hanging clothes or laundry thereupon shall be erected, installed or constructed on any lot.

(10) Painting. The exterior of all units shall have a fresh coat of paint applied evenly and no excessive cracks, peelings or stripping shall be allowed to remain unremedied.

(11) Pools. No above-ground pools shall be erected, constructed or installed on any lots, except that above-ground spas and Jacuzzis may be permitted as approved in writing by the Architectural Review Committee.

(12) Prohibited Vehicles. Commercial vehicles, vehicles with commercial writing on their exteriors, vehicles primarily designed for commercial purposes, tractors, mobile homes, recreational vehicles, trailers (either with or without wheels), campers, camper trailers, boats and other water craft and boat trailers shall be parked only in enclosed garages, except as permitted otherwise by the Architectural Review Committee. Stored vehicles and vehicles which are either obviously inoperable or do not have current operating licenses shall be permitted, stored and parked only in enclosed garages. Notwithstanding the foregoing, service and deliver vehicles may be parked in the driveway of a lot during daylight hours for such period of time as is

reasonably necessary to provide service or to make deliveries to said lot. Any vehicle which is parked in violation of this paragraph may be towed by order of Architectural Review Committee at the owner's expense. This paragraph shall not apply to any commercial vehicles providing service or making deliveries to or on behalf of Declarant or their designees.

(13) Roofs and Shingles. All roofs shall be constructed in full compliance with all applicable ordinances, rules and regulations of the Town of Trinity, Alabama. The roofs of all structures within the Property shall be restricted to roofs similar in appearance, design and construction. The appearance, design and construction of all roofs, including but not limited to their pitch, shingle type and shingle color, must be approved, prior to construction, by the Architectural Control Committee, as herein set out.

(14) Sidewalks. Sidewalks shall be designed and installed in full compliance with ADA requirements. Construction and installation of sidewalks shall not be commenced until and unless construction plans, material specifications and contractor qualifications have been approved by the Architectural Review Committee. Additionally, sidewalks shall be designed and installed in compliance with the following provisions:

- (i) Sidewalks shall be required on both sides of all new public streets.
- (ii) New sidewalks shall be four (4) feet in width with no obstructions in, on or above the sidewalks, including such, but not limited to, mailboxes, streetlights, utility poles, guy wires and hydrants.
- (iii) Sidewalks shall be located no less than two (2) feet from the back of the curb.
- (iv) Where sidewalks are replaced or adjoin an existing sidewalks, they shall be of similar color, texture and material, as determined by the Architectural Review Committee.
- (v) Sidewalks shall be four (4) inches in depth and should be reinforced with wire mesh or equivalent and shall be handicapped accessible. Concrete shall have a minimum compressive strength of 3000-psi at 28 days.
- (vi) Where unique site characteristics make it necessary or desirable to deviate from these provisions, the Architectural Review Committee may approve alternate sidewalks plans.
- (vii) All sidewalks shall be built and completed within twenty-four (24) months of the lot being sold by declarant to a new lot owner. Re-sale of the lot by the said new owner to another owner shall not extend the twenty-four month deadline. In the event that the Architectural Review Committee finds it necessary or desirable to extend the aforementioned twenty-four (24) month deadline for a particular lot, said lot owner may be required to post a separate bond with surety for 100% of the cost of installing the sidewalks on said lot. Upon the posting of this bond, the Architectural Review Committee

shall be named as beneficiary of the bond.

(15) Signs. No sign, billboard or advertisement shall be erected except as otherwise specifically permitted by the Architectural Review Committee. Declarant shall have the right to erect signs as it deems appropriate, in its discretion. Specifically excepted from this prohibition are signs advertising the sale of the lot upon which such sign rests, but signs advertising the sale of the lot shall not be larger than two feet in height by three feet in width.

(16) Site Distances At Intersections. All property located at street intersections shall be landscaped so as to permit safe site across the street corners. No fence, wall, hedge, or shrub of planting shall be place or permitted to remain where it would create a traffic or a line of sight problem

(17) Street Addresses. All dwellings constructed on any lot shall front and have a street address on a public road located within the recognized boundaries of the Greenway Place development, as recorded on the plat of record in the Office of the Probate Judge of Morgan County. Under no circumstances, shall a dwelling be constructed fronting or having a street address on South Greenway Drive, Ghost Hill Road or West Morgan Road.

(18) Subdivision Of Lots. No lot shall be subdivided or its boundary lines changed except by Declarant or with prior written approval of the Architectural Review Committee. No dwelling unit shall be made subject to any type of timeshare program, interval ownership or similar program whereby the right to exclusive use of the dwelling unit rotates among multiple owners or members of a program on a fixed or floating time schedule over a period of years.

(19) Tents, Trailers And Temporary Structures. Except as may be permitted by the Architectural Review Committee, during initial construction within the community, no tent, utility shed, shack, trailer or other structure of a temporary nature shall be placed within the community with the exception of those placed by Declarant.

(20) Walls And Fencing. Any lot, which has a rear yard adjoining and facing South Greenway Drive or Ghost Hill Road, shall be required to erect a fence along the entire boundary of the rear yard. Said fence shall be erected prior to a Certificate of Occupancy being granted for the dwelling on the same lot. However said fence shall not be erected until its design, construction materials and erection plans have been approved by the Architectural Review Committee. Except as otherwise specifically permitted by the Architectural Review Committee, additional walls and fencing on any lot shall not be permitted.

(21) Wells. No private wells or individual water supply systems, as that term is defined by the Architectural Review Committee, are permitted on any lot without the prior written approval of Declarant or the Architectural Review Committee.

ARTICLE II
ARCHITECTURAL STANDARDS AND REVIEW- PHASE I

1. In General

All construction improvements and modifications shall comply with the applicable building regulations and standards established by the applicable governmental authority as amended from time to time as well as the terms and conditions set forth in this Declaration. Each owner acknowledges that prior to submitting an application for a building permit for any constructional improvement, the plans for such constructional improvement shall be subject to the review and written approval of the Declarant and the Architectural Review Committee. The Architectural Review Committee (“ARC”) will be composed, initially, of William E. Smith, Terrence McCall, Stephens McCall and Allen McCall. Vacancies on the ARC shall be filled by appointment, said appointment to be made by the members of the ARC.

2. Construction Timeframe

Construction of all dwellings must begin within twenty-four (24) months of the initial purchase of the respective lot from the developer and must be completed within nine (9) months from the date construction is begun. For purposes of this provision, construction shall be considered to have begun on the date a building permit is issued by the Town of Trinity. Furthermore, for purposes of this provision, construction shall be deemed complete on a date that a Certificate of Occupancy is issued by the Town of Trinity. In the event that any owner fails to comply with this provision, the ARC shall make assessments, not to exceed \$500 per month, against said owners for failure to comply.

3. Architectural Standards

a. Review of Improvements. No construction (which term shall include without limitation, staking, clearing, excavating, grading, and other site work), no exterior alteration, improvement or modification of existing improvements, and no plantings or removal of plants, trees, or shrubs shall take place except in strict compliance with this Article, until the requirements below have been fully met, and until the approval of the Declarant and the Architectural Review Committee has been obtained pursuant to this section. The ARC may establish reasonable fees to be charged for review of an application for approval hereunder, which fees, if established, shall be paid in full prior to review of any application hereunder: All structures constructed on any portion of the property shall be designed by and built in accordance with the approved plans and specifications.

b. Enforcement. The ARC shall have the authority and standing to enforce in courts of competent jurisdiction to enforce the covenants and restrictions established in this Article. This Article may not be amended without the Declarant’s prior consent so long as the Declarant owns any portion of the property.

c. Exclusive Jurisdiction. The Declarant and the Architectural Review

Committee shall have exclusive jurisdiction to review and approve all original construction on any portion of the property. Declarant retains the right, so long as Declarant owns any portion of the property or the additional property, to appoint all members of the Architectural Review Committee, which shall consist of not less than three, nor more than five, persons.

d. No waiver of Future Approvals. The approval of the Architectural Review Committee of any proposals or any plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of such committee, shall not be deemed to a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings or other matters whatever subsequently or additionally submitted for approval or consent.

e. Variance. The Architectural Review Committee may authorize variances from compliance from any of its guidelines and procedures when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental considerations require. Such variances may only be granted, however, when unique circumstances dictate and no variance shall be effective unless it is reduced to writing. No variance shall estop the Architectural Review Committee from denying a variance in other circumstances. For purposes of this section, the inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing shall not be considered a hardship warranting a variance.

f. No Liability. No review or approval by the Architectural Review Committee shall imply or be deemed to constitute an opinion by the Architectural Review Committee, nor impose upon the Architectural Review Committee, Declarant or any other party, any liability for the design or construction of building elements, including, but not limited to, structural integrity or life and safety requirements. The scope of any such review and approval by the Architectural Review Committee is limited solely to whether the respective plans or work meet certain requirements, standards and guidelines relating to aesthetics and the harmony and compatibility of the proposed improvements in the property.

ARTICLE III EASEMENTS, RESTRICTIONS AND OTHER RIGHTS- PHASE I

It is the intent of Declarant that Declarant and the owners shall be provided ingress and egress to the property or portions thereof. Declarant may, by separate instruments to be recorded in Morgan County, grant exclusive and non-exclusive easements on, upon, over, across, through and under the property as determined by Declarant.

ARTICLE IV DECLARANT'S RIGHTS- PHASE I

1. Purpose. The purpose of this Article is to set forth certain Declarant rights, and to refer, for ease of reference to, certain other Declarant rights set forth in this

Declaration. The purpose of this Article shall in no way be a limitation of any rights of Declarant otherwise set forth in this Declaration.

2. Duration of Rights. The rights of Declarant set forth in this Declaration that refer to this Article shall extend for a period of time ending when Declarant no longer owns any portion of the property or the additional property or such other date as determined by Declarant, in its sole discretion.

ARTICLE V GENERAL PROVISIONS- PHASE I

1. Term. The covenants and restrictions of this Declaration shall run with and bind the property and shall inure to the benefit of and shall be enforceable by Declarant or the owner of any portion of the property subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of twenty-five (25) years from the date of the recording of this document; after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument in writing, signed by a majority of the then owners of the lots, has been recorded within the year preceding the beginning of each successive period of ten (10) years, agreeing to change said covenants, in whole or in part or to terminate the same, in which case this Declaration shall be modified or terminated as specified therein.

2. Amendment. Declarant may amend this Declaration in its sole and absolute discretion. After the turnover date, Declarant may amend this Declaration in its sole and absolute discretion at any time and from time to time if such amendment is (1) necessary to bring any provision here of into compliance with any applicable governmental statute, rule or regulation, or judicial determination; (2) necessary to enable any reputable title insurance company to issue title insurance coverage on a lot; (3) required by an institutional lender or a governmental mortgage agency or purchaser of mortgage loans, to enable the same to make, insure or purchase mortgage loans on lot; (4) necessary to enable any governmental agency or reputable private insurance company to insure mortgage loans on a lot subject to this Declaration; or (5) correct any stenographic, scrivener's or surveyor's error or any error of a like nature, provided however any such amendment shall not adversely affect the title to a lot unless the owner thereof shall consent hereto in writing.

3. Severability. Invalidation of any one of these covenants or restrictions by judgment, court order or legislative act shall in no way affect any other provisions, which shall remain in full force and effect. Likewise, if any one of these covenants or restrictions is deemed to be personal in nature, all other covenants and restrictions shall still be enforced as running with the land and binding on all successors.

4. Assignment of Rights. Declarant shall have the right, in its sole and absolute discretion, to assign all or part of its rights under this Declaration.

5. Independent Builders. The property is being developed by the Declarant. The individual buildings constructed within the property may be constructed

by Declarant, builders or others who are independent contractors who purchase unimproved lots from Declarant. If a building is constructed by a person or entity other than Declarant, Declarant shall have no liability whatsoever for such builder's activities, whether direct or indirect, including, without limitation, marketing or construction of the building or actions of any principal, officer, trustee, partner, agent or subcontractor.

6. No Easement For View. Each owner further acknowledges that neither Declarant nor any builder, nor any person acting on behalf of Declarant or any builder, has made or is authorized to make any representation or commitment that any view of the property or any vistas shall be preserved, protected or remain unobstructed, and there are no express or implied easements for view purposes appurtenant to any lot.

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration this _____ day of _____, 2006.

Greenway Development Company, L.L.C.

By _____
William E. Smith, As Member and Manager;

By _____
Terrance McCall, As Manager; and

By _____
Terrance McCall,
For McCall Brothers, LLC, As Member

STATE OF ALABAMA)
)
COUNTY OF MORGAN)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that William E. Smith and Terrance McCall whose names are signed to the foregoing instrument and who are known to me, acknowledged before me on this day that, being informed of the contents of the instrument, each, as such officer and with full authority executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this _____ day of _____, 2006.

Notary Public
My Commission
Expires: _____