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WILKES COUNTY NC
05/25/2000 2:27 PM
RICHARD L. WOODRUFF
Register of Deeds
By: 8C Deputy/Asst.

Book 0838 Page 0471

NORTH CAROLINA)
)
WILKES COUNTY)

**DECLARATION OF
RESTRICTIVE COVENANTS
AND ROAD MAINTENANCE PROVISIONS
FOR SHOE MOUNTAIN**

KNOW ALL MEN BY THESE PRESENTS that whereas FALL CREEK LAND COMPANY, INC (hereinafter the "Declarant") is the owner of all of the lots in the development known as **SHOE MOUNTAIN** (hereinafter the "Development"), a map of which is recorded in Plat Book 9, Page 391, 392, Wilkes County Registry, and whereas the Declarant desires to impose certain restrictions and conditions upon the present and future owners of said lots,

NOW, THEREFORE, FALL CREEK LAND COMPANY, INC, the Declarant, does hereby covenant and agree, for itself and it's heirs and assigns, with all persons, firms, corporations, or other parties hereafter acquiring title to lots in the aforesaid Development, that all of the said lots are hereby subjected to the following restrictions to be appurtenant to and to run with all of the lots in said Development, by whomsoever owned.

1. **USE OF LOTS:** No lot shall be used except for residential purposes. No building shall be erected, altered, placed, or permitted to remain on any lot other than one detached single-family residence and its customary accessory buildings and uses. One secondary guest cottage shall be permitted on each lot, however, any such guest cottage shall not be used as a permanent residence or for commercial purposes.

2. **SUBDIVISION OF LOTS:** No residence shall be erected on less than one lot and no lot shall be subdivided except that two adjacent lot owners may subdivide a lot between them, but only one residence shall be built on the combined original and subdivided portion of any lots.

3. **DWELLING RESTRICTIONS:** Any dwelling house built in this Development shall be new, stick-built construction, constructed on the premises and shall comply with all State, County and local building standards and codes, including specifically those standards for plumbing, septic, and electrical work. Single-wide mobile homes, double-wide mobile homes, and manufactured homes are specifically prohibited.

4. **ANIMALS:** No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any lot, except that dogs, cats, horses, or other household pets may be kept provided that they are not kept, bred, or maintained for any commercial purposes and provided they are not permitted to become a nuisance to the neighborhood.

5. **GARBAGE AND REFUSE DISPOSAL:** No lot shall be used or maintained as a dumping ground for refuse or rubbish. Trash, garbage, or other waste shall not be kept except in sanitary containers. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

6 **PARKING** The parking of wrecked, junked, disabled or otherwise unregistered or unlicensed vehicles for more than twenty-four (24) hours shall not be permitted upon any lot or upon the roadway in front of any lot. No discarded tires, automobile parts or other discarded material, waste or rubbish shall be permitted to remain on any lot.

7 **TEMPORARY STRUCTURES** No structure of a temporary character, trailer, camper, basement, tent, shack, garage, barn, or other outbuilding shall be used on any lot at any time as a residence, either temporarily or permanently.

8 **PRIVATE STREETS** All private streets or roads providing service to the Development shall be subject to an easement in favor of every lot to which they are designated to serve and shall be deemed appurtenant to each lot, whereby the owner of each such lot shall be entitled to use them as a means of ingress, egress, and regress and such other uses as shall have been designated. Each lot subject to these Restrictions, and all lots developed in any future phases, shall be subject to the Road Maintenance provisions further set forth in Paragraph 9 herein.

a) Nothing including, but not limited to, walls, fences, gates, timbers, trees, or plants, shall be erected, placed, or permitted to remain in any portion of the street right-of-way or related sight or drainage easements as shown on the recorded map of this Development. No drainage ditch or swale shall be filled, tiled, or altered in any way.

9 **ROAD MAINTENANCE:**

a) All purchasers of lots from the Declarant and any and all future owners shall share in the costs and expenses of repairing and maintaining the private road(s) providing service to the Development for so long as any such owner shall own their respective lot(s).

b) Each lot served by the roadway shall be considered a separate lot served by the roadway as such lots are known and described for the purposes of allocating the costs of paving, repair and maintenance of the roadway.

c) At the time of any deed of conveyance by the Declarant, the number of lots served by the private road shall be counted and, thereafter, the total cost of any paving, repair, or other maintenance for said road shall be shared equally by the total number of lots served by the roadway at that time.

d) The repairs and maintenance of the roadway shall be for the purpose of maintaining said roadway as an all-weather, all purpose road suitable for providing ingress, egress and regress to each lot served by the roadway. Additionally, an easement shall exist along the roadway for the benefit of each lot served by the roadway for drainage and utility purposes (e.g. pipes, ditches, electrical service, telephone service, cable television service, water service, sewer service, and all other utilities).

e) The cost of paving, repair, and maintenance of the private roadway serving the lands benefited by the roadway shall be allocated and shared on an equal, fractional, basis by the number of lots served by the roadway existing at the time that any maintenance on the roadway is performed. Each lot owner agrees to pay their fractional share of the total cost of such maintenance, repair and/or paving if two-thirds (2/3rds) of the owners of lots served by said roadway shall agree to have such work performed, and acknowledges that failure to make the required payments in a timely manner shall cause a lien to attach to the land which can be enforced by or on behalf of the owners of the surrounding lots in the same manner as a statutory mechanics lien.

f) Any and all repairs and/or maintenance made to the roadway shall be made in a quality equivalent to, or better than, the original work replaced or repaired. Each owner of any lot affected by this Declaration shall be responsible for any damage, and shall promptly repair any such damage, caused to the roadway by heavy equipment traveling back and forth to grade a lot, build a structure or dwelling, or caused by other vehicles or persons associated with an owner, above ordinary wear and tear.

g) These road maintenance provisions shall remain in effect for as long as the roadway shall remain a private roadway. If at any time the roadway shall be dedicated to and accepted for maintenance by the North Carolina Department of Transportation or any other governmental authority, these road maintenance provisions shall terminate. Nothing contained herein shall be deemed to express the intention of any owner that the roadway be improved beyond its present condition.

10. **ENFORCEMENT:** Enforcement shall be by proceedings at law or in equity against any person violating or attempting to violate any covenant either to restrain violation or to recover damages. The Declarant and/or any subsequent purchaser of a lot in the Development shall have standing to enforce the terms of the Restrictions pursuant to any remedies that may be available at law or in equity.

11. **RIGHT OF MODIFICATION:** The Declarant has developed this subdivision pursuant to a general plan or scheme of development, and does not intend to abandon this general plan. However, the Declarant reserves the right to cancel, modify or change any of the above restrictions by the written consent of the Declarant which written consent shall be duly executed, acknowledged, and recorded in the Office of the Register of Deeds, of Wilkes County, North Carolina, and which consent may be given or withheld within the controlled and sole discretion of the Declarant as the Declarant may deem best for the general plan or scheme of development.

12. **APPLICABLE PERIOD:** The foregoing covenants, restrictions, and conditions shall remain in full force and effect, unless sooner changed in accordance with Paragraph 13 herein, for thirty (30) years from the above date, at which time said covenants, restrictions, and conditions shall be automatically extended for successive periods of five (5) years unless by a vote of a majority of the then owners of the lots it is agreed to change the said covenants in whole or in part.

13 **INTERPRETATION** No captions or titles in this Declaration of Restrictive Covenants and Road Maintenance Provisions shall be considered in the interpretation of any of the provisions hereof

14 **CONFLICT** In case of conflict between any of the foregoing provisions and any Zoning Ordinances (or exceptions thereto which may lawfully be made by the Zoning Board of Adjustment) or laws which may be in effect, or which may hereafter be enacted, such zoning ordinances or laws shall control

15 **SEVERABILITY** Invalidation of any one of these covenants, restrictions, or conditions by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect

IN WITNESS WHEREOF, the President and Assistant Secretary of Fall Creek Land Company, Inc. have hereunto set their hands and seals, by authority duly given, this the 25th day of May, 2000



FALL CREEK LAND COMPANY, INC.

By: Todd J. Black
Todd J. Black, President

Attest:

Frank R. Hayes
Assistant Secretary

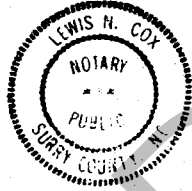
NORTH CAROLINA

WILKES COUNTY

I, a Notary Public of Surry County, North Carolina, certify that Todd J. Black, President of Fall Creek Land Company, Inc., personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my hand and official stamp or seal, this 25th day of May, 2000.

Lewis N. Cox
Notary Public

My Commission Expires: 12-4-2000



NORTH CAROLINA WILKES COUNTY
The foregoing instrument of Lewis N. Cox
is certified to be correct
By Becky Caswell
Register of Deeds

C:/Real Estate/Shoe Mountain/Restrictive Covenants