

Book Deed Page
0690 0387

RUTHERFORD COUNTY NC
05/15/97 10:12 AM
FAYE H. HUSKEY
Register of Deeds
By: JL Deputy/est

Est

PINNACLE MOUNTAIN
RUTHERFORD COUNTY, NORTH CAROLINA
DECLARATION OF COVENANTS AND RESTRICTIONS

A. PREAMBLE

WHEREAS, J.R. White & B.F. White, a North Carolina General Partnership, hereinafter referred to as "DEVELOPER", (which term includes the successors, assigns, and nominees of Developer), is the owner of all tracts in Pinnacle Mountain, as shown upon that plat recorded in Plat Book 18 at Page 4; of the Register of Deeds for Rutherford County, North Carolina;

WHEREAS, Developer has established a plan for the improvement, development and maintenance of the subdivision and certain other lands of the Developer and is desirous of improving, developing and maintaining the subdivision in accordance with said plan.

WHEREAS, Developer is desirous of impressing and placing certain covenants, restrictions, limitations, reservations, and servitudes upon the ownership, improvements, use and occupancy of each of the tracts in the subdivision to insure the improvement, development and maintenance of the subdivision in accordance with the plan, which covenants, restrictions, limitations, reservations and servitude shall run with the title to each of the tracts and shall be binding upon each tract.

NOW, THEREFORE; the Developer, its grantees, successors and assigns, establish the following covenants, restrictions, limitations, reservations and servitude upon each of the tracts in the subdivision and on the ownership, use and occupancy thereof.

B. PROTECTIVE RESIDENTIAL COVENANTS.

1. No building or structure of any kind whatsoever other than a single dwelling house shall be erected on the property, and any such dwelling house shall be used for residential purposes only. Neither the Developer nor any other owner of any lot within the property shall further subdivide any of the numbered lots shown on the initial plat or any supplemental plat unless the subdivided lot is at least three (3) acres in size. Nothing contained herein shall prevent the Developer or any other lot owner from merging two or more contiguous lots into a single lot; provided that if there shall be a requirement to pay assessments as set forth herein, such requirement shall continue to bind both lots as separate lots.

Developer also reserves the right to revise the dimensions of any lots within the subdivision so long as the Developer owns all lots affected by such change (which shall mean contiguous or adjacent lots) or obtains the written consent of any other party who owns a lot affected by such change. Said changes shall be accomplished by the filing of amended plats and appropriate amendments to these Protective Covenants. When any such change affects a lot owner other than Developer, the change must also be evidenced by a deed conveying to Developer (or other party) the land being surrendered by such other party in order to affect the change.

2. No mobile homes, house trailers, unapproved out-buildings or any temporary structures shall be placed on any tract, either temporarily or permanently, except that the builders may elect to utilize said structures during the construction of any improvements on the property and the Developer may use such structures as a sales office. This provision will not prevent the parking of licensed motorhome or travel trailer at the home of the property (tract) owner for the purpose of storing said vehicle as long as said vehicle is parked on the property owner's tract in such a manner as to be reasonably out of sight and nonoffensive to other property owners.
3. No tract shall be used for vehicle repair work, whether performed by the property owner or other parties. All boats and equipment utilized with boats, including trailers shall be kept out of the road and adjacent property owners' view.
4. Residents and property owners shall not be allowed to park vehicles on the road except in emergencies. Unless otherwise posted, guests and visitors of owners may park on the shoulder of the roads, while visiting property owners for a short duration, so long as the health, safety and convenience of other residents within the subdivision are not impaired.
5. No building shall be erected on any tract, nor shall any substantial change or addition be made to any building erected on any tract without the approval of the Architectural Committee. The Committee shall be charged with the responsibility of assuring that all such buildings are basically compatible with the designs of surrounding areas and with other buildings previously built. Such approval shall not be unreasonably withheld.
6. No dwelling, garage or other improved building shall be closer than 20 feet from any front or rear lot line or side street line or right of way. No dwelling, garage or other improved building shall be nearer than 15 feet to any interior tract line. However, where such setback line requirements create an undue hardship upon the owner, such setback may be modified as necessary to prevent the hardship by the Developer or the Architectural Committee. Steps, patios, and garden walls shall not be considered part of the building for determining front, rear and side set-backs.

7. Except for the construction and sales activities to be conducted by the Developer (or its successors or agents for such purposes) or its designees, no portion of the property shall be used for commercial or business enterprises. Home professions such as artists and craftsmen may be permitted with written permission of the Developer, who shall have the right to establish all rules governing such use.

8. No sign of any kind shall be displayed to the public view on any lot, except one sign identifying the property owner. This sign may include names and addresses but may not include a logo, unless approved by the Developer. Nothing in this paragraph shall be construed to prevent the Developer from erecting an entrance displayed sign or signs designed to designate areas within the development including, but not limited to street signs.

9. No animals, livestock or poultry of any kind shall be kept, raised or bred on the property, except that dogs, cats or other common household pets and horses may be kept so long as the owner of such animals do not keep, breed, or maintain such animals for any commercial purposes. All such animals must be kept in fenced areas to the rear of the main residence and when out for exercise should be kept on a leash and not allowed to become a nuisance to other residents, property owners or their guests.

Horse barns, not more than one and one-half stories in height, consisting of not more than four stalls, a tack room, a wash area and hay storage will be permitted on tracts larger than ten acres. If a property owner has two or more contiguous tracts, these can be merged into one tract for the purpose of meeting this requirement. Said barn must be no closer than one hundred feet to any front, side or rear tract line of any other tract owner and must be approved by the Architectural Committee.

10. Fences may be constructed or replaced only with the prior approval of the Architectural Committee.

11. No noxious or offensive activity shall be permitted on the property.

12. No tract shall be used as a dumping ground for rubbish, trash, garbage, and all waste shall be kept only in sanitary containers. All equipment for the storage or disposal of refuse shall be kept in a clean and sanitary condition.

13. No timber cutting will be permitted except for the clearing of homesites or driveways except where the area cleared is seeded, or planted and maintained in such a manner in keeping with the standards of the subdivision. Clear cutting is not permitted.

14. Individual septic tanks and sewage systems must be designed, built and maintained to county and state health department specifications. It is acknowledged herein that there is no present water supply maintained or supplied by the Developer or any municipality and the placement of septic systems or wells upon any lot shall be the responsibility of the tract owner.
15. All buildings shall be constructed with high quality materials and workmanship to insure that no dwelling will present an unsightly appearance.
16. All fuel tanks and containers shall be covered or buried underground consistent with normal safety precautions and local governed regulations.
17. With the exception of television satellite dishes or antennas located to the rear of the homes and reasonably out of sight and regular TV antennas on the roofs of houses, no tower, TV or CB antennae or tower shall be erected on the tract; provided, that the Developer or the Homeowner Association may if it deems it for the common good of the subdivision, approve a certain receiving and transmitting system to be erected at one or more locations.
18. No residence shall exceed two and one-half stories in height; exclusive of basements and attics.
19. Utility and drainage easements affecting all tracts in this subdivision are reserved ten feet in width along interior tract lines and over the rear ten feet of each tract. Neither the Developer, nor any utility company using the easements herein referred to shall be liable for any damage done by them or their assigns, agents, employees or servants to shrubbery, trees or flowers or to the property of the owner situated on the land covered by said easement.
20. Developer has constructed roads on the property and the centerline of the roads will be the approximate front boundary line of the property sold to the property owners; the Developer does hereby reserve a 60 foot road right of way for road purposes, said right of way to be located 30 feet on each side of the centerline of said road which centerline is the approximate property line of the property owner. Should the centerline of the constructed roads vary slightly from front boundary line of the property, the right of way hereby reserved shall extend into the property such distance as is indicated on the recorded subdivision plat delineating the same. The Developer reserves said 60 foot right of way for ingress and regress to the Developer's remaining properties, and also reserves said right of way for properties belonging to his predecessor in title, heirs, successors and assigns and to the property being developed, Developer shall have the following rights in regard to said 60 foot right of way;
 - a. Developer may maintain, but shall not be required to maintain, the road and, in his discretion may pave the same.

b. Developer will have the right to run any and all utility lines, including, but not limited to, electric, water, telephone, sewer, gas and cable television.

c. Developer reserves the right to convey said 60 foot right of way to the Department of Transportation of the State of North Carolina at any time so that said road may become a public road and may be maintained by the Department of Transportation or the State of North Carolina.

d. The property owners agree that the Developer shall be their agent and be empowered to sign any and all documents to convey said sixty foot right of way to the Department of Transportation of the State of North Carolina without the necessity of their signing any legal documents to insure the transfer. The property owners expressly waive any compensation from the State of North Carolina for the taking of the sixty foot right of way.

e. Developers reserve the right to maintain the banks, fills and drainage along the side of said roads, including the right to cut any shrubs or trees along the banks and fills to maintain said roads.

f. The property owners are expressly advised that until the Department of Transportation of the State of North Carolina takes over said roads, that these will be private roads and must be maintained by the property owners and the owners of the other tracts of land in the development in compliance with N.C.G.S. 136-102(f).

21. No residence shall be less than 1,000 square feet of heated floor space, exclusive of porches and garages.

22. No vehicles which are not fully operational, licensed, insured, and registered shall be visibly parked on any tract. Any such vehicles which do not comply may be maintained only in a fully enclosed garage space.

23. No trail motorcycles, ATV's or other similar recreational vehicles, may be operated anywhere within Pinnacle Mountain.

24. No high visibility outdoor lighting may be used on any lot in Pinnacle Mountain without the express permission of the Architectural Committee and/or the Developer.

C. ARCHITECTURAL COMMITTEE

1. The Architectural Committee shall consist of the Developer, and/or any persons appointed by the Developer, until 75 percent of the tracts are sold, then a committee of three members will be appointed by the Homeowners Association.

2. No buildings or other structures (including fences) shall be constructed, erected, or placed on any numbered tract in the subdivision, nor shall any such building or structure be repaired, restored, or altered in any substantial way after it has been constructed, until the proposed building plans and specifications including designation of exterior colors or finishes and exact location of proposed building within the numbered tract, shall have been submitted to the Architectural Committee and approved by it in writing. The proposed plans and specifications must include a construction schedule which calls for the completion of construction within one year after commencement. The Architectural Committee may base its disapproval on any reasonable ground, including purely aesthetic considerations.
3. The Architectural Committee will not approve any proposed building which violates or may reasonably be expected to violate any applicable provision of these Protective Covenants or any regulations affecting the property.
4. Upon the death or resignation of any member of the Architectural Committee, the remaining members shall, within 30 days after such death or resignation select a replacement.
5. After 75 percent of the tracts have been sold, the Developer will relinquish his authority to the Board of Directors of the Homeowners Association of Pinnacle Mountain for the appointment of the members of the Architectural Committee. This may be accomplished by any process or through any organization approved or created by a majority of the owners of the tracts.
6. The Architectural Committee must respond to proposals submitted to it within 30 days after receipt of such proposals. Failure to do so shall constitute approval of such proposals.

D. GENERAL PROVISIONS

1. These covenants, conditions and restrictions shall run with and bind the property and shall be enforceable by the Developer and by the owners of all or any portion of the property until the fortieth anniversary of the date of this declaration and thereafter for successive 10 year periods unless, prior to the expiration of the then current term, a written instrument shall be executed by the then owners of seventy-five percent (75%) of the Lots which are then subject to the Covenants and recorded with the Register of Deeds of Rutherford County referred to above, stating that the Covenants shall expire at the end of the then current term. All or any part of the rights and powers (including discretionary powers and rights) reserved by or conferred upon the Developer by this Declaration may be assigned or transferred by the Developer to any successor developer of all or any part of the Property, or to any property owner's association or architectural committee composed of residents of the Property. Any such assignment or transfer shall be evidenced by an appropriate instrument recorded with the Register of Deeds

of Rutherford County referred to above, and upon recordation thereof the grantee or grantees of such rights and powers shall thereafter have the right to exercise and perform all of the rights and powers reserved by or conferred upon the Developer by this declaration.

2. Enforcement of the Covenants shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenants, either to restrain the violation or to recover damages.

3. The area of the Property subject to this Declaration may be increased by filing with the Register of Deeds of Rutherford County referred to above, supplements to this Declaration, which need only be signed by the Developer, the owner of the additional land described in the supplement and the holder of any mortgage, deed of trust or similar lien thereon, stating that the additional land shall be subject to this Declaration. No other land in the vicinity of the Property shall be subject to this Declaration unless the provisions of this paragraph are complied with, it being intended that this Declaration not be construed or considered as a scheme for the development of any land other than that shown on the Plat or hereafter subjected to this Declaration in the manner described in this paragraph.

4. The invalidity of any of the provisions of this Declaration shall not affect any of the other provisions, all of which shall remain in full force and effect.

5. Each conveyance of a Lot, or of any interest in the Lot, by the Developer, shall be deemed to be subject to this Declaration whether or not the deed conveying the Lot shall so state.

IN WITNESS WHEREOF, I have hereunto set my hand and seal, this 2nd day of May, 1997.

J.R. WHITE & B.F. WHITE, a North Carolina General Partnership, DEVELOPER

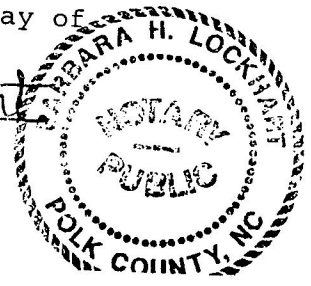
BY: J.R. White
J.R. White, General Partner

STATE OF NORTH CAROLINA - COUNTY OF POLK

I, Barbara H. Lockhart, a Notary Public of the County and State aforesaid, certify that J.R. White & B.F. White, a North Carolina General Partnership, Developer, by and through J.R. White, General Partner, personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my hand and official stamp or seal, this 2nd day of May, 1997.

Barbara H. Lockhart
Notary Public

My commission expires: 10-3-2001



THE FOREGOING CERTIFICATE(S) OF Barbara H. Lockhart

IS/ARE CERTIFIED TO BE CORRECT. THIS INSTRUMENT AND THIS CERTIFICATE ARE DULY REGISTERED AT THE DATE AND TIME AND IN THE BOOK AND PAGE SHOWN ON THE FIRST PAGE HEREOF.

FAYE H. HUSKEY, REGISTER OF DEEDS FOR RUTHERFORD COUNTY
BY: [Signature]