

PROTECTIVE COVENANTS
AGAINST
HIGHLAND FOREST COUNTRY ESTATES, PHASE 1-A
A PLANNED RESIDENTIAL COMMUNITY SUBDIVISION

GEORGIA, WHITFIELD COUNTY

THIS DECLARATION OF PROTECTIVE COVENANTS, made and published this 3rd day of May, 1995, by MFLT REALTY, INC., a Georgia corporation existing under the laws of the State of Georgia and having its principal place of business in Whitfield County, Georgia, (hereinafter referred to as "Declarant").

W I T N E S S E T H:

THAT WHEREAS, Declarant is the owner of certain real estate known as HIGHLAND FOREST COUNTRY ESTATES PHASE 1-A, located in Land Lot 190 of the 11th District and 3rd Section of Whitfield County, Georgia, being described in Exhibit "A" attached hereto and by reference made a part hereof (hereinafter the "Property"); and

WHEREAS, it is to the interest, benefit and advantage of Declarant and to each and every person who shall hereafter purchase any Lot in said subdivision that certain protective covenants governing and regulating the use and occupancy of the same to be established, set forth and declared to be covenants running with the land;

NOW, THEREFORE, for and in consideration of the premises and of the benefit to be derived by Declarant and each and every subsequent owner of any Lots in said subdivision, said Declarant does hereby set up, establish, promulgate and declare the following protective covenants to apply to all of said Lots and to all persons owning said Lots, or any of them hereafter; these protective covenants shall become effective immediately and run with the land, shall be binding on all persons claiming through Declarant, its successors or assigns; and every grantee of any interest in the Property which is now made subject to this Declaration, by acceptance of a deed or other conveyance of such interest, whether or not it shall be so expressed in any such deed or other conveyance, and whether or not such person shall otherwise consent in writing, shall take subject to this Declaration and to the terms and conditions hereof, and be deemed to have assented to said terms and conditions, to wit:

ARTICLE 1
DEFINITIONS

Section 1.01. "Declarant" shall mean and refer to MFLT Realty, Inc., A Georgia Corporation, its successors and assigns.

Section 1.02. "Association" shall mean and refer to Highland Forest Landowners Association, Inc., a Georgia Corporation, its successors and assigns.

Section 1.03. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot, including contract sellers and excluding those having such interest merely as security for the performance of an obligation.

Section 1.04. "Lot" shall mean and refer to any numbered plot of land comprising a single dwelling site designated on any plat of survey recorded in the Office of the Clerk of the Superior Court of Whitfield County, Georgia, now or hereafter made subject to this Declaration.

Section 1.05. "Common Property" shall mean all real property, together with all improvements and personal property located thereon or fixtures affixed thereto, owned by the Association for the common use and enjoyment of the Owners.

Section 1.06. "Mortgage" shall include chattel mortgage, bill of sale to secure debt, deed to secure debt, deed of trust and any and all other similar instruments given to secure the payment of an indebtedness.

Section 1.07. "Plat" shall mean and refer to the plat of survey described in Exhibit "A".

Section 1.08. "First Declaration" shall mean and refer to the Declaration of Covenants, Conditions and Restrictions for Highland Forest Country Estates, as recorded in Deed Book 355 Page 191, et. seq., and as amended, Whitfield County, Georgia Land Records.

Section 1.09. "Screening Committee" shall mean and refer to a committee as appointed by the Declarant.

ARTICLE 2

AMENDMENT OF DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR HIGHLAND FOREST COUNTRY ESTATES, AS RECORDED IN DEED BOOK 355 PAGE 191.

Section 2.01. Declarant, as successor in title to Macro Properties Corp., and pursuant of Article IX, Section 1 of the First Declaration and pursuant to that certain Agreement between Declarant and the Highland Forest Landowners Association, Inc. dated May 3, 1995, does hereby extend said First Declaration so that the First Declaration shall be hereafter fully applicable to the Property and all said terms, rights, easements and conditions shall apply to the Property, except as said First Declaration is modified herein.

Section 2.02. The First Declaration inadvertently expired by its terms on April 30, 1994, the Declarant and the Highland Forest Landowners Association, Inc., entered into that certain Agreement dated May 3, 1995, whereby said First Declaration was renewed and extended as it applied to the Property.

ARTICLE 3

USE RESTRICTIONS AND RULES

Section 3.01 Land Use and Building Type. No lot shall be used except for residential purposes and no commercial activity of any kind shall be carried on upon any Lot. No building shall be erected, altered, placed, or permitted to remain on any Lot other than one detached, single family dwelling not to exceed three (3) stories in height. All dwellings shall include a private garage for not less than two (2) nor more than four (4) cars; a garage being defined as a covered building having three (3) fully enclosed sides. Construction must equal or exceed the requirements that are in effect at the time construction is started according to the provisions of the Southern Building Code or its successors. Under direct inspections of the Building Inspector of Whitfield County, Georgia, construction can vary from that required by the Southern Building Code in order to conform to the current regulations of the governing agency.

Section 3.02. Architectural Control. No building shall be erected, placed, or altered on any Lot until the construction plans and specifications and a plan showing location of the structure, clearing necessary, and the grading plans are approved by the Screening Committee and the Architectural Control Committee as to quality of workmanship and materials, harmony of external design with existing structures, and as to location with respect to topography and finish grade elevation. Approval shall be provided in Article 4 hereof.

(a) Dwellings hereafter constructed in said subdivision shall have a minimum square feet of floor space in the heated living area of not less than 1800 square feet (exclusive of basements, porches and garages), however of said 1800 square feet, not less than 1000 square feet of the Dwelling must be located in the first story.

(b) All of the above dwellings shall contain a garage as specified in Section 3.01; each garage to have garage door(s) enclosing the fourth side. No carports permitted.

(c) Heated living area having clear head room of less than four (4) feet shall not be included within any computation or calculation of heated living area of any dwelling for purposes of this covenant.

(d) Any dispute or question pertaining to classification of architectural type, correct computation of square footage of heated living area, or any other matter of dispute or question pursuant to this covenant shall be determined by the Architectural Control Committee, whose decision or determination shall be conclusive and binding upon all parties.

(e) No dwelling erected on any Lot shall be occupied for habitation until the exterior of said dwelling is fully completed, which shall be deemed to include, but not necessarily limited to, painting or staining of the dwelling exterior and completion of construction of driveways and walkways.

Section 3.03. Building Location. No building shall be located on any Lot nearer to the front Lot line or nearer than the minimum building setback lines shown on the Plat. No building shall be located less than fifteen (15) feet from any interior Lot line or nearer than twenty-five (25) feet to the rear Lot line.

Section 3.04. Drainage and Utility Easements. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the Plat. Utility easements are reserved over the front fifteen (15) feet of each Lot. Drainage flow shall not be interrupted or diverted from that designated above or on the Plat. All utilities in Phase I-A shall be underground.

Section 3.05. Nuisances. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may become an annoyance or nuisance to the neighborhood. There shall be no junk yards or auto used parts storage on any Lot within this subdivision, nor shall any Lot be used for the purpose of an automobile workshop; nor shall any immobile or inoperable vehicle be maintained upon any Lot or upon any street in said subdivision.

Section 3.06. Temporary Structures and Outbuildings. No structure of a temporary character, mobile home, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any Lot at any time, either temporarily or permanently. No shell homes or prefabricated homes or dwellings relocated from another site shall be erected or placed on any Lot in this subdivision. The placement of a dog kennel with adjacent exercise area shall be permitted provided that it is not maintained for breeding or commercial purposes. However, no detached non-residential building may be constructed upon any Lot without the specific approval of the Architectural Control Committee; and must be located within the building setback lines and to the rear of any single family dwelling constructed in said subdivision. Detached non-residential buildings shall be constructed of materials which will be in keeping with the design and quality of the principal building.

Section 3.07. Signs. No sign of any kind shall be displayed to the public view on any Lot except one professional sign of not more than five (5) square feet advertising the property

for sale, or signs used by a builder to advertise the property during the construction and sales period.

Section 3.08. Oil and Mining Operations. 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 structures designated for use in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot.

Section 3.09. Pets, Livestock and Poultry. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any Lot, except that no more than an accumulative total of three (3) dogs, cats or other household pets may be kept provided that they are not kept, bred, or maintained for any commercial purpose.

Section 3.10. Sewage Disposal. No individual sewage disposal system shall be permitted on any Lot unless such system is designed, located and constructed in accordance with the requirements, standards and recommendations of the Georgia Department of Public Health. Approval of such systems as installed shall be obtained from such authority.

Section 3.11. Garbage and Refuse Disposal. No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage and other waste shall be kept in sanitary containers.

Section 3.12. Sight Distance at Intersections. 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 line 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 property lines extended. 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.

Section 3.13. Firearms. No firearms shall be unlawfully discharged upon any Lot at any time and no target practice or contests of marksmanship shall be conducted at any time.

Section 3.14. Motorcycles. Motorcycles, motorbikes and like equipment and machinery maintained for the personal use of any property owner or member of his family may be garaged upon any Lot and operated upon the public streets in said subdivision, but may not be operated in any location other than upon the Lot owned by the person or persons maintaining such vehicle or permitting the same upon their Lot in said subdivision, or upon the public streets of the Subdivision. Motorized vehicles are not permitted on any nature trail or drainage easement.

Section 3.15. Antenna. No television satellite dishes, receivers or similar type structures shall be allowed on any Lots, except for those satellite dishes which are less than 24 inches in diameter and which are mounted on the rear of the dwelling and are not visible from the street.

Section 3.16. Miscellaneous Provisions.

(a) No Lot or part thereof shall, except at the sole and exclusive option of Declarant, at any time during the term of these covenants be used for road or street purposes, whether public or private; provided, however, that this covenant shall not be construed to prohibit the construction and maintenance of a driveway

for purposes of providing ingress and egress from the public streets in said subdivision to the residences to be constructed in said subdivision.

(b) The following additional construction standards shall be observed:

- (i) No exposed concrete or concrete block shall remain on any exterior wall above ground level. All foundations must be faced with brick or stone (rock);
- (ii) All foundations must be fully enclosed at the exterior walls; no unenclosed foundations or pier-type foundations of any material shall be permitted;
- (iii) All driveways must be of either asphalt or concrete construction only (no gravel permitted). Asphalt driveways shall be paved to a compacted depth of not less than one and one-half (1 1/2) inches, and concrete driveways must be poured with a minimum thickness of four (4) inches. All driveways shall be not less than twelve (12) feet in width and shall run from the pavement line on the street frontage of each Lot to the garage located upon each individual building Lot;
- (iv) No gateways or entry structures (columns) shall be erected at the driveway entrance to any Lot until the design and location of the same have been approved by the Architectural Control Committee, in accordance with the procedural requirements set forth in Article 4. However, the Architectural Control Committee is not empowered to approve any permanent structure on the utility right of way. Such placement is at the owner's own risk. Neither the Architectural Control Committee nor the Highland Forest Landowner's Association can accept any responsibility for accident or personal liability incurred through such placement;
- (v) No poles for installation of private lighting shall be located or placed forward of the building setback lines as shown upon the aforesaid plat of said subdivision, other than decorative lamp posts. In the event that the owner of any Lot wishes to erect a non-decorative pole for security lighting or any other type of lighting, he must first submit the same to the Architectural Control Committee for its approval in accordance with the procedures provided in Article 4;
- (vi) The owner of each individual Lot shall, upon completion of a dwelling upon such Lot, provide asphalt or concrete return corners at the point or points of intersection of his private driveway with the public street whereupon his Lot fronts in said subdivision, which return corners shall be joined in a workmanlike manner to the asphalt or concrete curbing installed by Declarant on each pavement line of each street in said subdivision. Builders shall maintain a reasonably neat job site i.e. keeping trash and discarded building materials from scattering all over the neighborhood and Golf Course. A small receptacle for vermin attracting garbage from workers' lunches should be placed on the job site and emptied on a regular basis. Violations of the above can result in as much as a ten (10) day suspension of work while the violation is brought into compliance;
- (vii) All homes approved for Phase 1-A shall have masonry front steps; and

(viii) No fence or wall shall be erected, placed or altered on any lot nearer to any street than the rear corners of the principal building unless approved by Architectural Control Committee. Approval shall be as provided in Article 4 hereof. However, no chain link fences or any chain link type fences are permitted on any lot.

(c) In the event any breach of the covenants set forth in Article 3 should occur, the Architectural Control Committee or the Screening Committee shall give notice thereof in writing to the owner or owners of the Lot upon which, or in front of which, such breach is continuing, and allowing ten (10) days from the receipt thereof by such owner or owners for the remedy of such breach. In the event such breach shall not be remedied within ten (10) days, the Architectural Control Committee or the Screening Committee or any other owner in said subdivision, may commence any action at law or in equity as may be permitted by law to enforce this covenant.

ARTICLE 4 ARCHITECTURAL CONTROL COMMITTEE.

Section 4.01. Architectural Control Committee. The Architectural Control Committee is composed of members appointed by the Association. The majority of the Committee may designate a single representative to act for it. In the event of resignation of any member of the Committee, the Board of Directors shall have the sole authority to designate a successor. Neither the members of the Committee nor its designate representative shall be entitled to any compensation for services rendered pursuant to this covenant.

Section 4.02. Screening Committee. In Phase 1-A, a Screening Committee will pre-screen all construction plans and specifications for all homes before the same are submitted to the Architectural Control Committee for approval. The Screening Committee's approval or disapproval as required in these covenants shall be in writing. In the event that the Screening Committee, or its designated representative, fails to approve or disapprove within fifteen (15) days after the plans and specifications have been submitted to it, or in any event, if no suit to enjoin the construction 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. Any subsequent changes in said plans shall be submitted to the Screening Committee for further approval of said Screening Committee in accordance herewith.

Section 4.03. Architectural Control Committee Approval. After the construction plans and specifications have been approved by the Screening Committee, they shall then be submitted to the Architectural Control Committee. The committee's approval or disapproval as required in these covenants shall be in writing. In the event that the Committee, or its designated representative, fails to approve or disapprove within fifteen (15) days after the plans and specifications have been submitted to it, or in any event, if no suit to enjoin the construction 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. Any subsequent changes in said plans shall be submitted to the Architectural Control Committee for further approval of said committee in accordance herewith.

ARTICLE 5 REQUIRED DEVELOPMENT

Section 5.01. Required Development; Reversion of Title for Failure to Develop. The purchaser of each Lot from the Declarant, by accepting a deed to the Lot, covenants for that purchaser, its heirs, administrators, successors and assigns, and every successor in interest to the Lot or any part thereof, that construction of Improvements on the Lot shall commence not later than the last day of the twelfth (12th) calendar month following the date of the purchase

of the Lot from the Declarant and shall thereafter be continuously pursued until completed in accordance with plans and specifications approved by the Architectural Control Committee. For purposes hereof, if the date of purchase is on or before the fifteenth (15th) day of the month in which the closing takes place, that month will be considered the first calendar month of the twelve (12) month period specified above. Purchases consummated after the fifteenth (15th) day of each calendar month shall be deemed, for purposes hereof, to have been consummated on the first (1st) day of the calendar month immediately following the date of purchase. Upon the failure of a purchaser of a Lot from the Declarant, its successors and assigns, or successors in interest, to enter into a valid and enforceable contract for the construction of Improvements in accordance with plans and specifications approved by the Architectural Control Committee and to commence construction of improvements in accordance with construction plans and specifications submitted to and approved by the Architectural Control Committee, prior to the last day of the twelfth (12th) month following the date of purchase of the Lot from the Declarant, title to the Lot shall, at the sole option of Declarant, revert to the Declarant, its successors or assigns. Declarant is to exercise the option of said reversion of title, by sending written notice to the Owner of said Lot, by Certified Mail to the last known address of the subject Lot Owner, within 30 days of the last day of the twelfth (12th) month following the date of purchase of the Lot from the Declarant, and the Declarant shall pay to the Owner of the Lot the purchase price paid to the Declarant for the Lot, less One Thousand Dollars (\$1,000.00), without interest, within sixty (60) days of the reversion of title. The remaining One Thousand Dollars (\$1,000.00) of the purchase price shall be retained by the Declarant. This covenant shall constitute a covenant running with the land and shall be binding upon the purchaser of any Lot, the purchaser's heirs, executors, administrators, successors and assigns. No provisions of this Section shall be construed as requiring the Declarant to develop or improve any Lot. Notwithstanding the above provisions, Declarant specifically reserves the right to waive the provisions of this paragraph.

ARTICLE 6 GENERAL PROVISIONS

Section 6.01. Amendment by Declarant. During any period in which Declarant owns Lot(s), Declarant may amend his Declaration by an instrument in writing filed and recorded in the Whitfield County, Georgia Land Records, without the approval of any Owner or mortgagee; provided, however, that:

a. in the event that such amendment materially alters or changes any Owner's right to the use and enjoyment of such Owner's Lot as set forth in this Declaration, or if such amendment adversely affects the title to any Lot, such amendment shall be valid only upon the written consent thereto by a majority of the then existing Owners affected thereby; or

b. in the event that such amendment would materially and adversely affect the security title and interest of any mortgagee, such amendment shall be valid as to such mortgagees only upon the written consent thereto of such mortgagees so affected. Any amendment made pursuant to this Section shall be certified by Declarant as having been duly approved by Declarant, and such Owners and mortgagees if required, and shall be effective only upon recordation or at such later date as shall be specified in the amendment itself. Each Owner, by acceptance of a deed or other conveyance to a Lot, agrees to be bound by such amendments as are permitted by this Section and further agrees that, if requested to do so by Declarant, such Owner will consent to the amendment of this Declaration or any other instruments relating to the Development:

(i) if such amendment is necessary to bring any provision hereof or thereof into compliance or conformity with the provisions of any applicable governmental statute, rule or regulation or any judicial determination which shall be in conflict therewith;

(ii) if such amendment is necessary to enable any reputable title insurance company to issue title insurance coverage with respect to any Lots subject to this Declaration;

(iii) if such amendment is required by an institutional or governmental lender or purchaser of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable any governmental agency or reputable private insurance company to insure mortgage loans on the Lots subject to this Declaration; or

(iv) if such amendment is necessary to correct a scrivener's error in the drafting of this Declaration.

Section 6.02. Amendment by Owners. The covenants and restrictions of this Declaration may be amended at any time and from time to time during said first period, and at any time and from time to time during the period of any extension and renewal thereof, by an agreement signed (a) by Declarant, if it is the owner of any Lots then subject thereto, and (b) by at least two-thirds (2/3) of the Owners whose Lots are then subject thereto and provided however, that any amendment which materially and adversely affects the security title and interest of any mortgagee must be approved by such mortgagees. Any such amendment shall not become effective until the instrument evidencing such change has been filed for record. Every purchaser or grantee of any interest in any property now or hereafter made subject to this Declaration, by acceptance of a deed or other conveyance therefor, thereby agrees that the covenants and restrictions of this Declaration may be amended as provided in this Section.

Section 6.03. Variances. The Declarant shall have the power and authority, in his sole discretion, to grant variances to this Declaration provided, however, that such variances shall be reasonably consistent with the purpose of this Declaration and shall not materially adversely affect existing Improvement(s). Whenever, in the exercise of his discretion the Declarant grants a variance to these Declarations, each Owner and/or Occupant of a Lot hereby acknowledges that such variance shall constitute a waiver of any conflicting provisions of these Declarations. Each Owner and/or Occupant of a Lot appoints the Declarant as its true and lawful attorney-in-fact for the limited purpose of consenting to and granting variances.

Section 6.04. Duration. The covenants and restrictions of this Declaration shall run with and bind the land, shall be and remain in effect, and shall inure to the benefit of and be enforceable by Declarant, the Association, or any Owner of any Lot now or hereafter subjected to this Declaration, their respective heirs, legal representatives, successors and assigns for a period of twenty (20) years from and after the date this instrument is recorded, after which time such covenants shall be automatically extended for successive periods of twenty (20) years until the recordation of an instrument of termination within two (2) years of the expiration of the initial twenty (20) year period or any extension thereof, such instrument having been executed by a minimum of fifty-one percent (51%) of the record Owners of Lots in the Development. Every purchaser or grantee of any interest in any property now or hereafter made subject to this Declaration by acceptance of a deed or other conveyance therefor, thereby agrees that the covenants and restrictions of this Declaration may be extended as provided in this Section.

Section 6.05. Resubdivision. Resubdivision of the Lots shown upon the aforesaid Plat of Survey shall be permitted only if the same does not operate so as to permit the construction of more than one single-family dwelling per each numbered Lot shown upon the aforesaid plat of said subdivision.

Section 6.06. Enforcement. In addition to those powers of enforcement set forth herein, enforcement shall also be by proceedings at law or in equity against any persons violating or attempting to violate any covenants either to restrain violation or to recover damages, all of said rights and powers of enforcement being cumulative.

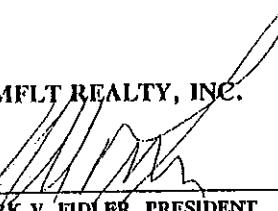
Section 6.07. Severability. Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be effective and valid, but if any provisions of this Declaration or the application hereof to any person or to any property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given effect without the invalid provision or application and to this end the provisions of this Declaration are declared to be severable.

Section 6.08. Captions. The captions of each Section hereof as to the contents of each Section are inserted only for convenience and are in no way to be construed as defining, limiting, extending or otherwise modifying or adding to the particular Sections to which they refer.

Section 6.09. No Liability. Declarant has, using best efforts and all due diligence, prepared and recorded this Declaration so that each and every Owner shall have the right and power to enforce any provision of this Declaration against every other Owner. However, in the event that this Declaration is, for any reason whatsoever, unenforceable by an Owner (or any other person) in a court of law or otherwise, Declarant shall have no liability of any kind as a result of such unenforceability, and each and every Owner, by acceptance of a deed conveying a Lot, acknowledges that Declarant shall have no such liability.

IN WITNESS WHEREOF, Declarant has hereunto set its hand and seal, the day and year first above written.

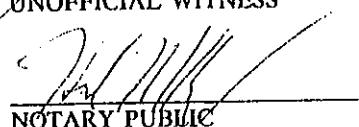
MFLT REALTY, INC.

BY: 
MARK V. FIDLER, PRESIDENT

ATTEST: 
LARRY THOMASON, SECRETARY

Signed, sealed and delivered
in the presence of:


UNOFFICIAL WITNESS


NOTARY PUBLIC

{CORPORATE SEAL}



HARVARD H. KRANZLEIN, JR.
Notary Public, Whitfield County, Georgia
My Commission Expires July 6, 1998

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FILED & RECORDED 4:00
TIME: 5-11-05
DATE: 5-10-13
DEED BOOK: 104-113
PAGE: 104-113
BETTY NELSON, C.S.C.
WHITFIELD COUNTY, GA

EXHIBIT "A"

All that tract or parcel of land lying and being in Land Lot No. 190 in the 11th District and 3rd Section of Whitfield County, Georgia, being designated as Lots 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, and 410 of Highland Forest County Estates Phase One-A, according to a plat of said Subdivision prepared by Donald O. Babb, Georgia Registered Land Surveyor No. 2029, dated March 28, 1995, recorded in Plat Cabinet C, Slides 1222-1223, Whitfield County, Georgia Land Records, reference to which plat is hereby made and incorporated herein by reference for a more particular description of said property.