

9752

NORTH CAROLINA
HAYWOOD COUNTY

COVENANTS, RESTRICTIONS, EASEMENTS, RESERVATIONS, TERMS
AND CONDITIONS GOVERNING BUTLER HILLS SUBDIVISION
A SUBDIVISION IN HAYWOOD COUNTY, NORTH CAROLINA

KNOW ALL MEN BY THESE PRESENTS that C. Butler Lanham and wife, Virginia H. Lanham, Grantors, do hereby covenant and agree to and with all other persons, firms or corporations now owning or hereafter acquiring any property in the area hereinafter described, for full value received, and in consideration of the obligation of the landowner and upon acceptance of deeds of conveyance of any of the lots described in the plats of this subdivision upon the terms and conditions hereinafter set forth, that Lots Nos. 1 through 10 as shown upon the plat of the subdivision of the property entitled Butler Hills Subdivision, by King & Summey, P.A. dated 7-17-95, recorded in Cabinet "C", Slot 1237, Haywood County registry, are hereby subjected to the following restrictions as to the use thereof, running with said properties by whomsoever owned, to-wit:

Said real property was previously conveyed to the Grantors herein subject to Agreement for Subdivision Restrictions and Road Maintenance for Barber's Orchard (Plat Cabinet C, Slot 253) dated October 28, 1988, by The Farm Credit Bank of Columbia as developer, said Agreement for Restrictions being found of record in Book 395, page 522, Haywood County registry, and said Agreement for Restrictions is hereby incorporated in these Restrictive Covenants for Butler Hills Subdivision by reference as is more fully set forth herein.

In addition to the Restrictions heretofore imposed upon said Lots by Agreement recorded in Deed Book 395, page 522, the Grantors hereby subject the said numbered Lots of Butler Hills Subdivision to the following additional restrictions as to the use thereof, running with said properties by whomsoever owned, to-wit:

1. No lot shall be used except for single family residential purposes with no commercial use, congregate living or multi-family use allowed.
2. No mobile home, trailer, tent or temporary house, temporary garage or other temporary outbuilding shall be placed or erected on any lot.
3. No more than (1) detached, single-family residence dwelling shall be erected, placed or permitted to remain on any lot.
4. No structure shall be erected upon any lot containing less than 1,400 square feet outside measurement of enclosed floor heated area exclusive of porches, bridgeways, steps and garages.

5. No concrete blocks may be left exposed unless they are stuccoed, plastered or faced with rock, brick, stucco or wood.

6. No animal, livestock or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or other commonly domesticated household pets may be kept, provided that they are not bred or maintained for commercial purposes. No more than (2) pets shall be permitted per household, and no pets shall be permitted if they are kept so as to constitute a nuisance.

7. No lot, except Lot 10, shall be subdivided nor its boundary lines relocated for any purpose other than to merge an additional lot or part thereof so as to create a lot larger than the original lot.

8. Grantors reserve a perpetual easement for the construction of electrical distribution lines and power poles, the same to be located within the road rights of ways as shown on said recorded plat of survey. All cables, lines, wires or conduits of every nature and kind located on a lot and used to connect the structure on the lot to electrical and telephone service shall be underground.

9. In addition to the provisions for road maintenance as set forth in Paragraph No. 7 of the Agreement for Restrictions as recorded in Book 395, page 522, to which reference is hereby made, the Grantors reserve to themselves, their successors and assigns, rights of way as shown on the recorded plat of survey. The Grantors accept no responsibility for maintaining the access roads as shown on said plat of survey, it being understood that maintenance of the 30-foot road right of way which forms a portion of the boundaries for Lots Nos. 1, 2, 3, 4 and 5 shall be the responsibility of the lot owners thereof, with each lot contributing one equal share of the cost thereof. Maintenance of the 30-foot right of way for Butler Hills Drive shall be the responsibility of the owners of Lots 6, 7, 8 and 9, with each lot contributing one equal share of the cost thereof.

In addition to the aforesaid provisions for road maintenance of said 30-foot road rights of way as shown on said plat of survey, maintenance of the rights of way for Orchard Drive, Harvest Drive and Barber Drive as shown on said plat of survey shall be in accordance with the provisions of Paragraph No. 7 of said agreement for Barber's Orchard as recorded in Book 395, page 522.

10. No owner shall accumulate on his lot any form of junk, inoperable vehicles, unlicensed vehicles or litter.

11. The covenants and restrictions of this declaration shall run with and bind the land for a term of twenty (20) years from the date this declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This declaration may be amended at any time hereafter by an instrument signed by not less than seventy-five per cent (75%) of

the lot owners of Butler Hills Subdivision.

Grantors in their discretion may allow reasonable variances and adjustments of these restrictions in order to alleviate practical difficulties and hardship in their enforcement and operation. To be effective, a variance hereunder shall be recorded in the Haywood County Register of Deeds office; shall be executed by Grantors and shall refer specifically to this Declaration.

IN WITNESS WHEREOF, said Grantors have set their hands and seals, this the 30th day of August, 1995.

C. Butler Lanham (SEAL)
C. Butler Lanham

Virginia H. Lanham (SEAL)
Virginia H. Lanham

STATE OF NC
COUNTY OF Litchland

I, a Notary Public of the County and State aforesaid, do hereby certify that C. BUTLER LANHAM and wife, VIRGINIA H. LANHAM, personally appeared before me this day and acknowledged the due execution of the foregoing instrument. Witness my hand and official seal this 27th day of September, 1995.

Charlotte M. Parrella
Notary Public

My Commission Expires:

12-9-2001

(SEAL OR STAMP)



STATE OF NORTH CAROLINA, HAYWOOD COUNTY
The foregoing certificate of Charlotte M. Parrella

is certified to be correct
The 27 day of September, 1995, Book 449, Page 798

Amy R. Murray
Register of Deeds
AMY R. MURRAY

By Jackie S. Davis, Deputy

000000 95 SEP 27 PM 3:30

REGISTERED
BOOK 449 PAGE 798

PREPARED BY: CARTER AND KROPELICKI, P.A.

AGREEMENT
FOR SUBDIVISION RESTRICTIONS AND ROAD MAINTENANCE
BARBER'S ORCHARD ("the subdivision")
PLAT CABINET C, SLOT 253 ("the plat")

12610

THIS AGREEMENT is entered effective the date October 28, 1988, by THE FARM CREDIT BANK OF COLUMBIA ("the Developer");

WHEREAS Developer owns real property shown on the plat which has been divided into lots and which the Developer desires to subject to a common plan of development for the benefit of all present and future owners;

THEREFORE in consideration of an orderly plan of development, the Developer enters the following agreements which shall run with title to the lots and bind and benefit all present and future owners of the lots whether expressed in the instrument of conveyance or not:

1. No Junk or Nuisance. No portion of any lot ("lot" meaning lots 1 to 41 of the plat) shall be used or maintained as a junk yard, salvage yard, nor as a dumping ground for rubbish, trash, garbage, or any other waste. No radioactive waste materials nor toxic materials shall be maintained or stored on any lot under any circumstances. No obnoxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to any neighboring lot.

2. No Mobile Homes. No lot may be used for a mobile home park, recreational vehicle park, or camp ground. No mobile home shall be placed on any lot for any purpose whatsoever. Provided, however, that the restrictions contained in this paragraph shall not be deemed to prevent the owner of a lot on which he has a home or residence under construction from placing thereon and using as a temporary residence for a period not in excess of 12 months, a motor home, travel trailer, or other recreational vehicle, so long as he displays on that vehicle a current and valid license issued in the state of its registration, and so long as all utilities connections are maintained in accordance with the state and local laws relating to such recreational vehicles.

3. No Commercial Animals. No commercial livestock, poultry, or dairy business shall be conducted on any lot; provided, however, that the provisions of this paragraph shall not preclude the pasturing of horses or other livestock.

4. Easements. Utility and drainage easements are reserved ten feet in width along all sides of every lot line and within both sides of both margins of the interior road rights of way, for installation and maintenance of utilities and drainage facilities. The Developer may confirm the grant and/or

6. Dedication of Rights of Way. Developer dedicates and reserves the private street rights of way shown and dedicated upon the Plat for Developer's own use and for the use of Developer's, successors and assigns, for the perpetual ingress, egress and regress to and from the lots of the Subdivision and the public road. A portion of "Orchard Drive" is subject to the right of Jack D. Hill to use for access to his property described in Deed Book 334, Page 433.

7. Road Maintenance. Access within the subdivision shall be by gravel roads which have been constructed by the Developer to the condition they exist this day, over the rights of way shown and dedicated upon the plat. The costs of maintaining and repairing the road or roads from this day forward, including surfaces, banks, ditches, bridges and culverts, will be shared as follows:

a. "Barber Drive," "Harvest Drive," "Orchard Drive," "Crestview Drive," and "Crestview Court" will be maintained by the owners of lots 2, 3, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 29, 30, 31, 32, 33 and 34;

b. "Apple Hill Drive" will be maintained by the owners of lots 9, 11, 12, 13, 14, 15, 16, 27 and 28;

with each lot contributing one equal share of the cost, provided that where any lot is further subdivided, a full share shall be due from each subdivided lot.

The minimum standard of maintenance and repair shall be for a 12-foot wide traveling surface of gravel, which shall be ditched, graded and culverted to allow for the proper drainage of surface waters and for travel in standard passenger vehicles. Any owner may contract for and provide for maintenance to this standard and make demand upon all other obligated owners. If any owner shall fail to contribute in accordance with these terms, the party paying for the maintenance may enforce a lien against the lot of the non-contributing party in the same manner as a mechanics lien according to the provisions of NCOS 44-A-7 (Part 1 of Article 11), et seq. The person entitled to the lien will be deemed to have "improved" the lot of the "owner" of the lot subject to the lien, according to the definitions in that statute. The lien claimant, if successful, will be entitled to interest from the date the expenditure is incurred to the date of payment at the rate of 12% per annum, together with reasonable attorney's fees and court costs.

All roads will be open. No gates will be allowed across any of them.

8. No Warranties. The Developer disclaims all warranties, including any warranty that any lot is usable for any particular purpose. Each purchaser will be deemed to have made his own investigation of the facts sufficient to form his own decision to buy or not to buy a lot.

9. Jurisdiction. This is a North Carolina agreement which is to be

11. Enforcement. Enforcement shall be by action at law or equity. The complaining party, if successful, shall have the further right to collect a reasonable attorneys fee and other costs related to enforcement.

EXECUTED effective the date above.

THE FARM CREDIT BANK OF COLUMBIA

BY: Edwin E. Frizzell (SEAL)
EDWIN E. FRIZZELL

EXECUTIVE VICE PRESIDENT OF
MOUNTAIN FEDERAL LAND BANK ASSOCIATION
AS ITS ATTORNEY-IN-FACT

STATE OF NORTH CAROLINA
COUNTY OF HUNCOMBE

I, Antionette Linne Head, do hereby certify that Edwin E. Frizzell, Executive Vice President of Farm Credit Bank of Columbia, personally appeared before me this day, and being by me duly sworn, says that he executed the foregoing and annexed instrument for and in behalf of The Farm Credit Bank of Columbia and that his authority to execute and acknowledge said instrument is contained in an instrument duly executed, acknowledged, and recorded in the office of the Register of Deeds of Haywood County, North Carolina, on the 25th day of July, 1988, and that this instrument was executed under and by virtue of the authority given by said instrument granting him power of attorney; that the said Edwin E. Frizzell acknowledged the due execution of the foregoing and annexed instrument for the purposes therein expressed for and in behalf of The Farm Credit Bank of Columbia.

WITNESS my hand and official seal, this 14 day of December, 1988.

Antionette Linne Head
Signature of Officer

(Official Seal)

My Commission Expires: May 12, 1992

STATE OF NORTH CAROLINA
COUNTY OF HAYWOOD

THE FOREGOING CERTIFICATES OF ANTIONETTE LINNE HEAD are certified to be correct. This instrument was presented for registration this 2 day of November, 1988 at 2:10 P.M., and duly recorded in the Office of