

AGREEMENT TO AMEND DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS APPLICABLE TO A DIVISION OF THAT 133.826 ACRE PARCEL LOCATED ON ROUTE 621 IN THE WARM SPRINGS MAGISTERIAL DISTRICT OF BATH COUNTY, VIRGINIA

WHEREAS, by a Declaration of Covenants, Conditions and Restrictions dated 1st day of July, 1997, ("the Declaration") the Trustees of the Brookside Land Trust imposed certain covenants, conditions and restrictions on a certain tract of real property therein more particularly described (The Property) and,

WHEREAS, the aforesaid Declaration included a provision at Paragraph (1) at the actual floor area of an enclosed dwelling constructed on the Property shall not be less than Two Thousand (2,000) sq. ft. and,

WHEREAS, by Paragraph (17) of the Declaration, all of the owners of the Property were given the right to amend the Declaration and,

WHEREAS, the owners of the Property at the date hereof are the Brookside Land Trust and Michael and Lisa Trimble, owners of Lot 2 being a portion of the Property and,

WHEREAS, said owners have decided to reduce the minimum floor area as provided for as aforesaid in Paragraph (1) of the Declaration from Two Thousand (2,000) sq. ft. to Fifteen Hundred (1,500) sq. ft.

NOW THIS INSTRUMENT WITNESSETH,

That the undersigned hereby, pursuant to the provisions of Paragraph (17) of the Declaration, amend the Declaration by deleting Paragraph (1) thereof and in lieu thereof, therefore the following provision shall be substituted:

"(1) No building shall be allowed or erected on any lot except

(6)

one (1) single family dwelling house, for the use of occupancy of one (1) family and garages, barns, guest houses and other such buildings used in connection with said single family dwelling house. The actual floor area of the enclosed dwelling house, excluding attached porches, porte cocheres, storage areas, tool sheds, garden houses and other related buildings, shall not be less than fifteen hundred (1,500) square feet. In computing the minimum areas, the garages may not be included in making such determination."

WITNESS THE FOLLOWING SIGNATURES AND SEALS:

Franz von Schilling Trustee
Franz von Schilling, Trustee
Brookside Land Trust
Peter J. Judah
Peter J. Judah, Trustee
Brookside Land Trust
Michael Trimble
Michael Trimble
Lisa Trimble
Lisa Trimble

STATE OF VIRGINIA,
COUNTY OF BATH, to wit:

The foregoing instrument was acknowledged before me this 18th day of November, 1997 by Franz von Schilling and Peter J. Judah, Trustees of Brookside Land Trust.

My commission expires: June 30, 1999
Patricia D. Foutz
NOTARY PUBLIC

STATE OF VIRGINIA,
COUNTY OF BATH, to wit:

The foregoing instrument was acknowledged before me this 18 day of November, 1997 by Michael Trimble and Lisa Trimble, husband and wife.

My commission expires: 12/31/98
[Signature]
NOTARY PUBLIC

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
AFFECTING THE PROPERTY SHOWN ON PLAT OF
"BROOKSIDE LAND TRUST"

A DIVISION OF THAT 133.826 ACRE PARCEL
LOCATED ON ROUTE 621 IN THE
WARM SPRINGS MAGISTERIAL DISTRICT OF
BATH COUNTY, VIRGINIA
SURVEYED MAY 7, 1997

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS dated this 1st day of July, 1997, by FRANZ von SCHILLING and PETER J. JUDAH, Trustees of the Brookside Land Trust hereinafter collectively referred to as "Declarant", recite and provide:

WHEREAS, Declarants are the owners of that certain tract or parcel of land, more particularly described as:

THAT CERTAIN property situate, lying and being in the County of Bath, Virginia, consisting of four (4) developed lots, as shown on that particular subdivision plat entitled "BROOKSIDE LAND TRUST", and being a portion of that certain Tract or Parcel of real property which was conveyed unto Duncan M. Byrd, Jr. and Hubert S. Judy, the original Trustees of the Brookside Land Trust, by Deed dated 28 December 1973 recorded in the Office of the Clerk of the Circuit Court of Bath County, Virginia in Deed Book 88, Page 46.

Such property being hereinafter referred to as the "Property"; and,

WHEREAS, Declarants desire to construct certain site development improvements on the Property and to impose certain covenants and restrictions on the Property, and,

WHEREAS, the County of Bath, by its authorized officers and employees, has reviewed and approved the Subdivision Plat of the property.

PETER J. JUDAH
Attorney at Law
Hot Springs,
Virginia
24445

(5)

WITNESSETH

NOW, THEREFORE, Declarants, having full and complete authority to execute this instrument and good and sufficient right, title and interest in and to the Property, for themselves, and their successors in title or interest, do hereby covenant as follows:

A. The construction of site development improvements upon the Property shall be at the sole risk and liability of Declarants, Declarants', or their successors in title or interest.

B. The covenants set forth herein shall run with the land, and in the event the Property, or any lot or any portion thereof, shall be conveyed, it shall remain subject to the provisions of this instrument, which shall be binding upon the Property and upon all parties and persons and to entities claiming under or through Declarants, or their successors in interest.

C. This Declaration of Covenants shall be recorded in the Office of the Clerk of the Circuit Court of Bath County, Virginia at the expense of Declarants or their successors in interest.

D. Declarants, the owners of those certain (4) lots, which lots are more particularly described and shown on that certain plat entitled "BROOKSIDE LAND TRUST" A DIVISION OF THAT 133.826 ACRE PARCEL LOCATED ON ROUTE 621 IN THE WARM SPRINGS MAGISTERIAL DISTRICT OF BATH COUNTY, VIRGINIA, SURVEYED MAY 7, 1997 and recorded in the Clerk's Office of the Circuit Court of Bath County, Virginia in Plat Cabinet 1, Slide /25, do hereby declare and give notice that all of the aforesaid lots as shown on said plat are made subject to the following conditions, restrictions and reservations, which shall run with the land:

1. No building shall be allowed or erected on any lot except one (1) single family dwelling house, for the use and occupancy of one (1) family and garages, barns, guest houses and other such buildings used in connection with said single family dwelling house. The actual floor area of the enclosed dwelling house, excluding attached porches, porte cocheres, storage areas, tool sheds, garden houses and other related buildings, shall not be less than two thousand (2,000) square feet. In computing the minimum areas, the garages may not be included in making such determination.

② No trailer or mobile home shall be placed upon the property. No structure of a temporary nature, garage or other outbuilding shall be used on any lot at any time as a primary residence, either temporarily or permanently. This restriction does not apply to camping trailers or other camping vehicles not intended for use or used as a residence.

③ No inoperable automobiles (or sizable parts thereof) as defined by Section 302.16, 302.16-1, 302.16-2, 302.16-3 and 302.16-4 of the Bath County Land Use Regulations dated July 12, 1995, shall be permitted to be parked on any of the roadways within the Subdivision or on any lot in the Subdivision.

④ No motor vehicles shall be repaired on any of the lots unless such repairs are carried out inside an enclosed building and no such repairs shall be carried out as a commercial activity.

5. Every tank for the storage of fuel installed outside any building on the property shall be either buried below the surface of the ground or screened. Every outdoor receptacle for ashes, trash, rubbish, or garbage shall be installed underground,

screened, or so placed and kept as not to be visible from any roadway within the Subdivision or from State Route 621.

6. No lot shall be used as a dumping ground for rubbish, trash, garbage or other waste. Each lot shall be maintained in a clean, sanitary and sightly condition in keeping with an attractive residential area.

7. No noxious or offensive activity shall be carried on upon any portion of any lot within the Subdivision nor shall anything be done thereon that may be or become a nuisance or annoyance to any other lot owner.

8. No building shall be erected upon any lot so that any part of said building shall be closer than fifty (50) feet from any boundary line of any lot.

9. No lines or wires for communication or for the transmission of current or any other purposes shall be constructed, placed or permitted to be placed upon any lot unless the same shall be contained in conduits, and as to any part or parts of said wires or lines which are outside the dwelling house, the same shall be constructed or placed and maintained underground.

10 In the event of any violation of these restrictions the prevailing party shall be entitled to be reimbursed for its reasonable attorney's fees and costs associated with the legal enforcement hereof.

11 The waiver of the breach of any of these covenants or conditions, shall not excuse the nonobservance or nonperformance thereafter of each and every one of these covenants and conditions by all lot owners.

12. Enforcement of these covenants and conditions shall be by proceeding at law or in equity against any person violating or threatening to violate any covenants, either to restrain violations, or to recover damages, or both.

13. Lots #1, #2, and #3 shall not be subdivided. Lot #4 may be subdivided but only into two lots no one of which shall have an area less than 15 acres.

14. No commercial activity shall be pursued on any lot provided however a commercial agricultural activity involving horses and/or cattle shall not be excluded. Poultry and hog rearing for commercial purposes is specifically excluded. No rock, gravel, sand or clay shall be excavated or removed from any lot for any commercial purpose.

15. No private business which serves the public shall be pursued on any of the lots within the subdivision Provided However, this provision shall not preclude any home occupation meeting all of the following requirements: -

(i) The home occupation shall be performed by the lot owner or members of such owners immediate family or alternatively, being a tenant occupying the dwelling house on the lot, have the written approval of the lot owner.

(ii) The home occupation shall be operated only by the members of the family residing on the premises and no article or service shall be sold or offered for sale except as may be supplied, manufactured, or conducted by members of the family residing on the premises.

(iii) The home occupation when restricted to the main building shall not occupy more than twenty five percent (25%) of the floor area within the said building.

(iv) The home occupation shall not generate excessive traffic or produce obnoxious odors, glare, noise, vibration, electrical disturbance, radio-activity, or other conditions detrimental to the character of the surrounding area, and in general, shall give no evidence of nonresidential character of use. No signs advertising the home occupation or providing any information with respect thereto shall be placed on any lot.

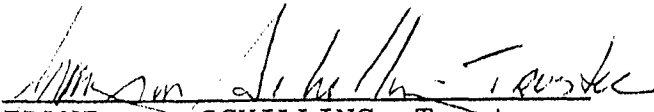
16. Save and except for home occupations meeting the requirements of the preceding paragraph, (which may be carried out in any lawful building or structure on the lot) no manufacturing, trade, business, commerce, industry, profession or other occupation whatsoever may be conducted or carried on upon any lot or any part thereof, or in any building or other structure erected thereon. No trash shall be allowed to accumulate so as to be unsightly or to be a detriment to the area or a fire hazard.

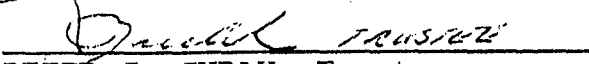
17. These covenants, conditions and restrictions shall run with each lot and shall remain in full force and effect for twenty-five (25) years from the date hereof, at which time they shall automatically extend for successive periods of one (1) year each unless and until the owners of Lots #1, #2, #3, and #4 agree to change them in whole or in part which determination shall be evidenced by a written memorandum executed by each Lot owner and recorded in the Office of the Clerk of the Circuit Court of Bath County, Virginia.

18. In the event of a violation or breach of any of these covenants, conditions, and restrictions by any person or concern claiming by, through or under the undersigned, or by virtue of any judicial proceedings, the undersigned, his successors and assigns and the owners of the numbered lots in the subdivision, or any of them, jointly or severally, shall have the right to proceed at law or in equity to compel compliance with the terms hereof or to prevent the violation or breach of any of them. THE FAILURE TO ENFORCE ANY RIGHT, RESERVATION, RESTRICTION OR CONDITION CONTAINED HEREIN, HOWEVER LONG CONTINUED, SHALL NOT BE DEEMED A WAIVER OF THE RIGHT TO DO SO THEREAFTER, AS WITH RESPECT TO THE SAME BREACH OR AS TO A BREACH OCCURRING PRIOR OR SUBSEQUENT THERETO AND SHALL NOT IN ANY WAY BAR OR AFFECT ITS ENFORCEMENT. The invalidation by any court of any provision herein contained shall not in any way affect any of the other restrictions but they shall remain in full force and effect.

19. These covenants, conditions and restrictions may be cancelled or amended at any time, and from time to time, by a written Declaration signed by each and every lot owner within the Subdivision. Such amending Declaration shall be promptly recorded in the Office of the Clerk of the Circuit Court of Bath County, Virginia, and such amendments shall be of no effect until such Declaration is so recorded.

IN WITNESS WHEREOF, Declarants executed this Declaration of Covenants and Restrictions on this 1st day of July, 1997.


FRANZ von SCHILLING, Trustee
Brookside Land Trust


PETER J. JUDAH, Trustee
Brookside Land Trust

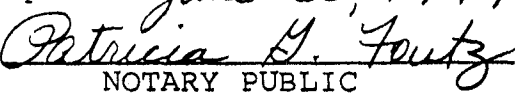
STATE OF VIRGINIA
COUNTY OF BATH, to-wit:

The foregoing instrument was duly acknowledged before me this 3rd day of July, 1997, by Franz von Schilling, Trustee
My commission expires: *June 30, 1999*


NOTARY PUBLIC

STATE OF VIRGINIA
COUNTY OF BATH, to-wit:

The foregoing instrument was duly acknowledged before me this 3rd day of July, 1997, by Peter J. Judah, Trustee
My commission expires: *June 30, 1999*


NOTARY PUBLIC