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73344

BOOK 475 PAGE 213

Blackberry Meadows
**DEDICATION OF PLAT AND
DECLARATION OF PROTECTIVE COVENANTS,
CONDITIONS AND RESTRICTIONS**

From: Persimmon River, LLC, Declarant
To: Blackberry Meadows Property Owners Association, Inc.

KNOW ALL YE MEN BY THESE PRESENTS: That the undersigned, referred to as "Declarant," does hereby record the plat of a subdivision known as Blackberry Meadows Subdivision, containing a total of fourteen (14) lots, lying and being situate in Bloomery District, Hampshire County, West Virginia, and being more fully described on a 4-sheet plat and survey made by Richard L. Moreland, LLS No. 2021, dated the 1st day of May, 2008, and made a part hereof, and recorded in the Office of the Clerk of the County Commission of Hampshire County, West Virginia, on the 19th day of June, 2008, in Map Book No. 11, at Pages 91-94, to which reference is hereby made and said real estate being the same real estate conveyed unto Persimmon River, LLC, by Deed from Gerald M. Botkin and Mary Ann Botkin, his wife, dated February 1, 2007, and of record in the Office of the Clerk of the County Commission of Hampshire County, West Virginia in Deed Book No. 461, at Page 787.

Declarant hereby claims an exemption from the West Virginia Uniform Common Interest Ownership Act, pursuant to the Code of West Virginia, Chapter 36B, Article 1, Section 203(2), inasmuch as the average annual common expense liability of all lots restricted to residential purposes, exclusive of optional user fees and insurance premiums paid by the Association may not exceed Three Hundred Dollars (\$300.00), as adjusted pursuant to the Code of West Virginia, Chapter 36B, Article 1, Section 114, and is subject only to the Code of West Virginia, Chapter 36B, Article 1, Section 106, and the Code of West Virginia, Chapter 36B, Article 1, Section 107.

All lots in Blackberry Meadows 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:

ARTICLE I – DEFINITIONS

1. "Association" shall mean and refer to Blackberry Meadows Property Owners Association, Inc., its successors and assigns. Blackberry Meadows Property Owners Association, Inc. may, from time to time, be referred to as the "Lot Owners Association" or "Association," but it is understood that they are one and the same entity.
2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any lot which is a part of the property, but

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excluding those having such interest merely as security for the performance of an obligation. Declarant is considered an "Owner" for purposes of voting in the Association, but is exempt from payment of the annual assessment.

3. "Lot" shall mean and refer to each of the fourteen (14) lots that are numbered on the plat of survey, shown upon the recorded subdivision plat of the property. The number of lots in Blackberry Meadows Subdivision may not increase except as set forth herein.
4. "Declarant" shall mean and refer to Persimmon River, LLC, its successors and assigns. In consideration of the Declarant's creation of this subdivision, and the installation of roads, the Declarant shall be and is forever exempt from payment of the annual assessment for all lots Declarant owns or should hereafter reacquire.
5. "Common Elements" shall mean and refer to the easements reserved for the benefit all of the lots in the Association, including the rights-of-way for ingress and egress, shown on the plat of survey this date recorded.
6. "Assessment." Each lot will be subject to an annual assessment for installation, maintenance, repair and replacement of the common elements. This assessment may not exceed Three Hundred Dollars (\$300.00) per year, except as specified herein. Declarant is exempt from this assessment.

ARTICLE II – ASSOCIATION MEMBERSHIP AND VOTING RIGHTS

1. Every owner, including the Declarant, of a lot shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any lot, which is subject to assessment.
2. Immediately after closing on the first outsale from this subdivision, Declarant shall appoint an initial Board of Directors of two to five persons, who are lot owners, which shall serve until the first meeting of Blackberry Meadows Property Owners Association, Inc. Declarant's agents and employees may serve on the Board of Directors, but as the number of sales made increase, the Declarant will obtain participation from the lot owners. After Twenty-Five Percent (25%) of the sales are completed, the Board shall have at least one member who is independent of the Declarant. The initial Board of Directors shall: (1) organize the first meeting of the Association by determining the time, date and place of the first meeting; (2) notify the Owners of the meeting; (3) draft a proposed set of By-Laws to be presented to the Association for its consideration and adoption, if ratified by a majority of its members; (4) collect the assessment for maintenance of the common elements by immediately mailing an invoice to the owners requiring payment of the assessment no later than March 1, 2009; and (5) account to the elected Board of Directors of the Association, by paying the assessment over to it.
3. The membership of the Property Owners Association shall consist of all lot owners. To the extent that Declarant yet owns lots in Blackberry Meadows

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Subdivision, Declarant shall be considered a member of the Association and shall be entitled to notice of all Association meetings, and shall have one vote for each lot owned.

4. Each owner shall have one vote on all Association matters for each lot that he owns. The Association shall be governed by majority vote of the owners, when a quorum exists.
5. The initial meeting of the Association shall be held in Hampshire County, West Virginia, but subsequent meetings may be held at any place designated in the By-Laws.
6. The Association shall be a corporate entity, which will be established and set in place by the Declarant herein.
7. The Association shall have the following powers:
 - a. Adopt and amend by-laws and rules and regulations.
 - b. Adopt and amend budgets for revenues, expenditures and reserves, and collect assessments for common expenses from owners.
 - c. Hire and discharge managing agents, and other employees, agents and independent contractors.
 - d. Institute, defend or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more owners on matters affecting Blackberry Meadows Subdivision.
 - e. Make contracts and incur liabilities.
 - f. Regulate the use, maintenance, repair, replacement and modification of common elements.
 - g. Cause additional improvements to be made as a part of the common elements.
 - h. Acquire, hold, encumber and convey in its own name any right, title or interest to real estate or personal property.
 - i. Grant easements, leases, licenses and concessions through or over the common elements.
 - j. Impose and receive any payments, fees or charges for the use, rental or operation of the common elements, and for services provided to Owners.
 - k. Impose charges for late payment of assessments and after notice and an opportunity to be heard, levy reasonable fines for violations of the declaration, by-laws, rules and regulations of the Association.
 - l. Impose reasonable charges for the preparation of statements and unpaid assessments.

- m. Provide for the indemnification of its officers and executive board and maintain directors' and officers' liability insurance.
 - n. Exercise any other right conferred by the by-laws.
 - o. Exercise any other rights that may be exercised in West Virginia by corporations of a like or similar nature.
8. For purposes of the transaction of all business, except making Amendments to the Declaration, a quorum is present if persons entitled to cast Twenty Percent (20%) of the votes that may be cast for an election of the Board of Directors are present in person or by proxy. Note: Nothing shall prohibit the Association from adopting a more restrictive requirement for a quorum in its by-laws.
9. Except for making Amendments to the Declaration where a supermajority, specified herein, is required, all business to be transacted by the Association is by majority vote of those Owners present at a duly constituted meeting, at which a quorum is present.
10. Cumulative Voting is permitted on all elections of the Board of Directors of the Association. Thus, each Owner shall have one vote for each director to be elected, and may cast all of the votes for one or more of the directors, as the Owner should desire, i.e. if five directors are up for election, the Owner would have five votes, and the Owner may cast all five votes for one candidate, or split the votes between the candidates as the Owner desires.
11. A meeting of the Association must be held at least once each year. Special meetings of the Association may be called by the President, a majority of the Board of Directors, or by owners having Twenty Percent (20%) of the votes in the Association. Not less than ten (10) nor more than sixty (60) days in advance of any meeting, the Secretary, or other officer specified in the by-laws, shall cause notice to be hand-delivered or sent prepaid by the United States mail to the mailing address of each lot or to any other mailing address designated in writing by the Owner. The notice of any meeting must state the time and place of the meeting and items on the agenda, including the general nature of any proposed amendments to the Declaration or By-Laws, any budget changes, and any proposal to remove an officer or member of the Board of Directors.
12. Voting at Association Meetings:
- a. If only one of several owners of a lot is present at a meeting of the Association, that owner is entitled to cast the vote allocated for that lot.
 - b. If more than one of the owners of a lot are present, the vote allocated to that lot may be cast in accordance with the agreement of a majority in interest of the owners. There is majority agreement if any one of the owners casts the vote allocated to that lot without protest being made promptly to the person presiding over the meeting by any of the other owners of the lot.

- c. The vote allocated to a lot may be cast pursuant to a proxy duly executed by an owner. If a lot is owned by more than one person, each owner of the lot may vote or register protest to the casting of a vote by the other owners of the lot through a duly executed proxy. An owner may revoke a proxy given pursuant to this section only by actual notice of revocation to the person presiding over a meeting of the Association. A proxy is void if it is not dated or purports to be revocable without notice. A proxy terminates one year after its date, unless it specifies a shorter term.

ARTICLE III – BY-LAWS

The by-laws of the Association must provide:

1. The number of the members of the Board of Directors and the titles of the officers.
2. Election by the Board of Directors of the President, Treasurer, Secretary and any other offices specified by the by-laws.
3. The qualifications, powers, duties, terms or office and manner of electing and removing Board of Directors members and officers and filling vacancies.
4. Which powers, if any, the Board of Directors or officers may delegate to other persons or to a managing agent.
5. Which of its officers may prepare, execute, certify and record amendments to the Declaration on behalf of the Association.
6. A method of amending the by-laws.
7. Any other matters the Association deems necessary.

ARTICLE IV – BOARD OF DIRECTORS AND OFFICERS

1. The Board of Directors elects officers.
2. Board members and officers must be Owners.
3. Notwithstanding any provision of the by-laws or Declaration to the contrary, the Owners, by a two-thirds vote of all persons present and entitled to vote at any meeting of the Owners at which a quorum is present, may remove any member of the Board of Directors with or without cause.

Powers of Board of Directors

- A. The Board of Directors shall have all power granted to it by the by-laws, and may act in all instances on behalf of the Association. However, the Board may not:
 - (1) Amend the Declaration;
 - (2) Terminate Blackberry Meadows Subdivision Protective Covenants;

- (3) Elect members to the Board;
 - (4) Determine qualifications, powers and duties, or terms of office of the Board of Directors.
- B. The Board may fill vacancies in its membership for the unexpired portion of any term.
- C. The Board shall adopt a proposed budget for Blackberry Meadows Subdivision annually, and shall provide a summary of the budget to all Owners, and shall set a date for a meeting of the Owners to consider ratification of the budget not less than fourteen (14) nor more than thirty (30) days after mailing of the summary. Unless at that meeting a majority of all Owners reject the budget, the budget is ratified. In the event the proposed budget is rejected, the periodic budget last ratified by the Owners must be continued until such time as the Owners ratify a subsequent budget proposed by the Board of Directors.

Quorums of the Board of Directors

1. Unless the by-laws specify a larger percentage, a quorum is deemed present through any meeting of the Board of Directors if persons entitled to cast Fifty Percent (50%) of the votes on that Board are present at the beginning of the meeting.
2. Unless the by-laws specify otherwise, the Board shall act by majority vote of those members present at a duly constituted meeting wherein there is a quorum.
3. Board members may not attend a meeting by proxy, but must attend in person to be considered as part of the quorum.

Officers

1. The day-to-day business of the Association shall be administered by the President, who is the chief executive officer of the Association. The President shall be elected by the Board of Directors, and shall serve at the pleasure of the Board, but shall be elected each year after the annual Owners' meeting, as shall all officers.
2. The by-laws shall also provide for the powers and duties of the Secretary and Treasurer, and, if desired, a Vice President.

ARTICLE V – ASSESSMENTS, RIGHTS-OF-WAY, ETC.

1. Declarant agrees to maintain the road system until the 1st day of September, 2009, or until Twenty-Five Percent (25%) of the lots are sold and closed upon, whichever comes first, at which time the Association shall make the first assessment. Thereafter, the Property Owners Association shall provide for the maintenance of same.

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2. At such time as the initial assessment is made, each lot except Lot 14, will be subject to an annual assessment for maintenance, repair and replacement of the common elements. Declarant shall be exempt from the assessment.
3. The present assessment is Three Hundred Dollars (\$300.00) per lot per year with the exception of Lot 14 which has its own county issued entrance permit off of Critton Owl Hollow Road and as such, Lot 14 will not be assessed any annual road fee nor will Lot 14 have any right to travel over the roadways within the Subdivision, namely Waterberry Drive and Elderberry Lane.
4. The assessment may only be adjusted according to and to the extent of changes in the Consumer Price Index for Urban Wage Earners and Clerical Workers: United States City Average, All Items 1967=100, compiled by the Bureau of Labor Statistics, United States Department of Labor (the "Index"). The Index for December 1979, which was 230, is the Reference Base Index.
5. The Declarant hereby states that it has a reasonable and good faith belief that the stated present assessment shown of \$300.00 above, will be sufficient to maintain the road system.
6. The maximum assessment may be altered by amending the Declaration. The Declaration cannot be amended to increase the assessment above Three Hundred Dollars (\$300.00) during the period of Declarant's control without the consent of ALL OWNERS.
7. Each lot owner must bear his or her pro rata share of the expense as same would relate to insurance premiums applicable to the common elements. The pro rata share of that expense will be obtained by dividing the then existing number of lots into the total expense. Any lot that is created by further subdivision, as set forth hereinafter, shall be required to pay its pro rata share for the entire year in which it was created, even though it may have been in existence for only part of the year. Declarant is exempt from paying the assessment on Declarant's lots owned within the subdivision relating to the maintenance of the road system and, in addition thereto, Declarant is also exempt from payment of any pro rata share of insurance premiums associated with the common elements.
8. Any past due common expense assessment or installment thereof bears interest at the rate established by the Association, but not to exceed Eighteen Percent (18%) per annum.
9. Each lot owner is individually responsible for obtaining telephone and/or electric service or any other utility service to his property. The utilities easements described on the plat of survey may be used by any lot owner, as necessary to obtain service to his/her property.
10. Lot 13 shall have access to it over and along Waterberry Drive and Elderberry Lane off of Critton Owl Hollow Road, and in addition thereto, shall have the right to use the old logging/roadway coming off of Critton Owl Hollow Road, as shown

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and depicted on the plat and that Lot 14 shall have impressed thereon a reservation of right-of-way in favor of Lot 13 over and along the old logging/roadway coming off of Critton Owl Hollow Road, as shown and depicted on the plat of the Subdivision.

11. The "Declarant," Persimmon River, LLC, reserves the right to subdivide Lot 13 into two tracts with a minimum size of six (6) acres per tract. In order to facilitate the subdivision of Lot 13, should the Declarant decide to do so, Declarant reserves a right of way 25' wide on each side of the boundary line of Lot 8 and Lot 10 for the purpose of constructing a road to provide ingress and egress to and from the northwestern lot created out of Lot 13 and as such that Lot, will have access to WV County Route 29/1 over and along Waterberry Drive and the roadway to be constructed 25' on each side of the boundary line of Lot 8 and Lot 10. Access to the northerneastern portion of Lot 13 will be over and along Waterberry Drive and Elderberry Lane.

Lien for Assessments

1. The Association has a lien on any lot for the assessment levied against that lot and its owner from the time the assessment becomes due. Fees, charges, late charges, fines and interest imposed by this Declaration are enforceable as assessments.
2. A lien under this section is prior to all other liens and encumbrances on a lot except liens and encumbrances recorded before the recordation of the Declaration and liens for taxes due any governmental entity.
3. A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within five (5) years after the full amount of the assessment becomes due.
4. A judgment or decree in any action brought under this section must include costs and reasonable attorneys fees for the prevailing party.
5. The Association, upon written request, shall furnish to the Owner a statement setting forth the amount of unpaid assessments against the lot. The statement must be notarized and in recordable form. The statement must be furnished within ten (10) business days after receipt of the request and is binding on the Association, the Board of Directors and every Owner.
6. For purposes of perfecting and preserving the lien, the Association shall give notice to the Owner as follows:
 - a. Personal service by the Sheriff or other credible person.
 - b. By registered or certified mail, return receipt requested, and in a form reasonably calculated to inform the Owner of his liability for payment of the assessment. The lien shall be discharged as to subsequent purchaser for value without notice unless the Association

shall cause to be recorded a notice of the lien in the Office of the Clerk of the County Commission of Hampshire County, West Virginia. Said notice shall contain the following:

- i. Legally sufficient description of the lot.
 - ii. Name or names of the owners.
 - iii. Amount of unpaid assessments due together with the date when each fell due.
 - iv. The date of recordation.
7. The Clerk of the County Commission where the notice is recorded shall index the notice in the appropriate deed books or lien books in the name of the lot owner and the Association. The cost of recordation shall be assessed against any owner found to be delinquent in a subsequent proceeding to enforce the lien.
 8. Upon payment of the assessment, the Association shall execute a written release of the lien, to be recorded at the Clerk's Office at the expense of the Association.

ARTICLE VI – AMENDMENTS TO THE DECLARATION

1. This Declaration may be amended only by vote or agreement of Owners of lots to which at least Ninety Percent (90%) of the votes in the Association are allocated, unless such amendment relates to a provision or section requiring a greater percentage, and in that event the greater percentage will be controlling.
2. No action to challenge the validity of an amendment adopted by the Association may be brought more than one year after the amendment is recorded.
3. Amendments to the Declaration to be recorded must be prepared, executed, recorded and certified on behalf of the Association by any officer of the Association designated for that purpose or by the President of the Association.

ARTICLE VII – ASSOCIATION RECORDS

The Association shall keep financial records sufficiently detailed to enable the Association to comply with this Declaration. All financial and other records must be made reasonably available for examination by any Owner and his authorized agents.

ARTICLE VIII – COMMON PROTECTIONS AND PROTECTIVE COVENANTS

1. No further subdivision of any of the lots or tracts of real estate within Blackberry Meadows Subdivision will be allowed for a period of twenty (20) years, and then

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only with approval of Ninety Percent (90%) of the then existing tract owners within Blackberry Meadows. Each successor lot, including its parent lot, that being the lot from which it came, must comply with all applicable health laws, zoning ordinances, subdivision laws, and the Hampshire County Subdivision Control Ordinance. Before subdividing any lot, the Owner is encouraged to contact the Hampshire County Planner for more information with regard to local regulations. Any subdivision must also comply with all applicable common protections and protective covenants.

2. Any Owner of a lot who may desire to subdivide his lot must, at the Owner's expense, cause a new subdivision plat to be made and presented to the Board of Directors of the Association for approval, which shows the parent lot and the newly subdivided lot. The newly created lot shall bear a number or numeral which will identify it as being derived from one of the existing lots of Blackberry Meadows Subdivision.
3. The Board of Directors may not unreasonably withhold permission to record the Amended Plat of Survey, and once approved for recordation by the Board of Directors (and the local county officer in charge of approving plats for recordation), the Owner may record the Amended Plat, after which he may freely transfer his subdivided lot to any person of his choosing.
4. Any Owner who creates a new lot by further subdivision of his lot agrees that the newly created lot shall have a vote in Blackberry Meadows Subdivision, just as any other lot has, but it must pay its annual assessment of the maintenance costs of Blackberry Meadows Subdivision as set forth herein. Furthermore, said lot is bound by all of the rules and regulations of Blackberry Meadows Subdivision as a lot of same.
5. No signs of any nature shall be erected or maintained on any lot except for sale or rental signs, directional and information signs, which said signs shall not exceed four (4) square feet in area. Declarant's promotional sales signs may not exceed thirty-two (32) square feet in area for each sign.
6. 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 the construction of a driveway into any lot, a fifteen-inch (15") diameter culvert, or larger if necessary, shall be used in constructing the driveway in order to alleviate blockage of natural drainage. As part of the development of any lot, the Owner shall provide adequate off-road parking for Owner and his guests.
7. Due to the unsightliness of junk vehicles on lots, no motor vehicle which does not have current license plates or an inspection sticker not more than six (6) months out of date shall be permitted on any lot. This paragraph shall not be construed as to prohibit farm machinery or vehicles necessarily used in an active farming situation.

8. Mobile homes, house trailers and the so-called doublewides are prohibited on any tract within the subdivision. Modular homes on a permanent masonry foundation, not piers, shall be permitted. Camping trailers, up to and including thirty feet (30') in length, are permitted on said tracts up to a maximum of five (5) months, per calendar year, and no additions whatsoever are allowed to be built onto any said camping trailers during its temporary stay. There is no time limit on camping trailers for owners who live in a permanent dwelling and store the trailers on the lot as a part of their personal property. Under no circumstances are trailers to be used as permanent dwellings or as guest quarters.
9. Each residence erected or constructed on any lot within Blackberry Meadows Subdivision shall be required to have a one thousand two hundred (1,200) square foot minimum floor space in the interior of the home, which said floor space shall be exclusive of porches, garages, carports and basements.
10. The exterior of all buildings within the development shall be constructed of new material commonly accepted as exterior material acceptable for residences and outbuildings.
11. No buildings of a temporary nature shall be erected or placed on any lot except those customarily erected in connection with building construction, and in such cases, for a period not to exceed twelve (12) months.
12. Not more than one single family residence shall be erected on a lot.
13. No business shall be operated on any lot within Blackberry Meadows with the exception that home occupations conducted by the occupants of the home and business operated on an electronic basis from within the home situate on any lot shall be permitted; however, no advertising for any business shall be permitted and no traffic relating to any business shall be permitted within the subdivision or on any lot. Livestock and domestic pets, properly fenced, shall be allowed on the tracts of Blackberry Meadows with the exception that no pigs or pigpens are permitted nor is any commercial poultry permitted on any lot within the subdivision.
14. Owner agrees to repair and restore promptly to its prior condition any part of a subdivision road damaged by equipment of Owner or his contractor enroute to and from Owner's lot. All lots improved or unimproved, must be maintained by the lot owner in a neat and orderly condition at all times. No garbage, rubbish, junk, refuse, trash or inoperative vehicle or other debris shall be permitted to accumulate or remain on any lot.
15. The setback lines are mandated by Hampshire County. No building shall be erected closer than forty feet (40') to the property line which adjoins the subdivision road, nor closer than forty feet (40') to the side or rear property lines. If this paragraph should be found to provide setbacks less than the amount required by the Hampshire County Ordinance, then it shall prevail.

16. All sanitation facilities constructed on any lot shall conform with the regulations of the West Virginia County Health Department. No privies may be constructed and maintained on any lot. During construction of a house or cabin, portable toilets that are Health Department approved may be used for a period not to exceed twelve (12) months.
17. 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.
18. Each lot has been perked, and each lot owner shall receive proof of percolation test results at the time of closing. The Declarant guarantees that Owner's lot has been approved for installation of a sewage disposal system, but Declarant does not guarantee what size home will be allowed on the lot or the type of sewage disposal system which will be required before a home is installed or built. Any fees due to the Health Department to obtain the Health Permit must be paid by the Owner. The cost of the soil percolation test has been added to the price of the real estate.
19. No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage, fuel storage tanks, garden equipment, supplies and stored raw materials must be kept from 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 majority vote of the Board of Directors, and after fifteen (15) days notice to the lot owner, the Association shall have the right, through its agents and employees, to enter upon said lot and perform necessary maintenance 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.
20. The Declarant reserves for its benefit and the benefit of the Association for the installation, erection, maintenance, operation and replacement of telephone and electric light poles, conduits and related equipment, and/or sewer, gas, telephone, cable television, electric and water lines on, over, above and under a strip of land fifty-feet (50') wide at any point along the side or rear lines of any of the lots or tracts within the subdivision and fifty feet (50') from the edge of the right-of-way of any subdivision road or any state maintained road. 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 of the lots within the subdivision. The easement reserved in this paragraph is the same area referenced hereinbefore in these covenants for setbacks.
21. With the exception of Lot 14 as set forth hereinbefore, each lot owner shall have an unobstructed right of ingress and egress to and from their lot and Critton Owl Hollow Road over the rights-of-way and the roadways as shown on the

subdivision plat. The width of all subdivision rights-of-way is designated on the plat of survey. Reference is made to the subdivision plat for more information. The Property Owners Association shall be responsible for maintenance of the subdivision roads (common elements) after the period of time during which the Declarant will be responsible. Nothing shall require Declarant to install roads to the full width of the easement.

22. Trees may be harvested and removed from the land only insofar as it is reasonably necessary to clear the land for a house, outbuildings, yard, garden or driveway. No tree over twelve inches (12") in diameter at breast height may be harvested or cut unless same is necessary to provide for the construction of a house, outbuildings, yard, garden or driveway.
23. Lot 14 has a small cemetery situate thereon. Ingress and egress to and from that cemetery and Critton Owl Hollow Road shall be preserved for all those individuals having a lawful right to access that cemetery.
24. No roadway or lot within Blackberry Meadows Subdivision shall be utilized in any manner whatsoever to provide access to any other real estate other than the lots situate within Blackberry Meadows Subdivision.
25. The construction of any type of improvement or building on any lot within the subdivision shall be in accordance with and adhere to the Hampshire County, West Virginia Flood Plain Ordinance.
26. Declarant, or his agent, reserves the right to maintain a sales office and/or management offices in or on any of the lots so long as the sales promotion is ongoing. The sales office may be a tent, mobile trailer, or other structure of Declarant's choosing, and if desirable, Declarant may move the office from time to time. Declarant reserves the right to place "for sale" signs on the lots for so long as he owns same. Until such time as the sales promotion is completed, Declarant reserves the right to place, replace and maintain "for sale" signs on the common elements of Blackberry Meadows Subdivision.
27. Any mobile or temporary headquarters that are placed on any lot shall be promptly moved as soon as Declarant has completed the sales promotion.
28. The Declarant, the Association, or any Owner shall have the right to enforce by any proceedings, at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Declarant or Association or by an Owner to enforce any provisions herein contained shall in no event be deemed a waiver of the right to do so thereafter.
29. Invalidation of any of the covenants, restrictions or other provisions of this Declaration by judgment or Court Order shall in no way affect any other provisions, which shall remain in full force and effect.

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30. 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.

Dated this the 30 day of June, 2008.

PERSIMMON RIVER, LLC
A Virginia Limited Liability Company

By: Patricia J. Ritchie
Its Managing Member

STATE OF Virginia
COUNTY OF Frederick, to wit:

I, Alice G. Kenney, a Notary Public in and for the County and State aforesaid, do hereby certify that Patricia T. Ritchie, manager of Persimmon River, LLC, a Virginia Limited Liability Company, who signed the writing above, bearing the date the 30 day of June, 2008, has this day in my said county, before me, acknowledged the said writing to be the act and deed of said Corporation.

Given under my hand this 30 day of June, 2008.

My commission expires January 31, 2012.

[AFFIX NOTARY SEAL]

Alice G. Kenney #341730
Notary Public



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& BAKER
ATTORNEYS AT LAW
MOOREFIELD
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THIS INSTRUMENT PREPARED BY JACK H. WALTERS
WALTERS, KRAUSKOPF & BAKER, ATTORNEYS AT LAW
P.O. Box 119, MOOREFIELD, WEST VIRGINIA 26836

HAMPSHIRE COUNTY 10:50:06 AM
Instrument No 108266
Date Recorded 07/02/2008
Document Type O&R
Book Page 475-213
Recording Fee \$14.00
Additional \$7.00

STATE OF WEST VIRGINIA, Hampshire County Commission Clerk's Office 7/2/08 10:50AM

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

Teste Sharon H. Link Clerk.