

Doc ID: 001512580006 Type: CRP  
Recorded: 01/18/2007 at 12:39:36 PM  
Fee Amt: \$29.00 Page 1 of 6  
Instr# 200600010691  
Rutherford County, NC  
Faye H. Huskey Register of Deeds  
BK 923 PG 646-651

STATE OF NORTH CAROLINA  
COUNTY OF RUTHERFORD

DECLARATION OF PROTECTIVE AND  
RESTRICTIVE COVENANTS OF MOORE  
MOUNTAIN FARMS SUBDIVISION

TIMOTHY J. EDWARDS and DARRELL V. PRICE, are the owners in fee simple and the Developer of the real property located in Colfax Township, Rutherford County, North Carolina, which is a subdivision consisting of eleven (11) residential lots and designated as "Moore Mountain Farms" as shown on a plat dated November 14, 2006 and recorded in Plat Book 28 at Page 8 in the Office of the Register of Deeds for Rutherford County, North Carolina, the description of said real property being incorporated herein by reference. For the purposes set forth hereinafter and pursuant to a general plan of development and improvement for said subdivision, owners and Developer hereby declares that each and every lot constituting said subdivision and any and all interests therein shall be held, sold and conveyed subject to the following easements, reservations, covenants, limitations, restrictions and uses which shall constitute covenants running with the land and shall be binding on and inure to the benefit of each and all parties having any right, title or interest in the real property in said subdivision or any part thereof, their heirs, successors and assigns, as set forth hereinafter:

I. RESTRICTIONS

1. All lots shall be used exclusively for single family residential purposes, and for certain agricultural purposes as set forth herein. Any residence shall be occupied only by a single family. No business activities or trade of any kind shall be conducted on any lot. A private office may be maintained in a residence so long as the private office is incidental to primary residential use of the property.
2. No structures shall be erected, altered, placed or permitted to remain upon any subdivision lot other than one (1) detached, single family dwelling and such outbuildings as are accessory or appurtenant thereto. No building, fence, wall, residence, outbuilding or other structure shall be constructed, erected, improved or altered without the prior written approval of the Developer. The Developer is expressly authorized and empowered to refuse to approve any application on any reasonable grounds that the Developer may determine, including aesthetic concerns. The right and prerogatives of the Developer set forth in this paragraph shall be automatically assigned to a homeowners association upon the formation of the same.
3. No manufactured housing (i.e. single or double wide mobile home [HUD approved] sold with a title), trailer, shed, shack, tent, leanto, or other temporary or moveable structure of any kind shall be erected, placed or allowed to remain on any lot for use as a residence, either temporary or permanently. However, a modular home (NC Building Code Approved) with all wood framing (i.e. floor support beam and joists) and with a roof pitch of 6/12, along with log and custom

built homes which are allowed subject to Developer's or homeowners association advance written approval.

4. No structure of a temporary character shall be placed upon any lot at any time. Provided however, that this prohibition shall not apply to shelters used by a contractor during the construction of a main dwelling house, except that these temporary shelters may not, at any time, be used as residences or permitted to remain on the lot after completion of construction. This condition does not preclude garages, barns, guest houses, or other outbuildings utilized for accessory residential purposes or for permitted agricultural operations, any or all of which shall be located to the rear of the main residence.
5. No structure shall be located on any lot nearer than seventy-five (75') feet to the margin of the road right of way for Moore Mountain Lane, which shall be measured from said right of way to the front of the residence. No structure shall be located nearer than fifteen (15') feet to a side lot line. No structure shall be located on any lot nearer than twenty (20') feet to any rear lot lines. The front of a lot (or residence) shall be the portion nearest to Moore Mountain Lane and the rear of the lot (or residence) shall be the portion furthest from Moore Mountain Lane.
6. Any residence located upon any lot shall have constructed an approved septic tank and drain field in accordance with the specifications of the North Carolina State Board of Health and the Rutherford County Health Department.
7. No residence shall be erected upon any lot containing less than 1,200 square feet of heated floor space under the main roof. No residence shall be erected, altered, placed or permitted to remain on any lot exceeding two and one-half (2 ½) stories in height. Plans for any such residence must be approved by the Developer, or homeowners association, prior to the initiation of construction. Once construction is commenced on any residence situate upon a lot, the exterior of any such dwelling shall be completed within one (1) year from commencement, except where such completion is impossible or results in great hardship to the owner due to strikes, fires, national emergency or natural disasters and Developer expressly grants an extension in writing.
8. Construction of a residence is not required to begin within a specific time limitation from the date of sale. However, purchasers who purchase lots within the subdivision either developed or undeveloped shall keep the lots in a neat and attractive manner including, but not limited to, regular mowing of grassed areas.
9. All building plans must include and provide for the use of silt fencing and other sedimentation control devices. All lot owners are responsible for erosion of soil from any lot which may collect and settle on the roads or drainage areas of the subdivision and each lot owner shall promptly remove collected soil and correct any erosion problem.
10. No concrete block used in the construction of any dwelling, garage or any other building shall be exposed. If concrete block is used for the foundation of any wall or otherwise, the block shall be stuccoed, brick veneered or faced with stone.
11. No lot shown upon the above referenced plat of Moore Mountain Farms shall be subdivided at any time for any reason.
12. All vehicles owned by residents shall be parked or stored in driveways to the rear of the residence and may not be stored or maintained on Moore Mountain Lane or lawns of the subdivision. Vehicle maintenance (other than cleaning or washing) shall not be performed except inside a garage. Junked, abandoned, derelict or non-operative vehicles are expressly prohibited at all times.

13. All telephone, electric and other utility lines and connections between the main utility lines and the residence and other buildings located on each lot shall be concealed and located underground. Easements fifteen (15') feet in width are reserved along the lot lines for the installation and maintenance of public utility lines, including telephone, electric lines, water lines, gas lines, or any other public utilities, and for drainage.
14. No sign of any character shall be displayed or placed upon any lot except "For Sale" signs, which signs may refer to the particular premises on which displayed, and shall not exceed two square feet in size and shall not extend more than four feet above the surface of the ground, and shall be fastened only to a stake in the ground and shall be limited to one sign per lot.
15. No multi-family dwelling or residence shall be erected, placed or permitted to remain upon any lot. No commercial, industrial, manufacturing, or retail sales activities of any kind may be conducted on any lot and the same are expressly prohibited. No structure erected on any lot shall be used for purposes of a school, church or related group or organization meeting place, kindergarten, child or adult daycare center, hospital or nursing care service.
16. No illegal, noxious or offensive activity shall be permitted or undertaken on any part of any lot, nor shall anything be permitted or done thereon which is or may become a nuisance or a source of embarrassment, discomfort, or annoyance to other owners or which unreasonably interferes with the peaceful and proper use of the property by another owner. No owner shall permit or allow any loud noises which interfere with the rights, comforts or convenience of other owners.
17. No trash, garbage, rubbish, debris, waste material, or other refuse shall be deposited or allowed to accumulate or remain on any lot or part thereof and no fire hazards shall be permitted to exist upon any lot. Trash, garbage or other waste shall be placed in containers screened from view and the tops thereof shall be kept covered.
18. There shall be no swine, goat, poultry or sheep operation maintained upon any lot. However, horses and cattle are allowed if maintained within properly fenced pasture areas or maintained in a barn that is sanitary and not reasonably offensive to other property owners. All fencing visible from Moore Mountain Lane shall be made of wood. There shall be no other types of animals or livestock kept upon any lot other than such animals which fall in the category of domesticated household pets or horses or cattle. Such pets may not be kept or bred for any commercial purposes and shall have such care and restraint as is necessary to prevent them from being or becoming obnoxious or offensive due to noise, odor, unsanitary conditions or other nuisance. Any pens or other outside enclosures for dogs must be located at the rear of the residence and not be visible from Moore Mountain Lane. No savage, vicious or dangerous animal shall be kept or permitted on any lot.
19. Each owner shall keep his lot and the improvements thereon in good condition and repair and in a clean and sanitary condition.
20. For so long as Developer owns any lot within the subdivision, or until such earlier time as Developer has transferred control to a duly formed homeowners association as provided herein, Developer reserves the right to modify or amend any or all of these Restrictions or Covenants as they, in their sole and uncontrolled discretion and judgment, may deem necessary for future use or development of the land; provided, however, any such future modifications or amendments will be at least as restrictive as these restrictions. Further, during said Developer's control period, Developer may grant reasonable variances from these restrictions to any lot owner who may suffer, in Developer's sole discretion, an undue hardship because of the strict application of these restrictions.

21. No firearms shall be discharged within the subdivision unless it is for the sole purpose of protecting persons or property within the development.

## II. SUBDIVISION STREET

22. The only roadway or subdivision street for Moore Mountain Farms Subdivision is Moore Mountain Lane, a private street, as shown on the above referenced plat, and has been approved by the Rutherfordton County Planning Board and the building inspector of Rutherfordton County. The right of way for said street is forty-five (45') feet in width. Said street has been built to county standards for private roads and may not meet state standards.
23. The Developer shall be responsible for the initial construction of Moore Mountain Lane to serve the subdivision. Thereafter, Developer shall be solely responsible for the maintenance and upkeep of said street until such time as Developer transfers Moore Mountain Lane to the homeowners association. The street shall be paved at the expense of the Developer no later than August 31, 2007.
24. No lot, portion thereof, or street, shall be used as a street, easement, or as access to any property other than the lots within the subdivision.
25. Moore Mountain Lane shall be for the exclusive use of Moore Mountain Farms lot owners and no individual outside of subdivision lot owners shall have the right to use Moore Mountain Lane except quests and licensees of lot owners. The entrance to Moore Mountain Lane shall be gated with an electric gate. Developer shall install and maintain the electric gate until Developer turns control of Moore Mountain Lane over to a duly formed homeowners association.
26. At such time as Developer has completed the paving of Moore Mountain Lane, said street may be deeded by Developer to the homeowners association. Thereafter, the responsibility for the maintenance and upkeep of said streets shall be shared by the Developer and the owners of lots in said subdivision proportionately according to the number of lots owned by the developer and other owners of lots in said subdivision. Developer shall have no responsibility for street maintenance or improvement after Moore Mountain Lane is transferred, except to pay a prorata share for any lot(s) retained by Developer.
27. There is hereby reserved to the Developer, successors and assigns, the continuing right to use Moore Mountain Lane for both roadway and public utility purposes within Moore Mountain Farms Subdivision, including specifically, the reservation of the same in individual conveyances of lots from the Developer to individual purchasers.
28. Any unpaid street or electric entrance gate or entrance landscaping maintenance expenses shall constitute a lien against the lot and lot owners failing to pay the same on a timely basis and may be enforced by an action at law for the sums owed along with costs and attorney's fees incurred in the collection of the same.

## III. ADMINISTRATION

29. Until the formation of a homeowners association for Moore Mountain Farms as provided herein, all enforcement rights of matters contained within this Declaration shall inure solely to Developer, successors or assigns. Thereafter, a simple majority vote of all lot owners (on the basis of one vote per lot) shall control all matters or issues of enforcement of these restrictive and protective covenants or pertaining to payment of any common expense obligation of street, entrance landscaping or electric gate maintenance, repair or replacement. Developer may cause the formation of an incorporated homeowners association for Moore Mountain Farms at any time prior to his transfer of Moore Mountain

Lane or upon the transfer of seven (7) lots within the subdivision. Provided that Moore Mountain Farms lot owners may elect to form an incorporated homeowners association upon a simple majority vote of the lot owners, after the Developer's sale and transfer of seven (7) lots, if not previously established by Developer. Upon formation of an incorporated homeowners association, each lot owner within Moore Mountain Farms shall become a member thereof and be subject to such by-law terms and provisions approved by a majority of its members. Initial annual assessments shall be Two Hundred Fifty and 00/100s (\$250.00) dollars per lot owned which shall be initially due and payable upon organization of the homeowners association. Although, not otherwise subject to Chapter 47F of the North Carolina General Statutes (Planned Community Act, NCGS § 7F-1-102(a) & (b)) any homeowners association formed for Moore Mountain farms shall have all enforcement rights provided for under NCGS § 7F-1-102(c) of said act.

30. These restrictive and protective covenants shall attach to and run with the land and be binding upon and inure to the benefit of the Developer, their heirs and assigns, and all present and future owners of lots in Moore Mountain Farms Subdivision for a period of 50 years from date, after which time, said covenants shall be automatically extended for successive periods of 10 years unless an instrument signed by the owners of the majority of the lots has been recorded in the Office of the Register of Deeds modifying or terminating these covenants in whole or part.
31. If any party owning a lot in said subdivision, or their heirs or assigns, shall violate any of the covenants herein it shall be lawful for the Developer, the homeowners association or any other person or persons owning real property situated in said subdivision to prosecute any proceedings at law or in equity against the person or persons violating, or attempting to violate any such restrictive or protective covenants, and either to prevent him or them from so doing, or to recover damages, costs and/or attorney's fees for any such violations.
32. It is expressly agreed that if any covenant or condition or restriction hereinabove contained, or any portion thereof, is declared to be invalid or void, such invalidity or voidness shall in no way affect any other covenant, condition or restriction contained herein.

IN WITNESS WHEREOF, TIMOTHY J. EDWARDS and DARRELL V. PRICE, Developers, have hereunto set their hands and seals on this 18<sup>th</sup> day of January, 2007.

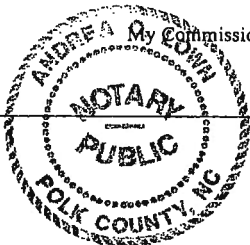
OWNERS and DEVELOPER:

 (Seal)  
TIMOTHY J. EDWARDS

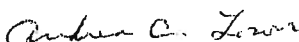
 (Seal)  
DARRELL V. PRICE

SEAL-STAMP NORTH CAROLINA, POLK COUNTY.

I, a Notary Public of the County and State aforesaid, certify that TIMOTHY J. EDWARDS, Grantor, personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my hand and official stamp or seal, this 18<sup>th</sup> day of January, 2007.



My Commission Expires: 12/14/07

  
Notary Public

SEAL-STAMP NORTH CAROLINA, POLK COUNTY.

I, a Notary Public of the County and State aforesaid, certify that DARRELL V. PRICE, Grantor, personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my hand and official stamp or seal, this 18<sup>th</sup> day of January, 2007.

My Commission Expires: 12/14/07

Andrea C. Low  
Notary Public

The foregoing Certificate(s) of \_\_\_\_\_

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.

REGISTER OF DEEDS FOR RUTHERFORD COUNTY

By \_\_\_\_\_ Deputy/Assistant - Register of Deeds

