

IN THE SUPERIOR COURT OF COBB COUNTY
STATE OF GEORGIA

DRUDELL INVESTMENT CORPORATION,
Plaintiff
vs.
GARVIS L. SAMS, PETER R. FURNISS, GAIL S. FURNISS, RONALD J. BROUSE, WELTHA J. BROUSE, HERMAN FELLTON, and JOHN W. SHEAHAN, II,
Defendants

CIVIL ACTION
FILE NO. 81-1117

CLERK OF SUPERIOR COURT

[Handwritten Signature]

81 NOV 7 PM 2 03

COBB COUNTY, GEORGIA
FILED IN OFFICE

ORDER AND JUDGMENT

This is an action for a declaratory judgment brought by the Plaintiff seeking a declaration by this Court of the Plaintiff's right to develop certain real property located in Cobb County, Georgia, pursuant to a development plan submitted to this Court, under the terms of restrictive covenants applicable to the property described in Exhibit "A" (the Property). Named as Defendants are present and former adjacent property owners who were parties to the agreement creating the covenants, their successors in title, and a predecessor in title to the Property.

It appearing to the Court that the Court has jurisdiction over the subject matter and parties to this action, and that all of the parties hereto have consented to the entry of this Order, and the Court having examined the record and pleadings and being fully advised in the premises, it is

ORDERED AND ADJUDGED, that Plaintiff, DRUDELL INVESTMENT CORPORATION, may proceed with the development of the Property, in accord with the conceptual site plan, renderings and drawings developed by Chapman & Associates, attached hereto as Exhibit "B" to this Order, in substantial conformity thereto and subject to the following conditions:

ORDER
DOCKETED 16D
MINUTE BOOK 347

1.

The existing covenants of record are enforceable to the benefit of the Defendants and each of them and their successors in title to their property and in favor of the Property; the covenants run with the land on the Property.

2.

The development and maintenance of the Property in conformity to the plans attached hereto as Exhibit "B" in lieu of the site plan developed by Heery & Heery specified in the existing covenants of record is held to be in compliance with the language and intent of the covenants.

3.

All sales contracts, encumbrances, deeds, and transfers of all or any interest in the Property shall be subject to the existing covenants of record and to the requirements of this Order.

4.

Any owners association, merchants association, or similar organization formed for purposes of holding title to any common areas within the development shall hold title subject to the existing covenants of record and the requirements of this Order.

5.

Plaintiff may utilize fiberglass or asphalt roof shingles for construction of the Williamsburg type structures to be placed on the Property.

6.

The maximum total gross square feet of the buildings to be constructed on the Property cannot exceed 210,000 square feet and none of the structures on the Property shall be over three stories high.

7.

The perimeter boundaries on that part of the Property not fronting on Johnson Ferry Road or Paper Mill Road shall

have a security shield utilizing retaining walls, vegetation or fences in accord with the covenants of record, and in addition thereto the north boundary of the property from a point 300 feet west of Johnson Ferry Road to the northwest corner of the property shall have a security shield consisting of galvanized chain link fence at least 48 inches in height, wood fencing, or a combination of wood and wire fencing and will be constructed within one hundred twenty (120) days after the commencement of construction. Such fencing shall have a vegetation cover on both sides in the form of vines or other ornamental vegetation.

8.

The existing earth berm along Paper Mill Road shall remain (or shall be constructed if not present), except at those points shown on the Exhibit "B" plans and drawings for entrance and egress to the Property, and excepting that part of the intersection with Johnson Ferry Road that necessarily must be low enough in elevation for vehicle safety on approaching the intersection. An earth berm shall be constructed along Johnson Ferry Road except at those points on the Exhibit "B" plans for entrance and egress to the Property and excepting that part of the intersection with Paper Mill Road that necessarily must be low enough in elevation for vehicle safety on approaching the intersection. All earth berms along Johnson Ferry Road and Paper Mill Road shall be of sufficient size to provide visual screening from passers-by in automobiles.

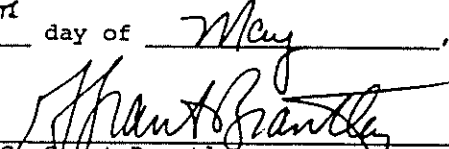
9.

The Property after development must be maintained in accordance with the Exhibit "B" plans and drawings and in accordance with the existing covenants of record for so long as those covenants are effective.

Defendant John W. Sheahan, II, as successor in title to Peter R. Furniss and Gail S. Furniss, is a proper party Defendant to this action, in that he may enforce the covenants applicable to the Plaintiff's Property.

The Court hereby specifically finds that the development by Plaintiff of the subject property in accordance with the Exhibit "B" plan of development attached to this Order and incorporated therein shall not be in breach of the covenants applicable to this Property as contained in the agreement between Plantation Development Company and certain of the Defendants, recorded in Deed Book 1483, Pages 178-186 of the records of Cobb County, Georgia. The Plaintiff may proceed with the development of the Property described in accord with the Exhibit "B" site plans, renderings and drawings attached to this Order, and subject to the conditions imposed by the Court. Such development is hereby declared to be consistent with the covenants running with this Property. Judgment is accordingly entered in accord with the terms of this Order, with all costs to be paid by Plaintiff.

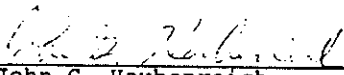
SO ORDERED, this 7th day of May, 1981.


 G. Grant Brantley,
 Judge, Superior Court of Cobb
 County, Georgia

CONSENTED TO:

SOMERS & ALTENBACH


 Robert E. Altenbach


 John G. Haubenreich

ATTORNEYS FOR PLAINTIFF

1150 Hammond Drive
 Suite 4100
 Atlanta, Georgia 30328

(404) 394-7200

[SIGNATURES CONTINUED]

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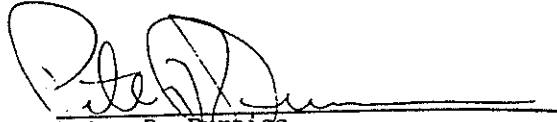
FFB * and this matter having come before the Court regularly for hearing on this date, and the Court having heard evidence and argument of counsel for the Plaintiff and Defendant Garvis

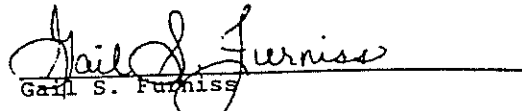
L. Sams, *FFB*

IN THE SUPERIOR COURT OF COBB COUNTY
STATE OF GEORGIA

CIVIL ACTION FILE No. 81-1187
ORDER AND JUDGMENT

CONSENTED TO:


Peter R. Furniss


Gail S. Furniss

CONSENTED TO:

Ronald J. Brouse
RONALD J. BROUSE

Weltha J. Brouse
WELTHA J. BROUSE

CONSENTED TO:

George W. Darden
GEORGE W. DARDEN
Attorney for RONALD J. BROUSE
and WELTHA J. BROUSE

P. O. Box 997
Marietta, Georgia 30061
(404) 424-3000

CONSENTED TO:

Herman Fellton
Herman Fellton

CONSENTED TO:

POWELL, GOLDSTEIN, FRAZIER &
MURPHY

Larry Bogart
Larry Bogart, Esq.

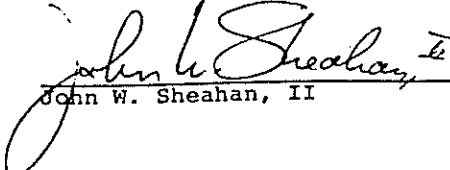
ATTORNEY FOR HERMAN FELLTON

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C&S National Bank Building
Atlanta, Georgia 30303

(404) 572-6600

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CONSENTED TO:


John W. Sheahan, II

CONSENTED TO:


John Dunlap, Esq.

ATTORNEY FOR JOHN W. SHEAHAN, II

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3030 Peachtree Street, N.W.
Atlanta, Georgia 30305

(404) 261-3880

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All that tract or parcel of land lying and being in Land Lots 73 and 81 of the 1st District, 2nd Section, Cobb County, Georgia, being more particularly described as follows:

BEGINNING at a point where the western right of way of Johnson Ferry Road (having a 70 ft. right of way) intersects with the northern right of way of Paper Mill Road (having a 60 ft. right of way) and running thence in a southwesterly direction along the northern right of way of Paper Mill Road a distance of 1127.8 feet to an iron pin found as measured along the arc of said road and whose chord distance is 1127.52 feet to an iron pin found with a bearing of $S77^{\circ}52'15''W$; running thence $N09^{\circ}46'30''W$ a distance of 575.95 feet to an iron pin found; running thence $N11^{\circ}42'W$ a distance of 587.75 feet to an iron pin found, said point lying on the land lot line which divides Land Lots 73 and 72; thence running in an easterly direction along said land lot line $S89^{\circ}54'22''E$ a distance of 498.17 feet to an iron pin found; running thence $S00^{\circ}09'40''E$ a distance of 313.77 feet to an iron pin found; running thence $S89^{\circ}50'45''E$ a distance of 760.97 feet to an iron pin found, said point lying on the western right of way of Johnson Ferry Road (having a 70 ft. right of way); running thence in a southerly direction along the western right of way of Johnson Ferry Road a distance of 593.5 feet, as measured along the arc of said road, to an iron pin found, and whose chord distance is 592.56 feet to an iron pin found with a bearing of $S05^{\circ}44'30''E$, said point being the point of BEGINNING according to a plat of survey prepared for Marett Properties by J. B. Dixon, RLS, dated December 22, 1980, said tract containing 21.81 acres according to said survey.

EXHIBIT "A"

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