

When Recorded return to:  
Michael Carter  
P.O. Box 722  
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David C. Wall

DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS

This Declaration of Covenants, Conditions and Restrictions made on this the 7<sup>th</sup> day of July, 2006, by MUD CREEK DEVELOPMENT, LLC, hereinafter referred to as "Declarant";

WITNESSETH:

WHEREAS, Declarant is the owner of certain property know as "WATERFORD SUBDIVISION", in the County of Habersham, State of Georgia, which is more particularly described as follows, to-wit:

ALL THAT TRACT or parcel of land lying and being in Land Lot 123 & 124 of the 10th Land District of Habersham County, Georgia, containing 40.203 acres, more or less, as shown on a plat of survey prepared for Armand J. And Ruth P. Kramedjian by Edwin G. Davidson, R.S., under date of August 18, 2000, a copy of said plat being of record in the office of the Clerk of Superior Court of Habersham County, Georgia, in Plat Book 49, Page 117, to which said plat and the record thereof reference is hereby made for a more complete description.

NOW THEREFORE, Declarant hereby declares that all properties described above shall be held, sold, and conveyed subject to the following easements, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors, and assigns, and shall insure to the benefit of each owner thereof.

DEFINITIONS

"Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot which is part of the properties.

"Properties" shall mean and refer to that certain property hereinbefore described.

"Lot" shall mean and refer to any plot of land or parcel shown on any recorded subdivision map of the properties.

"Declarant" shall mean and refer to Mud Creek Development, LLC, its heirs and assigns.

**RESTRICTIVE COVENANTS**

**STRUCTURES**

1. House Trailers, Mobile Homes, Singlewides, Doublewides, Triplewides, (or larger) and modular homes shall not be either temporarily or permanently placed upon or kept on any lot.
2. The enclosed, heated ground floor living area (exclusive of basements, garages, carports, porches, terraces, and bulk storage area) of all houses shall not be less than 2000 square feet of heated living space (exclusive of porches, basement and garage) in single floor houses; 2200 for multiple story houses with 1,600 minimum on main floor..
3. House construction must be completed within eighteen months after commencement of said construction.
4. All visible concrete block and poured walls and foundations must be covered with brick, stucco, stone, wood, drivit or similar covering compound.
5. All structures must have a minimum roof pitch of 9:12.
6. All outside wall structures must be of wood, brick, stucco, poured concrete or concrete blocks.
7. No vinyl siding shall be allowed, except for cornice work.
8. Only one single-family dwelling with an attached garage, carport or workshop shall be allowed on the property.
9. No outbuildings shall be allowed to be constructed or built on subject property.

**GARAGES, SHEDS, OUTBUILDINGS**

1. All garages, carports and work shops shall be connected to the main dwelling.
2. No prefabricated garage or carport shall be constructed on any property.
3. No outbuildings, such as shelters, sheds, shops, or tree houses can be constructed on any property with the exception of storm shelters which need to be completely buried or doghouses which must be located out of sight of the main road.
4. Gazebo's will be allowed, but must be maintained in a neat and orderly fashion.

**EASEMENTS**

1. Utilities. There is hereby reserved, without further assent or permit, the right, title and privilege of a perpetual alienable and releasable easement to construct, install, maintain and repair utilities, including, but not limited to, water, cable tv, gas, telephones and electricity with the right of entry for purposes of inspection and repair, over, through, upon, across, and under each and every

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lot subjected to this declaration. This easement shall run an even width of thirty (30) feet along the subdivision roads as shown on the plat of survey referred to above.

2. Each Owner of a Lot shall have the non-exclusive right of ingress and egress over and across the subdivision roads as shown on the plat of survey referred to above.

3. Declarant shall be responsible for maintaining the right of way of said ingress and egress in a clean, neat and orderly fashion, and grass shall be cut at least bi-monthly, until such time as fifty percent (50%) of all lots are sold. Upon the forming of a Property Owners' Association, said Association shall be responsible for the maintenance of said right of way.

#### **LOCATION OF BUILDING ON SITE**

1. No building, structure or decking shall be constructed nearer than 30 feet from any property line. If two contiguous tracts are owned, the setback lines shall apply to the property as a whole rather than the individual lots.

2. All structures must be placed far enough off any easement to accommodate at least four (4) automobiles within the property boundary and completely off of the thirty (30) foot drive easement.

#### **SUBDIVIDING**

1. There shall be no re-subdividing of Lots into additional Lots.

#### **DRIVEWAYS/PARKING**

1. Owners shall provide space for parking at least four (4) full size passenger automobiles completely off of the roadway or drive easement prior to occupancy of any dwelling on any of said lots.

2. During construction period, adequate parking off of the roadway must be provide for all construction equipment and vehicles. During construction period, all transportation vehicles for equipment must be removed from the drive easement so no obstruction of drive easement will occur.

3. Owners must provide adequate roadways and parking space to accommodate all vehicles.

4. No parking shall be allowed on any subdivision road.

5. All driveways must have proper water drainage and be finished with concrete.

6. All driveways must be cut in and curbed pursuant to the specifications as shown on the diagram attached hereto as Exhibit "A" and made a part hereof.

#### **ANIMALS**

1. No poultry, hogs, pigs, sheep or goats shall be kept or maintained upon said property. Dogs

or cats may be kept upon said property as pets provided they are not kept for commercial use or purpose. Dogs and cats shall not be allowed to run loose and must be contained within their property boundaries.

2. No commercial poultry and/or swine facilities shall be maintained on any lot.

#### **SIGNS and MAILBOXES**

1. No sign of any kind shall be displayed to the public view on any lot except one professional sign of not more than one square foot. In addition, one sign of not more than five square feet advertising the property for sale, or signs used by a builder to advertise the property during the construction and sales period may be used.

2. Mail boxes shall be mounted on either wood or metal supports. No mailboxes constructed of stone, brick or rock shall be allowed.

#### **LIGHTING**

1. All outdoor lighting shall be so shaded and directed such that the light therefrom is directed to fall only on the same premises where the light sources are located and shall not be obtrusive to the neighboring properties.

#### **COMMERCIAL/BUSINESS ACTIVITY**

1. No business, trade, profession or commercial activity of any kind is permitted with the exception of any home industry (i.e. Administration, Internet, Managerial) which does not create a nuisance or results in traffic upon the roads of the subdivision shall be conducted in any building or dwelling or on any portion of the covenanted property.

#### **NOXIOUS/OFFENSIVE ACTIVITY**

1. The pursuit of hobbies or other activities, whether commercial or personal, including specifically the assembly and disassembly of motor vehicles and other mechanical devices which might tend to cause disorder, unsightly, or unkept conditions, shall not be pursued or undertaken on any part of any lot.

2. Absolutely no automotive repair shops of any type will be permitted.

3. No noxious or offensive activity, noises or odors shall be carried on upon the lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. No activity shall be carried out upon said land which would constitute an unreasonable and substantial interference with the use and enjoyment of the land by residential owners nearby.

4. The noise from television, radios, musical instruments or motor vehicles should not be so loud as to cause disturbances on other properties.

#### **TREES/GROUND COVER/LANDSCAPING**

1. Any and all ground cuts or bank cuts must be covered and stabilized by either grass, landscaping, stones or retaining wall for sediment control and to cover the red clay.
2. Within one year of beginning construction, yards and grounds shall be landscaped and all debris, stumps and building materials shall be removed from the property.
3. Foundation plantings must be installed on no less than three (3) sides of all residences consisting of no less than three (3) gallon plants.

#### **MOTOR VEHICLES**

1. Any and all motor vehicles, including but not limited to lawnmowers, which are not in regular use must be stored in an enclosed garage. No inoperable vehicles or junk cars may be stored on any lot.
2. No commercial trucks of any type (Example: Semi's, tractor trailer's, box trucks, low boy's, transport vehicles, buses larger than a pick-up truck or flat beds, etc. ) can be parked on any lot at any time or for any purpose.
3. No wrecked or inoperative vehicles or parts thereof shall be stored or kept on any lot at any time.

#### **MAINTENANCE**

1. Each lot shall be maintained and kept in a clean, neat and orderly fashion. Grass and other landscaping shall be cut on a regular basis, so as to maintain a neat and orderly appearance.
2. No part of said land shall be used or maintained as a dumping ground for rubbish, garbage or refuse. Trash, garbage and other waste shall be kept in sanitary containers.

#### **FENCES/DRIVEWAY ENTRANCES**

1. All fences must be constructed of wood, stone brick, concrete or concrete block only and shall not exceed four (4) feet in height. If constructed of concrete or concrete block it must be covered with stone, stucco or drivit.
2. All driveway entrances must be constructed of wood, stone, or brick and only the entrance pillars can exceed four (4) feet in height and must be placed five foot or more from the right of way of all subdivision roads.
3. All wood fences shall have at least a ten (10) inch gap between each board and/or plank,

whether vertical or horizontal. Wire may be used on the inside of fence to contain their dog or cat.

4. All fences and driveway entrances must be either dark green, dark gray, dark brown or black in color or any combination of said colors, so as to reduce the noticeably and blend into the natural landscape.

5. All fences and driveway entrances must be similar in appearance to and compliment the main dwelling structure.

#### ASSESSMENTS/DUES

1. Each Lot Owner by accepting a deed or other instrument conveying property within said subdivision, hereby agrees to pay annual dues and/or assessments in the initial amount of \$200.00 for the maintenance and upkeep of the subdivision roads and street lighting. Declarant shall have the right to collect said annual assessment and use such assesment at Declarant's sole discretion for the benefit and enjoyment of the Subdivision, until such time as a Property Owner's Association is formed. Declarant or the Property Owner's Association, upon same being formed and by majority vote, shall have the right to increase or decrease the annual assessment

2. The annual dues and assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which such 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 property at the time when the assessment fell due.

3. Declarant shall not be responsible or accountable for the payment of any assessments/dues on any lot owned by Declarant.

4. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of eighteen percent (18%) per annum. The Declarant or Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property of that owner. Declarant and subsequent owners hereby authorize and agree that a lien shall be placed among the deed records of Habersham County, Georgia, against the offending property or owners until said sum shall be paid in full.

#### PROPERTY OWNERS ASSOCIATION

1. A Property Owners' Association may be formed only after the Declarant has sold or transferred no less than fifty percent of all lots within the subdivision. Followings the sale of fifty percent (50%) of all lots within the development by Declarant, ownership of the roads, rights of

ways, and common areas to the Property Owner's Association, local governing authority or the lot owners as a group, shall be made by Declarant at its discretion.

#### ARCHITECTURAL CONTROL COMMITTEE

1. A Architectural Control Committee shall be formed by Declarant. Said Committee shall consist of three members. Two members of this committee shall constitute a quorum. Upon one hundred percent of all lots being sold, Declarant shall appoint the Architectural Control Committee. Upon one hundred percent of all lots being sold and a Property Owners' Association being formed, then the Property Owners' Association shall appoint the Architectural Control Committee.

2. The Architectural Control Committee shall be empowered to approve or disapprove building plans, specifications, plot plans, site plans and landscaping plans in accordance with the provisions contained herein. Approval or disapproval by the Architectural Control Committee shall be based upon the conformity and harmony of external design, general quality and size of the proposed building with the existing standards of the subdivision and standards imposed by the within restrictive covenants.

3. No building shall be erected, placed or altered on any Lot within said subdivision until the building plans, specifications, plot plans, site plans and landscape plans have been approved in writing by the Architectural Control Committee, its successors and assigns.

#### ENFORCEMENT

1. Enforcement of the covenants and restrictions contained herein and of any other provision hereof shall be by any appropriate proceedings at law or in equity against any person or persons violating or attempting to violate said covenants, restrictions, or other provisions either to restrain violation, to enforce personal liability, or to recover damages. Any owner found in violation of or attempted violation of any covenant, restriction or other provision by a court of law or equity shall be solely responsible for any and all attorney's fees, court costs and other costs and expenses of litigation incurred by the party or parties seeking enforcement or damages.

2. Any failure by Declarant or any property owner to enforce any of said covenants and restrictions or other provisions shall in no event be deemed a waiver of the right to do so thereafter.

3. A fine of \$25.00 per day or as may be set by the Declarant may be accessed by Declarant for any violation of this Declaration of covenants and restriction.

4. Declarant shall have the right to place a lien against the property of any Owner, if that Owner should fail to pay the annual assessment or dues within ninety (90) days after said assessment.

or dues are payable.

**EFFECTIVE**

This Declaration of Covenants, Conditions and Restrictions shall become effective immediately and run with the land and shall be binding on all persons claiming under and through said owners for a period of twenty (20) years from the date hereof and until rescinded or modified as hereinafter provided. Said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by a majority of all owners of the lots has been recorded, agreeing to amend said covenants in whole or in part.

**AMENDMENT**

The covenants and restrictions of this declaration may be amended at the time and from time to time by an agreement signed a three-fourths majority of all owners of the lots whose lots are subject hereto. Any such amendment shall not become effective until an instrument evidencing such change has been filed for record at the office of the Clerk of Superior Court of Habersham County, Georgia.

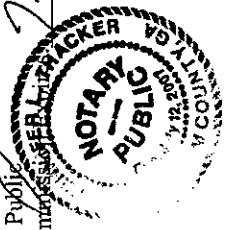
**SEVERABILITY**

Wherever possible, each provision of this declaration shall be interpreted in such a manner as to be effective and valid, but if any provision of this declaration or the application thereof to any person or to any property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application or any other provision which can be given effect without the invalid provision is declared to be severable.

IN WITNESS WHEREOF, the said Declarant has hereunto set his hand and seal the \_\_\_\_ day of July, 2006.

**MUD CREEK DEVELOPMENT, LLC**

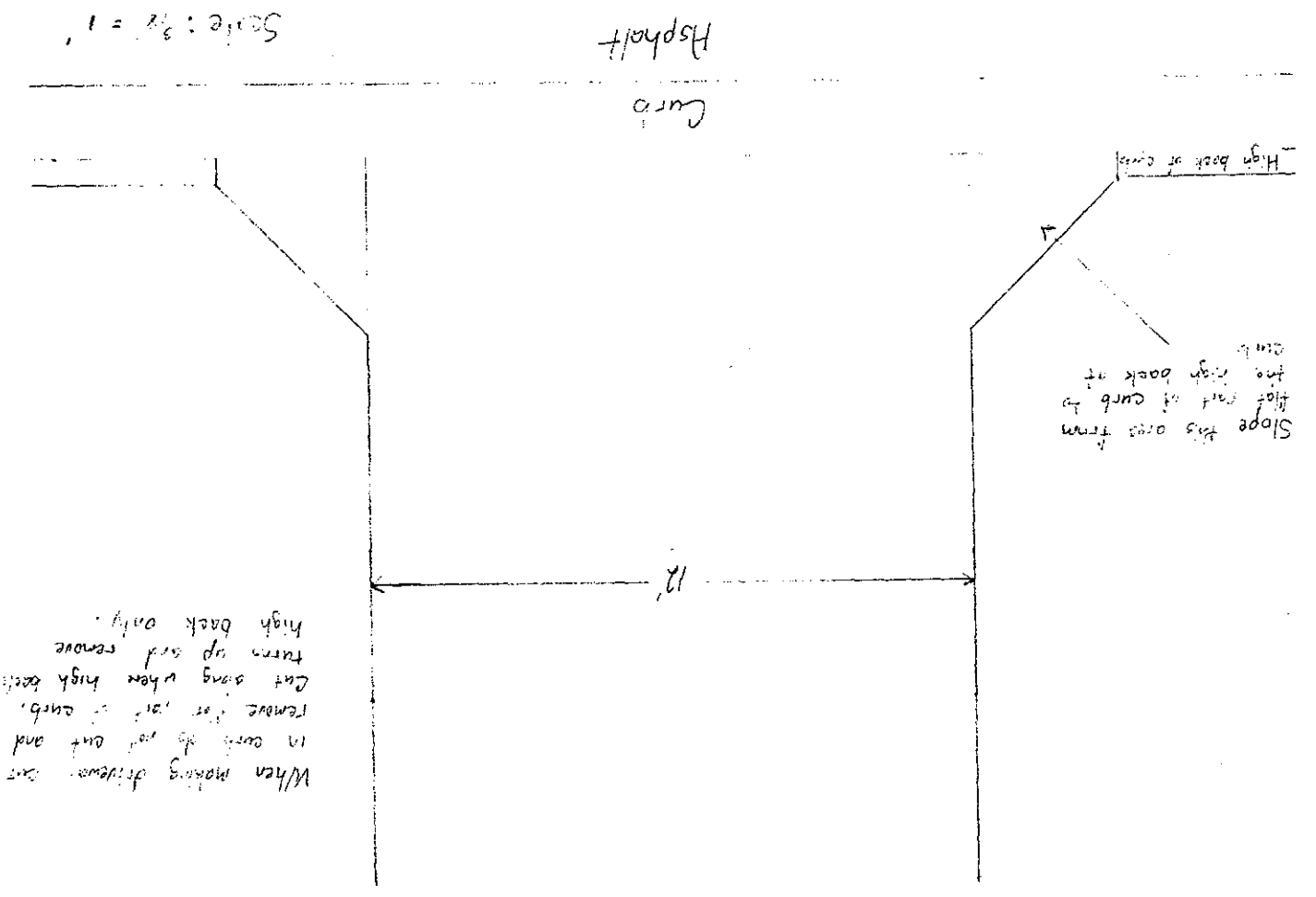
Witness [Signature]  
Notary Public [Signature] My Commission Expires 7-12-2007  
By: Michael Carter  
Michael Carter, Manager (SEAL)



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Exhibit "A"



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GEORGIA, HABERSHAM COUNTY.

IN RE: 40.203 ACRES LYING AND BEING IN LAND LOTS 123 AND 124 OF THE 10<sup>TH</sup> LAND DISTRICT OF HABERSHAM COUNTY, GEORGIA, SAID LANDS BEING CURRENTLY OWNED BY MICHAEL D. CARTER, DAVID C. CARTER AND CHRISTOPHER A. CARTER UNDER A WARRANTY DEED FROM ARMAND J. KRAMEDEIAN AND RUTH P. KRAMEDEIAN, DATED APRIL 13, 2005, RECORDED IN THE OFFICE OF THE CLERK OF SUPERIOR COURT OF HABERSHAM COUNTY, GEORGIA IN DEED BOOK 699, PAGE 656.

**AFFIDAVIT OF FACTS AFFECTING TITLE**

PERSONALLY appeared before the undersigned owners of the above described property, MICHAEL D. CARTER, DAVID C. CARTER AND CHRISTOPHER A. CARTER, who after being duly sworn, depose and on oath state the following:

1. THAT Protective Covenants were placed upon the subject property by Mud Creek Development, LLC, by an instrument dated July 7, 2006 and recorded in the office of the Clerk of Superior Court of Habersham County, Georgia, in Deed Book 762, Page 623. Title to the subject property at the time the Covenants were recorded was held in the name of Michael D. Carter, David C. Carter and Christopher A. Carter.

2. THAT all though the Covenants are outside the chain of title to the subject property, it is the intention of the parties hereto that the Protective Covenants attach to the subject property.

3. THE AFFLIANTS understand that this affidavit will be relied upon by lending institutions, title insurance companies and prospective purchasers involved in transactions regarding the above captioned land.

Sworn to and subscribed before me, this 15th day of August, 2006.

*Michael D. Carter*  
MICHAEL D. CARTER (Seal)

*David C. Carter*  
DAVID C. CARTER (Seal)

*Christopher A. Carter*  
CHRISTOPHER A. CARTER (Seal)

*[Signature]*  
Witness  
*[Signature]*  
Notary Public  
My Commission Expires: 7/22/2007



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