

PHASE III VII

RECORDED
APR 5 1995
MISCELLANEOUS BOOK 74
PAGE 433-487

STATE OF ALABAMA :
COUNTY OF BALDWIN:

SUBSEQUENT AMENDMENT AND
SUPPLEMENTARY DECLARATION OF
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR ROCK CREEK, A PLANNED UNIT DEVELOPMENT

This AMENDMENT made this 4th day of April, 1995, by
H/M PARTNERS, L.L.C., a Limited Liability Company, (the
"DECLARANT"), for itself, its successors, its grantees and assigns.

R E C I T A L S :

1. H/M PARTNERS, an Alabama General Partnership,
("PARTNERSHIP") did subdivide certain real property located in
Baldwin County, Alabama, which is known as Lots 1-174 and the
common areas designated as COMMON AREA 1 through COMMON AREA 13 on
the plat of ROCK CREEK, PHASE ONE, as per plat thereof recorded in
Slide 1395-B, 1396-A, and 1396-B and amended in Slide 1440-A, 1440-
B and 1441-A ("PHASE ONE PLAT") and subjected said property to that
certain Declaration of Covenants, Conditions and Restrictions,
dated the 5th day of May, 1993, and recorded in Miscellaneous Book
74, Pages 433-487 ("DECLARATION").

2. An ASSOCIATION of owners for the operation of the
Subdivision was formed under the Laws of the State of Alabama,
known as ROCK CREEK PROPERTY OWNERS ASSOCIATION, INC.,
("ASSOCIATION").

3. The PARTNERSHIP did amend the DECLARATION and add
additional real property to ROCK CREEK, a Planned Unit Development,
which real property is described as Lots 175-231 and the area
designated as COMMON AREA 14 on the plat of ROCK CREEK, PHASE TWO,
recorded in Slide 1442-B through 1443-B ("PHASE TWO PLAT"), and did
amend the DECLARATION by Subsequent Amendment and Supplementary
Declaration recorded on November 16, 1993, in Miscellaneous Book
75, Pages 1847-1856 and did further amend the Declaration by
Amendment to Subsequent Amendment dated December 2, 1993 and
recorded in Miscellaneous Book 76, Pages 73-81.

4. DECLARANT is the successor in interest to the

PARTNERSHIP.

5. The DECLARANT did amend the DECLARATION and add additional real property to ROCK CREEK, a Planned Unit Development, which real property is described as Lots 232-256 and Lots 284-333 and the area designated as COMMON AREA 15 and COMMON AREA 16 and COMMON AREA 17 on the plat of ROCK CREEK, PHASE THREE, recorded in Slide 1480B and 1481A ("PHASE THREE PLAT"), and did amend the DECLARATION by Subsequent Amendment and Supplementary Declaration of Declaration of Covenants, Conditions and Restrictions for Rock Creek, a Planned Unit Development, dated May 13, 1994 and recorded in Miscellaneous Book 70, Pages 389-398.

6. The DECLARANT desires to add the real property described as Lots 257 through 283 on the plat of ROCK CREEK, PHASE THREE, recorded in Slide 1480B and 1481A ("LOTS 257 THROUGH 283") to the DECLARATION by incorporating the same into the DECLARATION, the same as if the real property described above and referred to as LOTS 257 THROUGH 283 had been originally included therein, all in accordance with ARTICLE XVI of the DECLARATION.

7. ARTICLE XVII of the DECLARATION grants to the DECLARANT the power to amend unilaterally the DECLARATION. Pursuant to ARTICLE XVII, DECLARANT does hereby amend the DECLARATION as herein provided.

The recording references referred to herein are to the Office of the Judge of Probate of Baldwin County, Alabama.

NOW, THEREFORE, DECLARANT hereby makes the following additional Declaration and SUBSEQUENT AMENDMENT as to the use to which the real property described above and referred to as LOTS 257 THROUGH 283 and the improvements thereon may be put, hereby specifying that the DECLARATION, as amended by this Supplemental Declaration and Subsequent Amendment, shall be binding upon the DECLARANT, its successors and assigns, and all owners of all or any part thereof of the real property and improvements described on or located on the property described above and referred to as the LOTS 257 THROUGH 283 together with their grantees, successors, heirs, executors, administrators, devisees or assigns.

A. Increment. As provided in ARTICLE XVI of the DECLARATION, the DECLARANT elects to incorporate the real property described above and referred to as LOTS 257 THROUGH 283. LOTS 257 THROUGH 283 are hereby subject to the DECLARATION which shall run with the real property and be binding on all parties having any right, title or interest in the real property described above and referred to as LOTS 257 THROUGH 283.

B. Purpose. The purpose of this SUBSEQUENT AMENDMENT is to amend the DECLARATION and to bring the real property described above and referred to as LOTS 257 THROUGH 283 within the scheme and operation of the DECLARATION as provided in ARTICLE XVII and ARTICLE XVI thereof. The operation and effect of the DECLARATION is hereby extended to the real property described above and referred to as LOTS 257 THROUGH 283.

C. Real Property. The real property owned by the DECLARANT that is herewith submitted to the scheme and operation of the DECLARATION is that certain land, lying and being in the County of Baldwin, State of Alabama, and more particularly described above and referred to as LOTS 257 THROUGH 283.

D. Adoption. Except as provided in this Paragraph below, and as herein altered and amended, the DECLARATION and every part and provision thereof is in all respects ratified and confirmed and by reference adopted and incorporated herein, the same as if fully set forth herein.

The following covenants and restrictions shall apply only to LOTS 257 THROUGH 283:

The ASSOCIATION shall maintain the "yard" of each LOT including, but not limited to, cutting and edging grass, weeding flower beds, fertilizing grass and plants as needed, and replacing grass and plants as needed. Need shall be determined by the Directors of the ASSOCIATION. The "yard" is defined as all portions of a LOT lying outside the exterior walls of any structure constructed on the LOT and shall include all landscaping, improvements and decorative and functional appurtenances thereto (not including structures or fences). The ASSOCIATION may also maintain any portion of any right-of-way adjoining a LOT.

In addition to the assessments for COMMON PROPERTY provided for in the DECLARATION, each LOT (i.e., LOTS 257 THROUGH 283) shall be assessed an equal portion of the budgeted cost and/or actual expenses in excess of the budgeted cost for the maintenance provided for in this Paragraph D. The Board of Directors of the ASSOCIATION shall fix the annual or monthly assessment provided for herein in accordance with the provisions of the DECLARATION. The

terms and conditions of the DECLARATION pertaining to covenants for maintenance assessments shall generally apply to the assessments provided for herein. Except by amendments as provided in the DECLARATION, the additional assessments provided for in this Paragraph for the maintenance of the "yard" of LOTS 257 THROUGH 283 shall not be assessed against other OWNERS of LOTS in ROCK CREEK.

In the event that the need for maintenance of a LOT is caused through the willful or negligent acts of its OWNER or through the willful and negligent acts of the family, guest or invitees of the OWNER of the LOT needing such maintenance or repair, the actual cost of such maintenance shall be added to and become part of the assessment to which such LOT is subject.

Some or all of the LOTS may contain "PRIVACY FENCES" (sometimes referred to as "PRIVACY FENCE") running along part or all of the common boundary line between LOTS or within the bounds of a LOT. The PRIVACY FENCES, for the purposes of this DECLARATION are defined as the walls or fences located on or near the LOT lines of the adjoining LOTS of LOTS 257 THROUGH 283. PRIVACY FENCES may be owned jointly by the owners of the LOTS on which the PRIVACY FENCES are located. Except as provided herein, the provisions of ARTICLE XII of the DECLARATION shall apply to PRIVACY FENCES. ARTICLE XII Section 12.4 of the DECLARATION shall not apply to PRIVACY FENCES.

The following shall apply to LOTS 257 THROUGH 283, ROCK CREEK, PHASE THREE: The ground floor livable area (heated and cooled area) of the main building or structure, exclusive of open porches and garages, shall contain not less than one thousand eight hundred (1,800) square feet in the case of a one (1) story building or structure; or in the case of a one and one-half (1 1/2) story building or structure, the ground floor livable area (heated and cooled area) of the main building or structure, exclusive of open porches and garages, shall contain not less than one thousand two hundred (1,200) square feet, and a total minimum square footage for all of the living area (heated and cooled area) of the main building or structure shall be not less than one thousand eight hundred fifty (1,850) square feet; or in the case of a two (2) story building or structure, the ground floor livable area (heated and cooled area) of the main building or structure, exclusive of open porches and garages, shall contain not less than one thousand two hundred (1,200) square feet, and a total minimum square footage for all of the living area (heated and cooled area) of the main building or structure shall be not less than two thousand (2,000) square feet; or in the case of a two and one half (2 1/2) story building or structure, the ground floor livable area (heated and cooled area) of the main building or structure, exclusive of open porches and garages, shall contain not less than one thousand five hundred (1,500) square feet, and a total minimum square footage for all of the living area (heated and cooled area) of the main building or structure shall be not less than two thousand eight hundred (2,800) square feet.

E. Rock Creek Golf and Tennis Club. For the purpose of clarity and not in limitation of any of the terms, conditions and provisions of the DECLARATION, Section 3.10 of the DECLARATION is hereby re-stated:

H/M PARTNERS GOLF CLUB AND COUNTRY CLUB, (herein "GOLF CLUB") is a for-profit business and is established as a private club whose members may or may not be OWNERS within the PLANNED UNIT DEVELOPMENT. No OWNER or occupant of a LOT in the PLANNED UNIT DEVELOPMENT gains any right of membership or right to enter or use the GOLF CLUB, golf course, club house or related property or facilities of the GOLF CLUB because of ownership or occupancy of a LOT within the PLANNED UNIT DEVELOPMENT.

No representations or warranties have been or are made by the DECLARANT or any other person or entity with regard to the continuing ownership or operation of the GOLF CLUB as same presently exists, and no such representation or warranty shall ever be effective without a written amendment to this DECLARATION executed or joined into by the DECLARANT. The ownership, operation, use or management of the GOLF CLUB may change at any time, solely at the discretion of H/M PARTNERS.


H/M PARTNERS, its successors and assigns, shall have the right, at the sole discretion of the H/M PARTNERS and without the further consent of any OWNER of any LOT in the PLANNED UNIT DEVELOPMENT or of the ASSOCIATION, to make any present or future use or change of use of any real property, personal property, or facility in the private GOLF CLUB as it deems proper, including, but not limited to, the discontinued or suspended use of the property or any part thereof as a golf course or golf club. The GOLF CLUB is specifically exempted from any and all provisions of this DECLARATION or any supplements or amendments thereto. No LOT OWNER nor the ASSOCIATION will take any action that will interfere with the operation and management of the GOLF CLUB.

Portions of the REAL PROPERTY owned by H/M PARTNERS as the GOLF CLUB are adjacent to the public road running through the PLANNED UNIT DEVELOPMENT. Members, guests, invitees, stockholders, officers, directors, agents or employees of the GOLF CLUB shall have the unlimited and unrestricted right of ingress and egress over and across the public road for ingress or egress to the property of the GOLF CLUB. H/M PARTNERS shall have the unrestricted right to regulate the use of and access to its GOLF CLUB property.

IN WITNESS WHEREOF, the DECLARANT has caused this instrument to be executed on the day and year first above referred to.

H/M PARTNERS, L.L.C.,
An Alabama Limited Liability Company

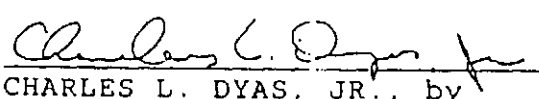
BY: HEAD (H/M), L.L.C., an Alabama
Limited Liability Company
Member

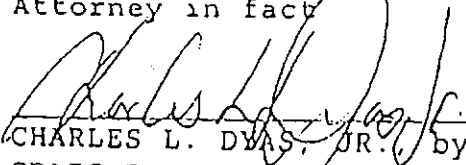
BY: 
DAVID H. HEAD
Its: Member

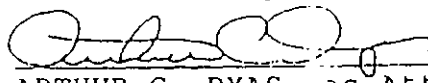
(CORPORATE SEAL)


CONSENT

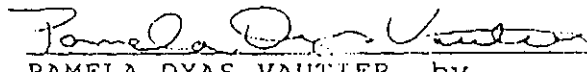
This SUPPLEMENTARY DECLARATION OF DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR ROCK CREEK, is being joined into herein by the undersigned for the purpose of consenting thereto.

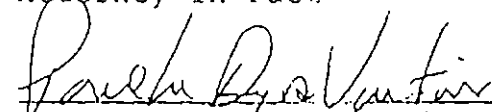
 (SEAL)
CHARLES L. DYAS, JR., by
ARTHUR C. DYAS, his
Attorney in fact


 (SEAL)
CHARLES L. DYAS, JR., by
CRAIG F. DYAS, his
Attorney in Fact


ARTHUR C. DYAS, as Attorney in Fact
for CHARLES L. DYAS, JR.

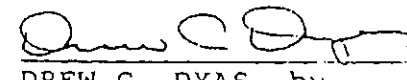

CRAIG F. DYAS as Attorney in Fact
for CHARLES L. DYAS, JR.

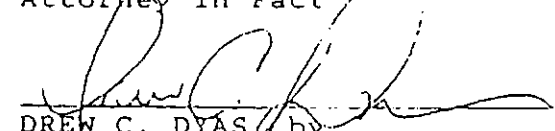

PAMELA DYAS VAUTIER, by
ARTHUR C. DYAS, her
Attorney in Fact.



PAMELA DYAS VAUTIER, by
CRAIG F. DYAS, her
Attorney in Fact.

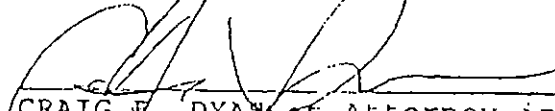

ARTHUR C. DYAS as Attorney in Fact
for PAMELA DYAS VAUTIER

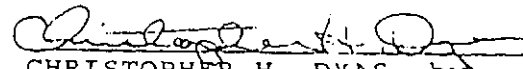

CRAIG F. DYAS as Attorney in Fact
for PAMELA DYAS VAUTIER

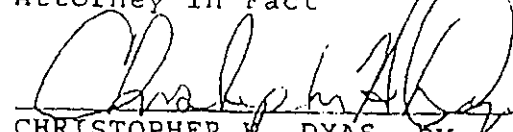

DREW C. DYAS, by
ARTHUR C. DYAS, his
Attorney in Fact



DREW C. DYAS, by
CRAIG F. DYAS, his
Attorney in Fact

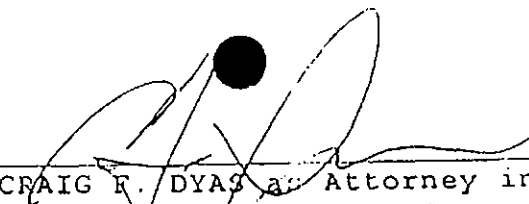

ARTHUR C. DYAS as Attorney in Fact
for DREW C. DYAS

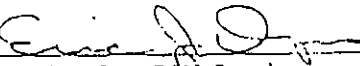

CRAIG F. DYAS as Attorney in Fact
for DREW C. DYAS



CHRISTOPHER H. DYAS, by
ARTHUR C. DYAS, his
Attorney in Fact



CHRISTOPHER H. DYAS, by
CRAIG F. DYAS, his
Attorney in Fact



ARTHUR C. DYAS as Attorney in Fact
for CHRISTOPHER H. DYAS



CRAIG F. DYAS as Attorney in Fact
for CHRISTOPHER H. DYAS

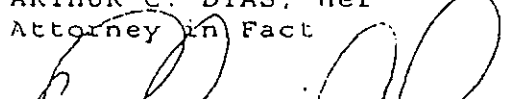
 (SEAL)
ERIC J. DYAS, by
ARTHUR C. DYAS, his
Attorney in Fact


 (SEAL)
ERIC J. DYAS, by
CRAIG F. DYAS, his
Attorney in Fact

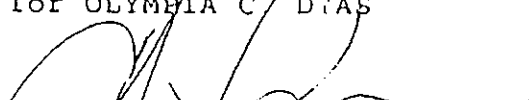

ARTHUR C. DYAS as Attorney in Fact
for ERIC J. DYAS

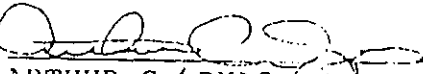

CRAIG F. DYAS as Attorney in Fact
for ERIC J. DYAS


 (SEAL)
OLYMPIA C. DYAS, by
ARTHUR C. DYAS, her
Attorney in Fact

 (SEAL)
OLYMPIA C. DYAS, by
CRAIG F. DYAS, her
Attorney in Fact



ARTHUR C. DYAS as Attorney in Fact
for OLYMPIA C. DYAS


CRAIG F. DYAS as Attorney in Fact
for OLYMPIA C. DYAS

 (SEAL)
ARTHUR C. DYAS

 (SEAL)
CRAIG F. DYAS

FIRST ALABAMA BANK

BY: 
Its: 

(CORPORATE SEAL)

STATE OF ALABAMA :

COUNTY OF BALDWIN :

I, the undersigned authority, a Notary Public in and for said State and County, hereby certify that DAVID H. HEAD, whose name as Member of HEAD (H/M), L.L.C. a Member of H/M PARTNERS, L.L.C., an Alabama Limited Liability Company, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such Member and with full authority, executed the same voluntarily for and as the act of said Company.

Given under my hand and seal this 10 day of June, 1995.



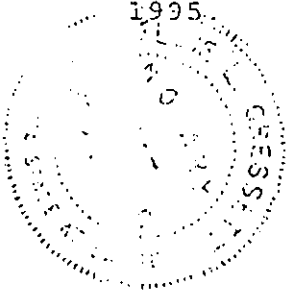
[Signature]
NOTARY PUBLIC
My Commission Expires: 12/31/98

STATE OF ALABAMA :

COUNTY OF BALDWIN :

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that ARTHUR C. DYAS, whose name as Attorney in Fact for CHARLES L. DYAS, JR., PAMELA DYAS VAUTIER, DREW C. DYAS, CHRISTOPHER H. DYAS, ERIC J. DYAS and OLYMPIA C. DYAS, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument he, in his capacity as such Attorney in Fact, executed the same voluntarily on the day the same bears date.

Given under my hand and seal on this 10 day of June, 1995.



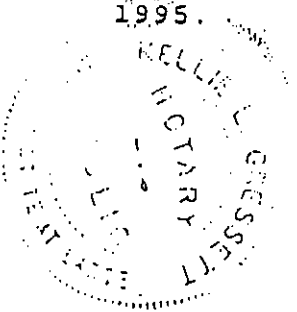
[Signature]
NOTARY PUBLIC
My Commission Expires: 12/31/98

STATE OF ALABAMA :

COUNTY OF BALDWIN :

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that CRAIG F. DYAS, whose name as Attorney in Fact for CHARLES L. DYAS, JR., PAMELA DYAS VAUTIER, DREW C. DYAS, CHRISTOPHER H. DYAS, ERIC J. DYAS and OLYMPIA C. DYAS, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, in his capacity as such Attorney in Fact, executed the same voluntarily on the day the same bears date.

Given under my hand and seal on this 10 day of June, 1995.



[Signature]
NOTARY PUBLIC
My Commission Expires: 12/31/98

STATE OF ALABAMA :

COUNTY OF BALDWIN :

I, the undersigned authority, a Notary Public, in and for said County in said State, hereby certify that ARTHUR C. DYAS, whose name is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he executed the same voluntarily on the day the same bears date.

Given under my hand and seal on this _____ day of _____, 1995.



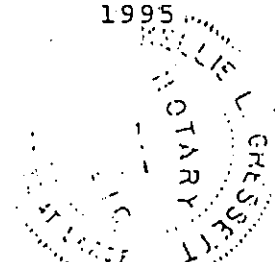
NOTARY PUBLIC
My Commission Expires: _____

STATE OF ALABAMA :

COUNTY OF BALDWIN :

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that CRAIG F. DYAS, whose name is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he executed the same voluntarily on the day the same bears date.

Given under my hand and seal on this _____ day of _____, 1995.



NOTARY PUBLIC
My Commission Expires: _____

STATE OF ALABAMA :

COUNTY OF BALDWIN :

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that Stephen J. Davitt, whose name as Vice President, of FIRST ALABAMA BANK, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that he, as such officer, and with full authority, executed the same voluntarily on behalf of said bank.

Given under my hand and seal on this 16 day of March, 1995.

Maureen A. Libra, Adams
NOTARY PUBLIC
My Commission Expires: _____

THIS INSTRUMENT PREPARED BY:
Sam W. Irby
Irby & Heard, P.C.
Attorneys At Law
317 Magnolia Avenue
Fairhope, Alabama 36533
(334) 928-4555