

Mailed: John N. McCune
P.O. Box 1424
Front Royal, Va 6-8-83

36378

RUSHING RIVER FARMS
DEDICATION OF PLAT AND
STATEMENT OF PROTECTIVE COVENANTS
AND RESERVATIONS

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KNOW ALL MEN BY THESE PRESENTS: That the undersigned, B. K. Haynes Corporation, a Virginia Corporation, qualified to do business in the State of West Virginia, does hereby record the plat of a subdivision known as RUSHING RIVER FARMS, lying and being situated in Gore District of Hampshire County, West Virginia, and being more fully described on the attached plat and survey of Carl J. Rinker, Jr., L.L.S., and Paul Duane Brown, L.L.S., dated May , 1983, and made a part hereof, said real estate being all the same real estate conveyed to the said B. K. Haynes Corporation, by deed dated May 27, 1983, from Charles D. Whitacre and Sudie E. Whitacre, husband and wife, D/B/A W & W Farms, and recorded in the Clerk's Office of the County Commission of Hampshire County, West Virginia, just prior to the recording of this instrument, to which reference is hereby made.

All lots in the RUSHING RIVER FARMS subdivision shall be subject to the following restrictions and easements which shall be considered real and running with the land and shall be binding upon the Grantor and all subsequent owners of the lots:

1. No signs or advertising of any nature shall be erected or maintained on any lot, except for sale or rental signs for said lot not to exceed six (6) square feet in area (and must comply with the Hampshire County ordinances relating to erection of signs), and except for directional and informational signs of Grantor.

2. Resubdivision of lots must be in compliance with the Hampshire County Subdivision regulations and the Hampshire County Health Department ruling of two acre minimum for individual well and septic systems.

3. No owner of any lot shall interfere with the natural drainage of surface water from such lot to the detriment of any other lot. Consequently, in construction of a driveway into any lot, a twelve (12) inch diameter culvert, or larger if necessary, shall be used in constructing the driveway in order to prohibit blockage of natural drainage.

4. Due to the unsightliness of junk vehicles on lots, no motor vehicle which does not have current license plate or an inspection sticker not more than six (6) months out of date shall be permitted on any lot. House trailers shall be placed on a solid foundation and also meet the approval of the Board of Directors of Rushing River Farms Property Owners Association. Temporary

camping trailers may be placed on any lot provided Hampshire 705 County and West Virginia State laws concerning temporary camping are complied with.

5. No building of a temporary nature shall be erected or placed on any lot except those customarily erected in connection with building operations and in such cases, for a period not to exceed eight (8) months.

6. Not more than one single family residence shall be erected on a lot. The residence shall contain a minimum of 480 square feet of living area, excluding basement, garage, porch, carport, deck and overhanging eaves. All exterior construction must be completed and closed in within eight (8) months of the commencement of construction.

7. Each lot shall be used for residential purposes only, and any garage or barn must conform generally in appearance and material with any dwelling on said lot. No portion of any lot may be used as a roadway or right of way to any property not included on the above referenced plat, except that this restriction shall not apply to roadways or rights of ways to any land now owned or hereafter acquired by Grantor.

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

(a) Home occupations conducted by occupant.

(b) Agricultural uses, including incidental uses and the construction of accessory buildings.

(c) No more than one (1) head of livestock per acre shall be permitted per lot, unless otherwise approved by the Board of Directors of the Property Owners Association.

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

9. All sanitation facilities constructed on any lot shall conform to the regulations of the West Virginia and Hampshire County Health Departments.

10. No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage, or other waste shall not be kept except in sanitary containers. All trash, garbage, fuel storage tanks, garden equipment, supplies and stored raw materials must be kept from the view of the public. In the event any lot owner shall fail to discharge his aforesaid responsibilities in a

manner satisfactory to the Board of Directors of the Property Owners Association, upon a two-thirds (2/3) vote of its Board of Directors and after fifteen (15) days notice to the Grantor, the Property Owners Association shall have the right, through its agents and employees, to enter upon said lot and perform necessary maintenance (including mowing and removal of grass over 24" high in the form of hay), repairs and restoration, or to remove any offending material or object. Such action shall not be deemed a trespass, and the cost of same when performed by the Association shall be added to and become a part of the assessment to which such lot is subject.

11. The owner of each lot or re-subdivided lot, by acceptance of a deed thereto, automatically becomes a member of the Rushing River Farms Subdivision Property Owners Association and is deemed to covenant and agree to pay One Hundred Dollars (\$100.00) per lot, per year, beginning January, 1984, and to pay annually thereafter to the Property Owners Association, to be created as hereinafter set forth, an amount determined by the positive vote of owners of at least two-thirds (2/3) of the lots in said subdivision as necessary for the purpose of maintaining all fifty (50) foot wide rights of ways and the roadways thereon shown on the subdivision plat, and any common areas, including the removal of snow and the repairs and improvements of the roadways. Notwithstanding the above, the Board of Directors of the Property Owners Association shall have the power to make the annual road maintenance assessment in accordance with the procedure described above, without any direction or authorization from the Property Owners Association, provided the assessment is not greater than the amount of the assessment for the prior year plus a percentage increase not greater than the Cost of Living Index increase (urban) as published by the Department of Interior, Bureau of Standards.

During December of each year, beginning December, 1983, the Association shall notify each lot owner, in writing, as to the amount of the lot assessment which shall be due and payable by January 31st. Any payment not made by January 31st shall bear interest from the 31st day of January at the rate of ten percent (10%) per annum, and the delinquent owner shall be liable for costs of collection, if necessary, including reasonable attorney's fees. Each assessment, including interest and costs, shall be the personal obligation of the owner and the owner's personal liability shall terminate upon his transfer of the property provided the maintenance fees are current as of the time of the transfer and the transferee has assumed in the deed personal liability for the assessment.

On or before December 31, 1983, or when three-fourths (3/4) of the lots have been sold, whichever occurs first, a Property Owners Association shall be established with membership consisting of the owners (and only the owners) of each lot in the RUSHING RIVER FARMS subdivision, who shall have one (1) vote per lot owned. The Association shall be governed by the majority vote of the lot owners. A Board of Directors of three (3) to five (5) members shall be selected by the lot owners.

Said annual payments shall be a charge and lien upon the respective lots shown on the Subdivision plat, it being expressly understood that said lien is inferior and subordinate to the lien of any deed of trust hereafter recorded in the Office of the Clerk of the County Commission of Hampshire County, West Virginia, encumbering the lots subdivided herein, unless record notice to the contrary is given prior to the recordation of such deed of trust. If the owner of any lot is in default in the payment of any assessments, including interest and costs of collection, in addition to any other means of collection, the Property Owners Association may bring an action at law against the owner personally obligated to pay same and may also sell the lot involved at public auction after advertisement once a week for four (4) successive weeks, in some convenient newspaper having general circulation in Hampshire County, and after thirty (30) days written notice mailed to the last known address of said owner. Cost of sale shall be paid from the proceeds of sale before the payment of amount involved. In exchange for Grantor's agreement to maintain said roadways and rights of ways until December 31, 1983, the Grantor shall be exempt from the payment of said annual assessments.

12. The Grantor reserved unto himself and his assigns, the right to erect, maintain, operate and replace telephone and electric light poles, conduits and related equipment and sewer, gas and water lines and the right to grant easements or rights of ways thereof, on, over and under a strip of land twenty (20) feet wide along both sides of the fifty (50) foot wide rights of ways and along all property lines not serving as the centerline for rights of ways.

13. Each lot owner shall have the right of ingress and egress from his lot over the rights of ways and roadways as shown on the subdivision plat.

14. If the parties hereto, or any of them, or their heirs and assigns, shall violate any of the covenants herein, it shall be lawful for any other person or persons owning any real estate 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 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.

15. Invalidation of any one of these covenants by judgment or Court order, shall in no wise affect any of the other provisions which shall remain in full force and effect.

OIL AND GAS RIGHTS

WHEREAS, the 197.40 acres comprising this subdivision is subject to an oil and gas lease dated August 4, 1980, and of record in said Clerk's Office in Deed Book 246, at Page 14, from predecessors in title to C. E. Beck; and

WHEREAS, predecessor in title, Monteere, Inc. and Hinterland, Inc., by deed recorded in said Clerk's Office in Deed Book 245, at Page 787, reserved a one-half (1/2) undivided interest in the oil and gas rights in the said 197.40 acres; and

WHEREAS, by assignment dated March 1, 1982, and recorded in said Clerk's Office in Deed Book 255, at Page 218, the said C. E. Beck assigned said oil and gas lease to Amoco Production Company; and

WHEREAS, by the Deed recorded in said Clerk's Office just prior to recording this instrument, Charles D. Whitacre, et als conveyed the remaining one-half (1/2) undivided interest in said oil and gas rights and the annual delay rental under said lease to B. K. Haynes Corporation; and

WHEREAS, the said B. K. Haynes Corporation desires to and hereby assigns all its one-half (1/2) undivided interest in said oil and gas lease to all of the lot owners within RUSHING RIVER FARMS subdivision, and to that end, provides as follows:

A. All delay rentals derived from said lease shall be payable to the aforementioned Property Owners Association, to be divided proportionately by the acre to the property owners within RUSHING RIVER FARMS subdivision, and

B. Any royalties or other compensation derived from the said oil and gas lease shall be payable to the Property Owners Association, to be distributed proportionately by the acre to the property owners, after first deducting any administrative expenses thereof, and any road maintenance costs exceeding the amount in the then current road maintenance fund.

WITNESS the following signatures and Corporate Seal of B. K. Haynes Corporation, which has caused this instrument to be

executed and delivered in its Corporate name by Bradley K. Haynes, its President, and its Corporate Seal to be affixed and attested by its Secretary-Treasurer, Betty G. Haynes.

B. K. HAYNES CORPORATION

BY B.K. Haynes
Bradley K. Haynes, President

ATTEST:

Betty G. Haynes
Betty G. Haynes
Secretary-Treasurer

STATE OF VIRGINIA

COUNTY OF Warren

I, Linda A. Maffey, a Notary Public in and for the State and County aforesaid do hereby certify that Bradley K. Haynes, whose name is signed as President and Betty G. Haynes, whose name is signed as Secretary-Treasurer of B. K. Haynes Corporation, to the foregoing instrument bearing date on the 27th day of May, 1983, have each acknowledged the same before me in my State and County aforesaid and made oath that their signatures and Corporate Seal were thereto affixed pursuant to due authority.

Given under my hand this 27th day of May, 1983.

My commission expires: January 21, 1985

Linda A. Maffey
Notary Public

THIS DOCUMENT WAS PREPARED BY JOHN N. McCUNE, ATTORNEY AT LAW, P. O. BOX 1424, FRONT ROYAL, VIRGINIA, 22630.

STATE OF WEST VIRGINIA, County of Hampshire, to-wit:

Be it remembered that on the 27th day of May, 1983, at 3:15 P M., this Dedication was presented in the Clerk's Office of the County Commission of said County and with the certificate thereof annexed, admitted to record.

Attest Nancy C. Zeller Clerk
County Commission, Hampshire County, W. Va.

CASTO & HARRIS INC., SPENCER, W. VA. RE-ORDER NO 80737-A

JOHN N. McCUNE
ATTORNEY AT LAW
FRONT ROYAL, VIRGINIA