

AMENDED DECLARATION OF PROTECTIVE COVENANTS,
RESTRICTIONS, AND RESERVATIONS FOR
TWIN OAKS SUBDIVISION, SECTION B

THIS DECLARATION, Made this the 28th day of April, 1992, by LYSLE R. SITES and PHYLLIS J. SITES, his wife, hereinafter called "Developer".

W I T N E S S E T H:

WHEREAS, Developer is the owner of real estate described in Article II of this Declaration, and desires to create thereon a subdivision to be known as TWIN OAKS, with common facilities for the benefit of said Subdivision; and,

WHEREAS, Developer desires to provide for the preservation of the values and amenities in said subdivision and for the maintenance of said streets, water service facilities, water drains and any other common facilities therein; and to this end, desires to subject the real property described in Article II together with such additions as may be hereafter made thereto to the covenants, restrictions, easements, charges, and liens hereinafter set forth, and each and all of which is and are for the benefit of said property and each owner thereof; and,

WHEREAS, Developer has deemed it desirable for the efficient preservation of the values and amenities in said Subdivision to create an agency to which should be delegated and assigned the powers of maintaining and administering the common facilities and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created; and,

WHEREAS, Developer has caused to be incorporated under the laws of the State of West Virginia, as a non-profit corporation, the Twin Oaks Property Owner's Association, Inc. for the purpose of exercising the

functions aforesaid.

NOW, THEREFORE, the Developer declares that the real property described in Article II, and such additions thereto as may be hereinafter be made pursuant to Article II hereof, is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens (sometimes referred to as "covenants and restrictions") hereinafter set forth.

ARTICLE I

Definitions

Section 1. The following words when used in this Declaration or any Supplemental Declaration (unless the context shall prohibit) shall have the following meanings:

(a) "Association" shall mean and refer to the Twin Oaks Property Owner's Association, Inc.

(b) "The Properties" shall mean and refer to all such existing properties, and additions thereto, as are subject to this Declaration or any Supplemental Declaration under the provisions of Article II, hereof.

(c) "Common Properties" shall mean and refer to those areas of land, if any, shown on any recorded subdivision plat of The Properties and intended to be devoted to the common use and enjoyment of the owners of The Properties.

(d) "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of The Properties.

(e) "Owner" shall mean and refer to the record owner, whether one or more persons and entities, of the fee simple title to any lot situated upon The Properties and notwithstanding, any applicable theory of the mortgage or deed of trust, shall not mean or refer to the mortgagee or

beneficiary of the deed of trust mortgage unless or until such mortgagee or beneficiary has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.

(f) "Member" shall mean and refer to all those Owners who are members of the Association as provided in Article III, Section 1, hereof.

ARTICLE II

Property Subject to this Declaration Additions Thereto

Section 1. Existing Property. The real property which is, and shall be, held, transferred, sold, conveyed and occupied subject to this Declaration is located Grant District, Grant County, West Virginia, and is more particularly described as follows:

BEING all the real estate within Twin Oaks Subdivision, a plat of which subdivision is of record in the Office of the Clerk of the County Court of Grant County, West Virginia, in Map Book 4 at page 33, to which said plat so of record reference is here made and had for a more particular description of said real estate.

all of which real property shall hereinafter be referred to as "Existing Property".

Section 2. Additions to Existing Property. Additional lands may become subject to this Declaration in the following manner:

(a) Additions. Upon approval in writing of the Association pursuant to a vote of its members as provided in its Articles of Incorporation, the owner of any property who desires to add it to the scheme of this Declaration and to subject it to the jurisdiction of the Association, may file of record a Supplementary Declaration of Covenants and Restrictions with respect to the additional property which shall extend the scheme of the covenants and restrictions of this Declaration to such property.

Such Supplementary Declaration may contain such

complementary additions and modifications of the covenants and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the added properties and as are not inconsistent with the scheme of this Declaration. In no event, however, shall such Supplementary Declaration revoke, modify, or add to the covenants established by this Declaration with the Existing Property.

(b) Mergers. Upon a merger or consolidation of the Association with another association as provided in its Articles of Incorporation, its properties, rights, and obligations, may, by operation of law, be transferred to another surviving or consolidated association may, by operation of law, be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the covenants and restrictions established by this Declaration within the Existing Property together with the covenants and restrictions established upon any other properties as one scheme. No such merger or consolidation, however, shall effect any revocation, change or addition to the covenants established by this Declaration within the Existing Property except as hereinafter provided.

ARTICLE III

Membership and Voting Rights In the Association

Section 1. Membership. Every person or entity who is a record owner of a fee or undivided fee interest in any Lot which is subject by covenants of record to assessment by the Association shall be a member of the Association, provided that any such person or entity who holds such interest merely as a security for the

performance of an obligation shall not be a member.

Section 2. Voting Rights. The Association shall have two classes of voting membership:

Class A: Class A members shall be all those owners as defined in Paragraph 1 with the exception of the developer. Class A members shall be required by membership by Paragraph 1. When more than one person holds such interest or interests in any lot, all such persons shall be members, and the vote for such lot shall be exercised as they among themselves determine but in no event shall more than one vote be cast with respect to any such lot.

Class B: Class B members shall be the developer. The Class B member shall be entitled to three votes for each lot in which he holds the interest required for membership by Paragraph 1, provided that the Class B membership shall cease and become converted to Class A membership on the happening of any of the following events, whichever occurs earlier:

- (a) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership or,
- (b) On January 1, 1996. From and after the happening of these events, whichever occurs earlier, the Class B member shall be deemed to be a Class A member entitled to one vote for each lot in which he holds the interest required for membership under Paragraph 1.

No expulsion of membership or cancellation of voting rights is permitted.

ARTICLE IV

Property Rights in the Common Property

Section 1. Members' Easements of Enjoyment.

Subject to the provisions of Section 3, every member shall have a right and easement of enjoyment in and to the common properties and such easement shall be appurtenant to and shall pass with the title to every Lot.

Section 2. Title to Common Properties. The

Developer shall deed the common properties and/or all rights of ways to the Association prior to the sale of any

lots. The Developer shall be responsible for the original construction of streets, roads, water facilities, drains, and any other common facilities. It shall be the further responsibility of the Developer to maintain the streets, roads, water system, drains and other common facilities, as herein defined, until such time as these amenities are satisfactorily completed. The Developer hereby covenants, for himself, his heirs and assigns that he shall convey the common properties to the Association, free and clear of all liens and encumbrances.

Section 3. Extent of Members' Easements. The rights and easements of enjoyment created hereby shall be subject to the following:

(a) The right of the Association, in accordance with its Articles and By-Laws, to borrow money for the purpose of improving the common properties and in aid thereof to mortgage said properties. In the event of a default upon any such mortgage the lender's rights hereunder shall be limited to a right, after taking possession of such properties to charge admission and other fees as a condition to continued enjoyment by the members and, if necessary, to open the enjoyment of such properties to a wider public until the mortgage debt is satisfied whereupon the possession of such properties shall be returned to the Association and all rights of the members hereunder shall be fully restored; and

(b) The right of the Association to take such steps as are reasonably necessary to protect the above described properties against foreclosure; and

(c) The right of the Association, as provided in its Articles and By-Laws, to suspend the enjoyment rights of any member for any period during which any assessment remains unpaid, and for any period not to exceed thirty

(30) days for any infraction of its published rules and regulations; and

(d) The right of the Association to charge reasonable admission and other fees for the use of the common properties; and

(e) The right of the Association to dedicate or transfer all or any part of the common properties to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members, provided that no such dedication or transfer, determination as to the purposes or as to the conditions thereof, shall be effective unless an instrument signed by members entitled to cast two-thirds (2/3) of the votes of each class of membership has been recorded in the Office of the Clerk of the County Court of Grant County, West Virginia, agreeing to such dedication, transfer, purpose or condition and unless written notice of the proposed agreement and action thereunder is sent to every member at least ninety (90) days in advance of any action taken.

ARTICLE V

Covenant for Maintenance Assessments

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Developer for each lot owned by him within the properties hereby covenants and each owner of any lot by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association: (1) monthly or annual assessments or charges; (2) special assessments for capital improvements, such assessments to be fixed, established, and collected from time to time as hereinafter provided. The annual and special assessments, together with such interest thereon and costs of collection thereof as

hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with such interest thereon and cost of collection thereof as hereinafter provided, shall also be the personal obligation of the person who was the owner of such property at the time when the assessment fell due.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the residents in the properties and in particular for the improvement and maintenance of properties, services, and facilities devoted to this purpose and servicing the homes situated upon the properties. Pursuant to the foregoing, the Association may use and employ assessments to provide for repair, improvement and maintenance of the common properties, payment of taxes and insurance thereon for paving, repaving, improvement, repair and maintenance of streets, alleys and common ways and for construction, reconstruction, operation, repair, maintenance and improvement of water facilities, and drains. The enumeration of specific uses herein, however, shall not be construed to limit the Association to the use of assessments for purposes similar to the foregoing.

Section 3. Initial Assessment Deposit. The initial purchaser of any lot in Twin Oaks shall on the date of purchase, deposit with the Association the sum of Fifty Dollars (\$50.00) as an initial assessment provided said purchase is made before January 1, 1993. Beginning with January 1, 1993, the purchaser of any such lot shall pay to the Association at the time of purchase the prorated portion of the annual assessment hereinafter provided for.

Section 4. Basis and Maximum of Annual Assessments. Beginning January 1, 1992, the annual assessment shall be Fifty Dollars (\$ 50.00) per lot. From and after January 1, 1993, the annual assessment may be increased by vote of the members as hereinafter provided, for the next succeeding three years and at the end of each such period of three years for each succeeding period of three years.

The Board of Directors of the Association may, after consideration of current maintenance costs and future needs of the Association, fix the actual assessment for any year at a lesser amount.

Section 5. Change in Basis and Maximum of Annual Assessments. Subject to the limitations of Section 4 hereof, and for the periods herein specified, the Association may change the maximum and basis of the assessments fixed by Section 4 hereof prospectively for any such period provided that any such change shall have the assent of two-thirds (2/3rds) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all members at least thirty (30) days in advance and shall set forth the purpose of the meeting, provided further that the limitations of Section 4 hereof shall not apply to any change in the maximum and basis of the assessments undertaken as an incident to a merger or consolidation in which the Association is authorized to participate under its Articles of Incorporation and under Article II, Section 2 hereof.

Section 6. Quorum for Any Action Authorized Under Section 5. The quorum required for any action authorized under Section 5 hereof shall be as follows:

At the first meeting called, as provided in

Section 5 hereof, the presence at the meeting of members, or of proxies, entitled to cast sixty (60) percent of all the votes of each class of membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement set forth in Section 5, and the required quorum at any such subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting, provided that no such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 7. Due Date of Annual Assessments. The annual assessments provided for herein shall become due and payable on the first day of January of each year. The Board of Directors of the Association may provide for the payment of annual assessments on a periodic basis.

Section 8. Duties of the Board of Directors. The Board of Directors of the Association shall provide for written notice of the assessment to be sent to every owner subject thereof. The Association shall upon demand at any time furnish to any owner liable for said assessment a certificate in writing signed by an officer of the Association setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to be paid.

Section 9. Effect of Non-Payment of Assessment; The Personal Obligation of the Owner; The Lien; Remedies of Association. If the assessments are not paid on the date when due, then such assessment shall become delinquent and shall, together with such interest thereon and cost of collection thereof as hereinafter provided, thereupon become a continuing lien on the property which shall bind such property in the hands of the then owner, his heirs, devisees, personal representatives and assigns.

If the assessment is not paid within thirty (30) days after the delinquency date, the assessment shall bear interest from the date of delinquency at the rate of six (6%) percent per annum, and the Association may bring an action at law against the owner personally obligated to pay the same or to foreclose the lien against the property, and there shall be added to the amount of such assessment the costs of preparing and filing the complaint in such action, and in the event a judgment is obtained, such judgment shall include interest on the assessment as above provided and a reasonable attorney's fee to be fixed by the Court together with the costs of the action.

Section 10. Subordination of the Lien to Mortgages and Deeds of Trust. The lien of the assessments provided for herein shall be subordinate to the lien of any mortgage or deed of trust now or hereafter placed upon the properties subject to the assessment; provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to a sale or transfer of such property pursuant to a decree of foreclosure, or any other proceeding in lieu of foreclosure. Such sale or transfer shall not relieve such property from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessment.

ARTICLE VI

General Provisions

Section 1. Duration. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the owner of any land subject to this declaration, their respective legal representatives, heirs, successors, and assigns, for a term

BOOK 178 PAGE 12
of thirty (30) years

from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by the then-owners of two-thirds (2/3rds) of the lots has been recorded, agreeing to change said covenants and restrictions in whole or in part. Provided, however, that no such agreement to change shall be effective unless made and recorded three (3) years in advance of the effective date of such change, and unless written notice of the proposed agreement is sent to every owner at least ninety (90) days in advance of any action taken.

Section 2. Notices. Any notice required to be sent to any member or owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as member or owner on the records of the Association at the time of such mailing.

Section 3. Enforcement. Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against the land to enforce any lien created by these covenants; and failure by the Association or any owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 4. Severability. Invalidation of any of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

ARTICLE VII

General Prohibitions, Covenants and Restrictions

RY AND GEARY, L.C.
ATTORNEYS AT LAW
P.O. BOX 248
CHEROKEE, WEST VIRGINIA
26847-0248

It is the purpose of the Developer in subdividing and selling land within Twin Oaks to provide for the permanent protection of the land, its use and value. Therefore, it is hereby declared by the Developer that the following covenants, prohibitions, restrictions and reservations shall constitute covenants to run with the land in Twin Oaks Subdivision.

1. No more than one (1) single-family residence shall be erected or constructed on any one lot and it shall contain a minimum of 850 square feet on the first floor. This shall not include basement, garages, porches, decks, or carports. Any separate garage or storage building constructed thereon must conform generally in appearance and material with any residence or dwelling erected or constructed on said lot. The construction of said residence or dwelling on said lot herein conveyed shall use as a minimum standard of quality the requirements set forth by the Farmers Home Administration.

2. All lots in Twin Oaks shall be used for residential purposes only. No business or commercial enterprises or professions of any kind, type or character shall be permitted or conducted thereon.

3. Prior to the time that any owner begins construction of the residence or dwelling, owner shall install an appropriate driveway or entrance to the lot and in doing so, shall install a culvert in the drainage ditch of at least ten (10) inches in diameter and of a sufficient length (minimum 16 feet) to allow for proper drainage.

4. No single family residence, outbuilding, shed or other similar structure shall be located within twenty (20) feet of any property line but that all improvements as aforesaid shall not be located closer than fifty (50) feet from road right of ways, creeks, drains or runs.

5. The exterior of all residences, dwellings and other structures must be completed within one (1) year after the construction of same shall have commenced.

6. Parking of vehicles by owner, or their guests, shall not be permitted along any road or right of way. It shall be the responsibility of each owner to provide adequate off-road parking for owner's use and the use of his guests.

7. Farm animals such as poultry, swine, cattle, goats, horses, etc., shall not be permitted to be kept or maintained upon any tract or lot. Domestic animals such as dogs and cats are permitted so long as they are not a danger or a nuisance to others, and remains on the lot of the owner, unless on a leash.

8. Storage of any unregistered, uninsured, or otherwise unusable vehicles of any kind shall not be permitted upon any tract unless it is garaged.

9. Only licensed 4-wheel vehicles may be used on the roadways or rights of ways in Twin Oaks, and access roads thereto. Motorized vehicles such as go-carts, ATVs, 4-wheelers, and 3-wheelers are strictly restricted from use. The Association has full authority to restrict specific vehicles or types of vehicles from use within Twin Oaks.

10. No tract or lot shall be used or maintained as a dumping ground for rubbish, nor shall any rubbish, garage, refuse or other waste of any type be allowed to accumulate on said tract. Said rubbish, refuse, garage or other waste shall be kept in sanitary containers, and all such containers or other equipment used for the storage or disposal of said material shall be kept in a clean and sanitary condition located in as inconspicuous a place as possible.

11. No obnoxious or offensive use shall be made of any lot, nor shall any offensive trade or activity be carried on upon any tract, nor shall any activity of any nature, including but not limited to, illegal or unlawful acts, whatsoever, be conducted on a tract which may constitute a nuisance.

12. No hunting or discharging of any firearms, pellet guns, and BB guns shall be permitted.

13. No tract shall be subdivided or its boundary lines changed.

14. No house trailers, camper trailers, mobile homes, doublewides, trucks, buses, dilapidated cars or unsightly vehicles of any type, character, or description, may be stored, abandoned, or used for any type of dwelling, building or storage facility.

15. Within one month after completion of a dwelling or residence on a tract, debris and waste material remaining on the ground shall be picked up and disposed of. Within one year after the completion of a dwelling or residence on a tract, said tract shall be landscaped, including the seeding of bare earth, in a workmanlike manner.

16. All toilets, septic tanks, drain fields, sewage and waste disposal systems constructed on said lot shall conform to the regulations of the West Virginia State Health Department; further, activities or use of said lot shall not pollute or cause waste water to flow into any spring, pond, drain, or stream situate on or traversing said property.

17. Nothing herein is to be construed to prevent the Association from amending or placing further provisions, covenants or easements on any tracts in Twin Oaks.

18. There is reserved unto the Association, its successors and assigns, a perpetual, alienable, and releasable easement over, upon, across and under each tract or lot for the construction, maintenance, upkeep and repair of the roadways and rights of ways, the location or locations thereof are as shown on the plat of Twin Oaks, recorded in the Grant County Clerk's Office in Map Book 4 at page 33; that the aforesaid reservations grant Association as necessary to construct ditches, drains and install culverts on or off the right of way or roadway, as same might be necessary and required to properly maintain, repair and construct the right of way and roadway; that the use of said roadways and rights of ways shall be used in common by Association, owners, their respective heirs, successors, and assigns.

There is also reserved and excepted unto the Association, its successors and assigns, a perpetual, alienable and releasable easement for the erection, maintenance, installation and use of electrical and telephone poles, wires, cables, conduits, and other suitable equipment for the conveyance of electricity, CATV, and use of telephone equipment, water, or other public conveniences or utility but with the understanding that said easement for the aforesaid utilities and related necessities shall be confined to an area within five (5) feet on all sides and rear property boundary lines of each lot or tract. There is an easement reserved of fifteen (15) feet for any tract's property boundary line adjacent to a roadway or right of way which would commence where the roadway or right of way boundary ceases. There is also reserved an easement of 15 feet on the southeast side of State Secondary Route 42/5. Said easements as aforesaid would include locations for anchors and guidewires for

poles as needed, even if extending beyond the above enumerated limitations.

19. All covenants, restrictions and affirmative obligations as set forth in this declaration shall run with the land and shall be binding on all parties and persons claiming under them. No restriction or covenant herein is intended to be used nor shall any restriction or covenant be used by any owner to discriminate or attempt to discriminate against any person, whether a owner or perspective owner upon resale by a owner, upon the basis of race, creed, color, marital status, national origin or such other suspect classification.

20. In the event of a violation or breach of any of these restrictions by any lot owner, agent, agent of such lot owner, the owners in this development and the Association, jointly or severally, shall have the right to proceed at law or in equity, to compel a compliance to the terms hereof or to prevent the violation or breach in any event.

The failure to enforce any right, reservation, restriction or condition contained in this Declaration of Protective Covenants, Restrictions and Reservations, however long continued, shall not be deemed a waiver of the rights to do so hereafter, as to the same breach or as to a breach occurring prior or subsequent thereto and shall not bar or affect its enforcement.

The invalidation by any Court of any restrictions in this Declaration of Protective Covenants, Restrictions and Reservations shall in no way affect such other restrictions, as they shall remain in full force and effect.

The above Protective Covenants, Restrictions and Reservations for Twin Oaks read and agreed to this the

BOOK 178 PAGE 18

____ day of _____, 1992.

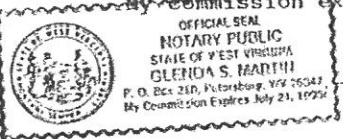
AND GEARY, L.C.
ORDERED AT LAW
P.O. BOX 218
BURRO, WEST VIRGINIA
26047 0218

The undersigned, Lysle R. Sites and Phyllis J. Sites, Developers, do hereby certify and state that the within restrictions and covenants are applicable to all tracts of real estate situate in what has been designated as "Twin Oaks Subdivision" and that same shall apply to all lots of real estate consisting of and making of the said Development. This real estate is a portion the same property conveyed Lysle R. Sites and Phyllis J. Sites by deed dated June 28, 1991, from Brent Berg, et ux., and of record in the Grant County Clerk's Office in Deed Book 174 at page 99. Dated this the 21st day of March, 1992.

Lysle R. Sites
Lysle R. Sites
Phyllis J. Sites
Phyllis J. Sites

STATE OF WEST VIRGINIA,
COUNTY OF GRANT, TO-WIT:

Taken, subscribed and sworn to before the undersigned authority this the 21st day of March, 1992.

My commission expires July 24, 1995
 Glenda S. Martin
Notary Public.

The undersigned, David M. Brunelle and Julie A. Brunelle, his wife, do hereby affix their signatures hereto for the purpose of showing their acquiescence in the change and amendment to the Covenants and Restrictions for Twin Oaks. On a prior date, the undersigned did acquire Lot No. 6 from Lysle R. Sites and Phyllis J. Sites, his wife, as more particularly evidenced in Deed Book 176 at page 210, and which deed was made subject to the original Covenants and Restrictions of Twin Oaks. The undersigned do hereby agree that the above Amended Declaration of Covenants and

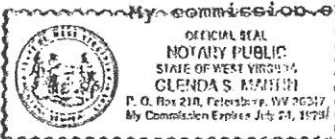
Restrictions shall be binding upon his lot and all other lots in the Twin Oaks Subdivision.

Dated this the 15th day of June, 1992.

David M. Brunelle
David M. Brunelle
Julie Brunelle
Julie A. Brunelle

STATE OF WEST VIRGINIA,
COUNTY OF GRANT, TO-WIT:

Taken, subscribed and sworn to before the undersigned authority on this the 15th day of June, 1992.

My commission expires July 24, 1995.

Glenda S. Martin
Notary Public.

THIS INSTRUMENT WAS PREPARED BY GEARY AND GEARY, L. C., ATTORNEYS, P. O. Box 218, PETERSBURG, WEST VIRGINIA.

State of West Virginia, Grant County, to-wit:

On the 16th day of June, 1992, this Amended Declaration of Protective Covenants, Restrictions & Reservations with the certificates thereon annexed, was filed in the Clerk's Office of the County Court of Grant County, and admitted to record at 3:09 p.m. Fee \$ 11.00 paid.

Attest:

Harold H. Hise ^{AK}
Clerk
County Court, Grant County, West Virginia