

Yancey

Prepared by and return to
Robert A. Yancey
30 Fleming Ave., Marion, NC 28752



2010002408
MCDOWELL CO, NC FEE \$28.00
PRESENTED & RECORDED:
06-01-2010 10:49:57 AM
JANE B MCGEE
REGISTER OF DEEDS
BY: TONIA R HAMPTON
DEPUTY REGISTER OF DEEDS
BK: CRP 1020
PG: 807-812

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL

**BEAR CLIFF SUBDIVISION, PHASE V
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**

THIS DECLARATION OF RESTRICTIVE COVENANTS, CONDITIONS AND RESTRICTION of Bear Cliff Subdivision is made this 28th day of May, 2010, by and between Black Bear Development, Inc., hereinafter referred to as "Declarant", and any and all persons, firms or Corporations hereinafter acquiring any of the within described property or any of the property hereinafter made subject to this Declaration of Restrictive Covenants of Bear Cliff Subdivision, hereinafter called Restrictions;

WITNESSETH:

THAT WHEREAS, Declarant is the owner of certain property in Nebo Township, McDowell County, North Carolina, acquired from Crescent Resources, LLC, by deed dated September 29, 2003, and which is recorded in McDowell County Deed Book 752 at Page 782; and

WHEREAS, contained in said deed are certain general deed restrictions which set forth the various uses and purposes for which the tract of land described in Deed Book 752 at Page 782 may be used and developed; and

WHEREAS, the various uses for said tract of land are more particularly shown on that certain plat of survey prepared by Pendergrass Surveying, Registered Land Surveyor, dated September 29, 2003, File No. BBC2, and which is recorded in the Office of the Register of Deeds for McDowell County in Plat Book 9 at Page 14; and

16

CRP 1020 808

WHEREAS, Tract Number 8 on said plat of survey recorded in Plat Book 9 at Page 14 was identified as a Residential Cabin Area containing 25.34 acres and was intended to be used solely for the operation of a commercial rental cabin business as set forth in said restrictions containing no more than 20 rental cabins; and

WHEREAS Crescent Resources, LLC and Black Bear Development, Inc., entered into that certain Amendment to General Deed Restrictions dated March 15, 2010, recorded in Deed Book 1016 at Page 929, wherein Crescent Resources amended the restrictions set forth in Deed Book 752 at Page 782, specifically eliminating the rental cabin tract identified as Tract Number 8 on said plat of survey recorded in Plat Book 9 at Page 14, and converting said tract to a new residential tract and allowing Bear Cliff Development, Inc., to divide said new residential tract to no more than 15 dwellings specifying that no more than four of such dwellings may be located on water front lots and no more than 11 of such dwellings may be located on lots that are not water front lots; and

WHEREAS, Black Bear Development, Inc., has caused said new residential tract to be surveyed and divided into 15 lots, and has recorded a plat of survey prepared by Pendergrass Surveying, dated March 17, 2010, Drawing Number "Rental Three", and which is recorded in McDowell County Plat Book 18 at Page 84, and said plat of survey identifies Lot No. 1 through 4, being all water front lots as shown on said plat of survey, as allowed by the Amendment to General Deed Restrictions recorded in McDowell County Deed Book 1016 at Page 929; and

WHEREAS, the said lots are so situated to comprise a neighborhood unit, and it is the intent and purpose of the owner to convey the aforesaid lots to persons who will erect their own residences to be used for single-family purposes, subject to the provisions hereinafter set forth; and

Declarant has already filed for record a Declaration of Covenants, Conditions and Restrictions for Phase I, Phase II, Phase III, and Phase IV, of Bear Cliff Subdivision as recorded in the Office of the Register of Deeds for McDowell County in Deed Book 753 at Page 1 et seq; Deed Book 774 at Page 213, Deed Book 792 at Page 450; and

AND WHEREAS, Declarant desires to make the Bear Cliff Subdivision on Lake James, Phase V, as shown on map recorded in Map Book 18 at Page 84, subject to the Declaration of Covenants, Conditions and Restrictions, as recorded in Map Book 753 at Page 1, et seq., except for the modifications hereinafter set forth:

ARTICLE ONE

CRP 1020 809

DEFINITIONS

- Section 1.8 "Boat Slip(s)" shall mean and refer to Waterfront Lots (1-19), Phase I and Lakeview Lots (1-8), Phase II boat slips over the water of Lake James, and Waterfront lots, Phase V.
- Section 1.2 Interior Lots shall mean and refer to those lots in Phase III, Phase IV, and Phase V of the development which will not have water access. Pending availability at Black Bear Marina, the owner of the lot may have the option to annually lease a boat slip.
- Section 1.38 Waterfront Lots shall mean residential lots 1 - 19, Phase I, and Lots 1 - 4, Phase V.
- Section 1.45 Phase V shall mean the development of waterfront lots and interior lots. There will be a total of 15 lots in this phase. Pending availability at Black Bear Marina, the owner of interior lots may have the option to annually lease a boat slip.

ARTICLE 8

DEED RESTRICTIONS

Section 8.2. Dwelling Size.

As used herein, "Heated Living Area" excludes basement areas (defined as any level in which at least one perimeter wall is below, or partially below, grade), unless such basement areas are fully heated and air-conditioned and constructed to a quality equal to the above grade levels of the dwelling. In addition, Heated Living Area excludes vaulted ceilings areas, attics, unheated porches, attached or detached garages, porte-cocheres and unheated storage areas, decks and patios. The term "Story" shall mean a finished horizontal division of Heated Living Area extending from the floor of such division to the ceiling above it. The term "Half Story" shall mean a story which contains fifty percent (50%) or less Heated Living Area than the story in the dwelling containing the most Heated Living Area.

The square footage requirements hereinafter set forth are enclosed heated floor area and are exclusive of the area in unfinished basements, unheated porches of any type, attached or detached garages, carports, and unheated storage areas, decks or patios. No dwelling may contain more than one and one-half stories or contain more than 3,500 square feet of heated living area. No improvements on the new residential tract shall be constructed or placed within 85 feet of the contour line of the new residential tract and the lake. The colors of all dwellings on the new residential tract shall be darker, muted colors that blend with the existing natural fixtures of the new residential tract.

AND WHEREAS, Declarant desires to provide for the preservation of the value of the Bear Cliff Subdivision on Lake James, Phase V, made subject to these Restrictions and the Declaration for the preservation and maintenance of the common property established by the Declaration and by supplements thereto.

NOW, THEREFORE, in accordance with the recitals which by this reference are made a substantive part hereof, Declarant declares that all the property described on the hereinabove said recorded plat is made subject to the Restrictions and the Declaration as set forth in McDowell County Deed Book 753 at Page 1, and the modifications contained herein, which are for the purpose of protecting the value and desirability of Bear Cliff Subdivision as it now exists and is hereafter expanded and that such Easements, Restrictions, Covenants, and Conditions, shall burden and run with said property and be binding on all parties now or hereafter acquiring and owning said real property their respective heirs, successors and assigns, having any right, title, or interest in the properties now or hereafter subject to these Restrictions and the Declaration, or any part thereof, and shall enure to the benefit of each owner thereof and their respective heirs, successors and assigns.

The Lots of Bear Cliff Subdivision on Lake James, Waterfront Lots and Interior Lots, Phase V, as shown on Map Book 18 at Page 84, are hereby incorporated into and made subject to the Restrictions, Conditions, and Covenants of Bear Cliff Subdivision, Phase I, and Phase II, as recorded in the Office of the Register of Deeds for McDowell County Register of Deeds in Deed Book 753 at Page 1 et seq, together with the following additions and modifications that have been set forth on record, including the following:

ARTICLE ONE

DEFINITIONS

- Section 1.8. "Boat Slip(s)" shall mean and refer to waterfront lots (1-19), Phase I and Lakeview Lots (1-8), Phase II boat slips over the water of Lake James, and Waterfront lots, Phase V
- Section 1.2 Interior Lots shall mean and refer to those lots in Phase III, Phase IV, and Phase V of the development which will not have water access. Pending availability at Black Bear Marina, the owner of the lot may have the option to annually lease a boat slip.
- Section 1.38. Waterfront Lots shall mean residential lots 1 - 19, Phase I, and Lots 1 - 4, Phase V.
- Section 1.45. Phase V shall mean the development of waterfront lots and interior lots. There will be a total of 15 lots in this phase. Pending availability at Black Bear Marina, the owner of interior lots may have the option to annually lease a boat slip.

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Section 8.2 Dwelling Size.

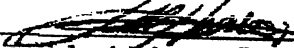
CRP 1020 811

As used herein, "Heated Living Area" excludes basement areas (defined as any level in which at least one perimeter wall is below, or partially below, grade), unless such basement areas are fully heated and air-conditioned and constructed to a quality equal to the above grade levels of the dwelling. In addition, Heated Living Area excludes vaulted ceilings areas, attics, unheated porches, attached or detached garages, porte-cocheres and unheated storage areas, decks and patios. The term "Story" shall mean a finished horizontal division of Heated Living Area extending from the floor of such division to the ceiling above it. The term "Half Story" shall mean a story which contains fifty percent (50%) or less Heated Living Area than the story in the dwelling containing the most Heated Living Area.

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IN WITNESS WHEREOF, the Declarant has caused this instrument to be executed by his officers thereunto duly authorized, and its Corporate Seal to be hereunto affixed, all the day and year first above written.

Black Bear Development, Inc.
Corporate Name

By: 
Larry Michael Johnson, President

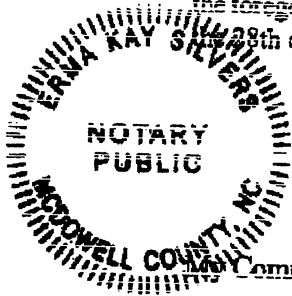
SEAL-
STAMP

NORTH CAROLINA, MCDOWELL COUNTY.

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL

I, a Notary Public of the County and State aforesaid, certify that Larry Michael Johnson, personally came before me this day and

- a) I have personal knowledge of the identity of the principal(s)
- b) I have seen satisfactory evidence of the principal's identity, by a current state or federal identification with the principal's photograph in the form of a _____
- c) a credible witness has sworn to the identity of the principal(s) acknowledged that he is President of Black Bear Development, Inc., a North Carolina Corporation, and that he as President, being authorized to do so, executed the foregoing on behalf of the corporation. Witness my hand and official seal, this 28th day of May, 2010.



Erma Kay Silvers
 Signature of Notary Public

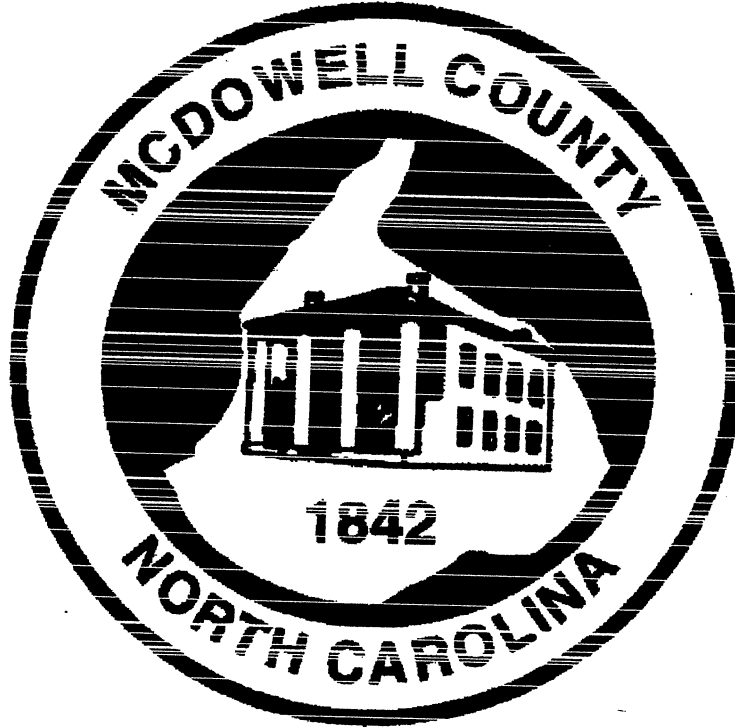
Erma Kay Silvers
 Printed Name of Notary Public

Commission Expires: 10-04-2014

JANE B MCGEE
Register of Deeds

McDowell County Register of Deeds

21 South Main Street, Suite A • Marion, NORTH CAROLINA 28752
Telephone 828-652-4727 • Fax 828-652-1507 • E-Mail jmcgce@mcowellclerk.com



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Book: CRP 1020 Page: 607-812

Document No.: 2010002400

DECLARATION 6 PGS 29.00

Recorder: TONIA R HAMPTON
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State of North Carolina, County of McDowell

Filed for registration and Duly Recorded this 1ST day of JUNE 2010.

JANE B MCGEE, REGISTER OF DEEDS

Tonia R Hampton

By: _____
DEPUTY REGISTER OF DEEDS
.....

DO NOT REMOVE!

This certification sheet is a vital part of your recorded document. Please retain with original document and submit re-recording.