

11/1/90
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5-1-90

48440
RESERVATIONS AND RESTRICTIVE COVENANTS

22

WHISPERING PINES

DATED: APRIL 20, 1990

Patten Corporation Mid-Atlantic, a corporation, is hereby referred to in this document as the "Grantor".

The Reservation and Restrictive Covenants in this document are to run with the land and shall be binding upon all parties and all persons owning Lots in Whispering Pines as below described, or claiming under them.

Invalidation of any of the following Reservations and Restrictive Covenants by judgment of Court Order shall not affect any of the other provisions, which shall remain in full force and effect. The failure to enforce any of the Reservations and Restrictive Covenants at the time of violation shall not be deemed a waiver to enforce the Covenant.

1. HOMEOWNERS ASSOCIATION: Upon the sale of 75% of the total Lots within Whispering Pines, referred to in this document as the Subdivision, or at any time prior thereto at the discretion of the Grantor, all rights and responsibilities contained and reserved in this document will be delegated by the Grantor to a non-profit, non-stock Homeowners Association, to be called "The Whispering Pines Homeowners Association, Inc." referred to in this document as the "Association".

A. Every person or entity, except the Grantor, who is a record owner of any Lot in the Subdivision shall be a member of the Association, and shall be entitled to one (1) vote for each Lot owned. In no event shall more than one (1) vote be cast with respect to each Lot.

B. The roadways and rights-of-ways constructed throughout the Subdivision are to be conveyed to the Association by the Grantor, and are for the use in common of the Grantor, Lot owners and their respective heirs, successors and assigns.

C. The Association shall maintain the rights-of-ways and roads within the Subdivision, and shall assess each Lot on a pro rata basis, amounts necessary for the improvement and maintenance of said rights-of-ways, not to exceed \$100.00 per Lot annually, as adjusted pursuant to the provisions of West Virginia Code 36B-1-114 with the exception of Lot 1 which shall pay \$50.00 per year as adjusted pursuant to the provisions of West Virginia Code 36B-1-114.

D. Any assessments, together with interest and costs, shall be a lien upon the Lot against which such assessment is made. The Association shall have the right to file among the land records of Hampshire County, West Virginia, a duly executed and acknowledged Notice of Lien with respect to each Lot and its owner for which any assessment remains unpaid.

2. RESIDENTIAL AND AREA USE: Each Lot shall be used only for residential purposes, and no residence shall be erected, constructed, maintained, used or permitted to remain on any Lot other than one (1) single-family dwelling of not less than 800 square feet exclusive of garage, basement, and porch.

A. All exterior construction must be completed and closed within one (1) year of the commencement date of excavation.

B. There shall be no trailers, buses, mobile homes, double-wide mobile homes, pre-fabricated all-metal homes, or any derivative of the foregoing situate on any Lot as a residence or for storage, either temporarily or permanently. Temporary camping through period March 1 to December 31 annually. Only equipment professionally manufactured for the purpose, such as tents, travel trailers/campers and recreational vehicles are permitted for use as camping shelters.

C. Improvements constructed for the maintenance of animals as permitted by Item 10, below, shall be kept in good repair, shall be constructed of new materials and must conform generally in appearance with any dwelling upon a Lot, although such improvements shall need not be constructed of materials identical to an existing dwelling. Each Lot owner shall maintain any such improvements placed upon any Lot, and no unsightly or dilapidated buildings or other structures shall be permitted on any Lot.

4. ARCHITECTURAL CONTROL: Review by Developer or his Designated Representative. No building, dwelling, outbuilding, shed, barn, fireplace, fence, wall, private driveway or other structure or construction, temporary or permanent, shall be commenced, erected, placed or maintained upon the properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Developer or his designated representative.

A. The Architectural Control Committee shall consist of two (2) or more member and shall be formed as a standing committee of the Whispering Pines Homeowners Association. Until the Association becomes operative, the Grantor shall act as the Architectural Control Committee, with its two members being:

Mr. Hunter Wilson
Route 2, Box 341-F
Martinsburg, WV 25401

Mr. Gregory Hewitt
Route 2, Box 341-F
Martinsburg, WV 25401

B. If the Architectural Control Committee fails to approve or disapprove the plans and specifications within thirty (30) days of submission, approval shall be deemed granted.

4. COMMERCIAL USE AND NUISANCE: No store, tavern or other public, commercial, industrial or professional business shall at any time be maintained or established or permitted upon any Lot. No noxious or offensive activity shall be carried on or upon any Lot, nor shall anything be done thereon which may become an annoyance or nuisance to the neighborhood.

5. SETBACK: No building or any part thereof shall be erected on any Lot nearer to any right-of-way lines or front Lot lines than twenty (20) feet, or nearer to any side Lot lines or boundaries than fifteen (15) feet, or nearer to any rear Lot lines than thirty (30) feet.

6. SEWAGE: No dwelling shall be occupied on any Lot unless there is constructed with it a septic system for the disposal of sewage, which must be approved by the West Virginia Department of Health. No outside toilet or closet shall be erected on any Lot.

7. MAINTENANCE: Each Lot owner shall promptly remove or otherwise dispose of any accumulation of trash, garbage or rubbish and at all times will maintain the Lot in a neat and sanitary condition. Lawns, trees and shrubbery shall be maintained in a neat and presentable fashion. Junked, inoperative, or unlicensed vehicles may not be stored or kept on any lot unless housed in a garage of the type described in Item 2.A. above, for more than a period of thirty (30) days.

8. FENCES: Only fences in anesthetic harmony with the exterior design of the residential development shall be constructed and, no fence shall exceed five (5) feet (i.e., sixty 60") in height. Fences must be constructed of wood along front line of each lot and 50 feet back from front line along the side lines. Wire or metal may be used for remainder of fence.

9. PARKING: No automobiles or other motor vehicles shall be parked in or within 25 feet from the rights-of-ways or roads of the Subdivision, and no on-street parking is permitted by Lot owners. Visitors, guests, delivery vehicles, or others legitimately using said roads and streets are excepted, and are permitted to temporarily park along said streets.

10. ADVERTISING: No advertising signs or billboards of any nature shall be erected, placed or maintained on any Lot, with the exception of a of address identification signs offering the premises for sale, none of which exceptions shall exceed four (4) square feet in size. The Grantor reserves a right to construct Subdivision entrance signs and structures.

10. AGRICULTURE: No swine, livestock or poultry shall be raised or bred on any Lot, except household pets, such as dogs and cats, which may be kept provided they are not bred or maintained for commercial purposes. Any domestic pet shall not be permitted to run at large so as to become an annoyance to the Subdivision. With suitable facilities and proper fencing, horses and ponies, shall be permitted on Subdivision Lots, provided at least one (1) acre per each such grazing animal is fenced for the maintenance of said animal.

11. FURTHER SUBDIVISION: No subdivision of a lot may create a lot or reduce a lot to less than three (3) acres, with the exception of Lot #15 which may be subdivided 4 times provided that subdivision does not create a lot or reduce a lot to less than 3 acres in size. Only the owner who originally exercises this right of "Further Subdivision" shall be entitled to Further Subdivide. No lot created by this "Further Subdivision" provision may be further subdivided. Patten only guarantees one building site per tract as shown on the recorded plat.

All cost to subdivide Lots will be the cost of the purchaser. Any new owners resulting from the resubdividing shall follow and be subject to these "Reservations and Restrictive Covenants Whispering Pines dated April 20, 1990". The new owners will also be responsible to pay the same annual assessments as the original owners.

Any further subdivision must be in accordance with the Hampshire County Subdivision Ordinance and approved by the Hampshire County Planning Commission.

New roads constructed to subdivide lots will not become part of the association. Roads must be maintained by those private individuals.

A. Grantor, its representatives and assigns, reserve the right to modify the plans of the Subdivision Plat, to change the size and shape of blocks, sections and Lots, and the directions and location of streets and other ways shown thereon, or of annulling the same; provided that no change shall be made which shall alter the shape or size of and Lot which has been sold, or the direction of any street or way upon which it abuts so as to cut such Lot off from convenient access to public highways, without the consent of the owner thereof.

B. Grantor reserves the right to amend, delete, or add to these covenants and restrictions on an individual basis pursuant to individual requests and requirements. Such amendments in accordance with this section will be accomplished by specific language in the individuals deeds or by supplementing these covenants and restrictions by separate recorded instrument.

12. EASEMENTS: Grantor reserves unto itself, successors and assigns, the right to erect and maintain all utility and electric lines, or to grant easements or right-of-ways therefore, with the right of ingress and egress for the purpose of installing or maintaining the same on, over, or under a strip of land fifteen (15) feet wide at any point along the side lot lines of each lot, twenty (20) feet along the front of each Lot line, thirty (30) feet along the rear lines of said lot and thirty (30) feet wide along the perimeter of the Subdivision. Such utility easements include but are not limited to telephone or electric light poles, conduits, equipment, sewer, gas and water lines. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities. Road right-of-way is to be fifty (50) feet total width along main subdivision road, being twenty five (25) feet each side of center line of road. Side roads shall be a forty (40) foot right-of-way, being twenty (20) feet each side of center line of road.

13. CONFLICT: In the event of any conflict between the provisions of these Reservations and Restrictive Covenants and the constraints reflected in the Plat of record for Whispering Pines, the constraints of the Plat shall govern. Any conflict existing within the provisions of this instrument itself shall result in application of the most restrictive provision herein. Any structures and/or improvements located upon any restrictions in this instrument which would otherwise result in a violation thereof. However, alteration or replacement of any part of said structures and/or improvements, aside from routine maintenance, requires compliance with these provisions in their entirety.

14. Grantor reserves the right to amend, delete, or add to these covenants and restrictions on an individual basis pursuant to individual Purchaser requests and requirements. Such amendments in accordance with this section will be accomplished by specific language in the individuals deeds or by supplementing these covenants and restrictions by separate recorded instrument.

WITNESS the following signature and seal:



PATTEN CORPORATION MID-ATLANTIC

BY: David Myers
David Myers
Regional President

STATE OF WEST VIRGINIA

COUNTY OF BERKELEY