

558

Mailed 12-11-92
Mr. Renick C. Williams
Box 664
Moorefield, WV 26836

COVENANTS

BECKY WEBB DEVELOPMENT
Dedication of Plat and
Declaration of Protective Covenants,
Conditions and Restrictions

KNOW ALL MEN BY THESE PRESENTS: That the undersigned, referred to as "Declarant", does hereby record the plat of a subdivision known as BECKY WEBB SUBDIVISION, lying and being situate in Moorefield District, Hardy County, West Virginia, and being more fully described on the plat and survey of Larry Kitzmiller, L.L.S., and made a part hereof, and recorded in the Clerk's Office of the County Commission of Hardy County, West Virginia, just prior to the recording of this instrument in the Plats (book and page not yet known) to which reference is hereby made, and said real estate being part of a larger tract of real estate conveyed to Renick C. Williams and Betty P. Williams, by deed from Montie Wood Gibson, dated December 6, 1991, and recorded in the Hardy County Clerk's Office in Deed Book No. 216, page 130.

Declarant hereby claims an exemption from the W. Va. Uniform Common Interest Ownership Act, Ch. 36B, pursuant to W. Va. Code Ch. 36B-1-202 (2), because the assessment for maintenance of the roads and common elements of all lots may not exceed \$100.00, except as set forth herein.

All lots in the BECKY WEBB SUBDIVISION shall be subject to the following protective covenants, conditions, and restrictions and easements which shall run with the land and shall be binding upon all subsequent owners of the lots:

1. The 40 foot right of way which benefits Lots 16-26, is for their joint use, and shall inure to the Lot owners of Lots 16-26, their heirs and assigns. They shall be under a duty to maintain said right of way, provided their road maintenance fees shall not exceed \$100.00 per year, unless they unanimously agree to increase the fees.

2. Declarant, his heirs and assigns, reserves the right to use the 40 foot road providing ingress and egress to Lots 16-26 for the benefit of the reserve. However, the Declarant agrees that the right of way shall be for the use of his residue while it is devoted to farm use, and that should any other use be made of the residue in the future, the Declarant will obtain ingress and egress to said residue using alternate means. Declarant shall meet annually with Lots Owners 16-26 and agree on his proportionate share of maintenance which will be required if Declarant, his successors or assigns, intend to use the subdivision road for ingress and egress to the reserve while it is being used for farm purposes.

3. LOT NO. ONE is excepted and reserved from this subdivision. That is to say, it shall not be bound by any of the

terms of this instrument, and the Declarant makes no promises, express or implied, as to how this parcel of real estate termed Lot One, and consisting of 2.127 acres, more or less, will be used in the future. Declarant expressly reserves the right to transfer and convey Lot One for any lawful purposes, and if Declarant should be desirous of doing so, Declarant reserves the right to use lot One, or any part thereof that Declarant desires to use, to serve as a means of obtaining ingress and egress to the residue of real estate which Declarant yet owns adjacent to BECKY WEBB SUBDIVISION. The owners of BECKY WEBB SUBDIVISION have no rights, express or implied to any use or benefits of Lot One, or any appurtenances thereof. Should Declarant to do so, the Declarant may cause an amended plat of BECKY WEBB SUBDIVISION to be recorded which would show Lot One as "Reserved" real estate, in which case it is understood that the first numbered lot in BECKY WEBB SUBDIVISION would commence with Lot Two.

4. Declarant hereby reserves a 40 foot right of way easement, as shown on the plat of survey for the benefit Lots 3,4,5 & 6., and a 40 foot right of way easement for the benefit of Lots 7,8,9 & 10. Said right of way is for the sole and exclusive benefit of those Lots which are adjacent to said right of way and is to be exclusively maintained by each of them who benefit from said right of way. The maintenance fees per annum shall not exceed \$100.00, unless the owners benefiting from same should unanimously agree to an increase in fees. Declarant reserves no rights, express or implied to use the two easements described in this paragraph for ingress or egress to his residue.

5. The declarant has installed or caused to be installed fifteen inch culverts across all subdivision roads at their access point with the State Road. All future costs incurred in maintaining the culverts, including replacement shall be shared by those benefiting from the use of the subdivision.

6. Accesses from the State Road will be installed at the division line between the following lots: Lots 11 & 12, and Lots 13 & 14. These accesses are to be located equally on each of the Lots at the division line, and are for the joint use of each of the Lot Owners, and no others. The cost of maintaining the access shall be exclusively upon each of the Lot Owners, and the maintenance cost shall not exceed \$100.00 per year unless unanimously agreed to by each of the Lot Owners.

6.1 Lots 2 and 15 will have their own accesses installed to the State Road, and the Owners of Lots 2 and 15 will be exclusively responsible to see to its upkeep and maintenance.

7. Declarant reserves the right to use the subdivision roads, as necessary to obtain ingress and egress to Declarant's "Reserve", which is shown on the plat of survey, provided however, that the Declarant agrees that should he develop the reserve in the future, the subdivision roads as shown on the plat

number, within this subdivision.

15. Notwithstanding the prior paragraph, the following uses are permitted, subject to applicable state and local laws:

- (a) Home occupations conducted by occupant.
- (b) Home gardening is permitted.

16. The Owner shall maintain, repair and restore, as necessary, the exterior of any building or other improvements erected on any Lot owned by him. Owners likewise agree to repair and restore promptly to its prior condition any part of a subdivision road damaged by equipment of Owner or his contractor en route to or from Owner's lot. All lots improved or unimproved, must be maintained by the owner in a neat and orderly condition at all times. No garbage, trash or inoperative vehicle or other debris shall be permitted to accumulate or remain on any lot.

17. No building shall be erected closer than forty-five (45) feet from the property line which adjoins the subdivision road, nor closer than twenty (20) feet to the side or rear property lines, with the exception that where two or more tracts are used together for the construction of one dwelling, then said twenty (20) foot setback shall apply only to the outside lines.

18. All sanitation facilities constructed on any lot shall conform with the regulations of the West Virginia County Health Department.

19. No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage, or other waste must be kept in sanitary containers. All trash, garbage, fuel storage tanks, garden equipment, supplies and stored raw materials must be kept from view of the public.

20. All Owners are responsible to see that their lot is maintained in a neat and attractive manner. Grass shall not be allowed to grow to a height of more than six inches in height.

21. The Declarant reserves unto it, and its successors and assigns, easements for the installation, erection, maintenance, operation and replacement of telephone and electric light poles, conduits and related equipment, and/or sewer, gas, telephone, cable t. v., electric and water lines on, over and under a strip of land ten (10) feet wide along all property lines not serving as the centerline for rights-of-ways, and fifteen (15) feet along all the rights-of-ways, in addition to easements reserved by any other instrument duly recorded. Nothing herein shall be construed as creating any duty on Declarant to install or maintain any utility services however, as it is contemplated that actual installation will be made at the expense of the utility and/or the owners. Declarant reserves the right to execute

easements to utility companies over, across and through the area described in this paragraph in order to carry out the intent of this paragraph.

22. Lot Owners 16-26, 3-6, and 7-10 shall have an unobstructed and the nonexclusive forty foot right of ingress and egress to and from his lot over the rights-of-ways and roadways as shown on the subdivision plat. All other Lots front on the State Road. No subdivision road or access road may be gated or obstructed, if it would limit access to any Lot Owner, unless unanimously agreed to by the Lot Owners who have the right to use said subdivision roads and/or access roads.

23. Declarant does not reserve any rights to add additional real estate to this subdivision.

26. The use of any motorcycle, dirt bike, all terrains vehicles, or other similar motorized conveyance within the subdivision is prohibited unless it is equipped with proper noise abatement equipment.

27. Firearms shall not be discharged within five hundred (500) feet of any dwelling house. Nor shall they be discharged in such a manner that the trajectory of the projectile shall cross any of the subdivision roadways.

28. Speed limit for motor vehicle travel on the access road and subdivision road shall not exceed 15 miles per hour, and should any Owner, or his guest and/or invitee, habitually break the limit, any Owner may apply to a Court of Competent Jurisdiction for an injunction or other appropriate relief that the Court deems meet and just.
standing toilet.

29. No building shall be constructed and no well shall be drilled on any lot until a sewage disposal permit has been obtained from the West Virginia Health Department.

30. Invalidation of any of the covenants, restrictions or other provisions of this Declaration by judgment or Court Order shall in no wise affect any other provisions, which shall remain in full force and effect.

31. Whenever in this Declaration the context so required, the masculine gender includes the feminine and neuter, singular number includes the plural and the plural number includes the singular.

32. If any lot owner should violate, or permit to be violated by any guest or invitee, any of the covenants herein, it shall be lawful for any other person or persons owning any real estate situated in said subdivision, or the Declarant, its

successor and/or assigns to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such covenant, either to prevent him or them from so doing or to recover damages or other dues for such violation. Failure to enforce any provision herein contained shall in no way be deemed a waiver of the right to do so hereafter.

Renick C. Williams
Betty P. Williams
DECLARANTS

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

The foregoing instrument was acknowledged before me this the 5 day of ~~October~~ ^{November}, 1992, by Renick C. Williams and Betty P. Williams, his wife, in my County and State.

My commission expires Jan. 12, 1996.

Ada Kay Webster
Notary Public

This instrument prepared by
Oscar M. Bean, Attorney,
116 Washington St., Drawer 30
Moorefield, W.Va. 26836.
304/538/6198

COMMISSIONED
ADA KAY WEBSTER

ADA KAY WEBSTER, Notary Public
State of West Virginia
My Commission expires January 12, 1996
116 Washington St., Moorefield, W. Va. 26836

STATE OF WEST VIRGINIA, Hardy County Commission Clerk's Office November 5, 1992

The foregoing Instrument, together with the certificate of its acknowledgment, was this day presented in said office and admitted to record.

Teste Shirley H. Hatcher Clerk.