

RESERVATIONS AND RESTRICTIVE COVENANTS

Mineral County Clerk
E. RAY CONTR. Clerk 06
Date/Time: 08/03/2004 10:42
Inst #: 41316
Book/Page: 316- / 508-
Recd/Tax: 6.00 .00

BEAVER RUN

1. in context
SEC. 11.11-11.11
LAW OFFICE, P.A. 21550
5.11.04

DATED: July 21, 2004

American Acreage, LLC, is hereby referred to in this document as the "Grantor".

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

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

- 1. **PROPERTIES SUBJECT:** These Restrictive Covenants are applicable to the following described property located in Cabin Run District of Mineral County, West Virginia:

Lot No. 1 through and including Lot No. 20, of Beaver Run as more fully shown on that certain plat prepared by Western Maryland Associates, dated June 14, 2004, and recorded in the Office of the Clerk of the County Court of Mineral County, West Virginia, in Plat Book 7 at Page 153.

AND BEING the same real estate conveyed to American Acreage, LLC, from George R. and Florence R. Borrer, by Deed dated January 23, 2004 and recorded in the aforesaid Clerk's Office in Deed Book 314 at Page 595.

- 2. **HOMEOWNERS ASSOCIATION:** Grantor has incorporated a non-profit, non-stock homeowners association known as the "Beaver Run Property Owners Association, Inc", referred to in this document as the "Association".
 - A. Every person or entity, which is a record owner of any Lot in the Subdivision shall be a member of the Association, and shall be entitled to one (1) vote for each Lot owned, except the Grantor, which shall be entitled to two (2) votes for each Lot owned. Although non-association members, tenants and lessees if owners acquire, by virtue of their residence within the subdivision, responsibilities of upkeep and maintenance and a duty to refrain from maintaining any violation of these Restrictive Covenants.
 - B. The roadways and right-of-ways constructed throughout the Subdivision are hereby dedicated to the Association by the Grantor, and are for the use in common of the Grantor, lot owners and their respective heirs, successors and assigns. This dedication shall not inhibit convenient use of the Subdivision's roadways.
 - C. The Association shall maintain the rights-of-ways and roads within the Subdivision, and shall assess each Lot on a pro rata basis, amounts necessary for the improvements and maintenance of said right-of-ways, not to exceed \$300.00 per Lot annually, exclusive of user fees and insurance premiums, as adjusted pursuant to the provisions of West Virginia Code 36B-1-114 and 36B-1-203. The road fee shall be \$250.00 until otherwise established by the Association. Road maintenance fee shall be applicable only to the lots that adjoin or may be accessed by the common roadway. Grantor shall be exempt from any and all assessments. It is the expressed intention that this subdivision is considered a limited.

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Beaver Run Property Owners Association

expense liability planned community pursuant to 36B-1-203 of the West Virginia Code Annotated.

- D. Any assessments, together with interest and costs, shall be a lien upon the Lot against which such assessment is made. The Association shall have the right to file among the land records of Mineral County, West Virginia, a duly executed and acknowledged Notice of Lien with respect to each Lot and its owner for which any assessment remains unpaid. However, said assessment shall be a lien whether or not filed in said courthouse.
3. **RESIDENTIAL AND AREA USE:** All lots shall be used only for residential purposes, and no residence shall be erected, constructed, maintained, used or permitted to remain on any Lot other than one single-family dwelling of not less than 850 square feet exclusive of garage, basement, and porch.
- A. A private storage building may precede the construction of the home and may not exceed 1200 square feet in size. Said storage building shall not at any time be used for living purposes either permanently or temporarily. Storage building shall be constructed of new wood, stone or brick and shall be kept in good repair.
- B. All exterior construction must be completed and closed within one (1) year of the commencement date of excavation.
- C. All driveways joining subdivision roads and right of ways must have a minimum 15-inch in diameter culvert.
- D. There shall be no single-wide or double-wide mobile homes (as they are defined in the West Virginia Code §37-15-2), house trailers or buses or any derivative of the foregoing situate on any Lot as a residence or for storage, either temporarily or permanently. Notwithstanding this restriction, temporary camping shall be permitted on said lots from February 1 thru December 31 annually. Only equipment professionally manufactured for this purpose, such as tent, travel trailer/campers and recreational vehicles are permitted for use as camping shelters.
- E. Improvements constructed for the maintenance of animals as permitted by Item 12, below, shall be kept in good repair, shall be constructed of new materials and must conform generally in appearance with any dwelling upon a Lot, although such improvements shall need not be constructed of materials identical to an existing dwelling. No such improvements shall precede the construction of the residence, and no unsightly or dilapidated buildings or other structures shall be permitted on any Lot with the exception of any pre-existing structures.
4. **COMMERCIAL USE AND NUISANCE:** No store, tavern or other public, commercial, industrial or professional business shall at any time be maintained or established or permitted upon any Lot. No obnoxious or offensive activity shall be carried on or upon any Lot, nor shall anything be done thereon which may become an annoyance or nuisance to the neighborhood.
5. **SETBACK:** No building or any part thereof shall be erected on any Lot nearer to any right-of-way lines or front Lot lines than FIFTY feet, or nearer to any side Lot lines or boundaries than TWENTY (20) feet, or nearer to any rear Lot lines than TWENTY (20) feet unless a larger set back is established upon the plat of said subdivision. See item 6 for additional setback information relating to utilities
6. **EASEMENTS:** Grantor reserves unto itself, successors and assigns, the right to erect and maintain all utility and electric lines, or to grant easements or right-of-ways therefore, with the right of ingress and egress

for the purpose of installing or maintaining the same on, over, or under a strip of land as follows:

Front: fifty (50) feet from the front lot line.

Side and rear: twenty (20) feet wide at any point along the lot lines of each Lot.

Perimeter of said development (20) twenty feet from lot line. Such utility easements include but are not limited to telephone or electric light poles, conduits, equipment, sewer, gas and water lines. Within these easements, no structure, planting or other material shall be placed or permitted to remain, which may damage or interfere with the installation and maintenance of utilities. Grantor reserves such additional easement as set forth on the plat of said subdivision.

7. **SEWAGE & WATER:** No dwelling shall be occupied on any Lot unless there is constructed with it a septic system for the disposal of sewage and a well for water source each of which must be approved by the West Virginia Department of Health. No outside toilet or closet shall be erected on any Lot. Lots are to be served by individual wells and all wells must be placed a minimum of 100 feet from all septic reserve areas.
 - A. No construction, driveways, utilities, swimming pools or structures shall be permitted upon or within sewage disposal areas
8. **MAINTENANCE:** Each lot owner shall promptly remove or otherwise dispose of any accumulation of trash, garbage or rubbish and at all times will maintain the Lot in a neat and sanitary condition. Lawns, trees and shrubbery shall be maintained in a neat and presentable fashion.
9. **FENCES:** Only fences in aesthetic harmony with the exterior design of the residential development shall be constructed and, no fence shall exceed five (5) feet in height. Fencing located along the roadways must be of wood, PVC or stone construction while metal fencing may be used along the sidelines and rear lot lines.
10. **PARKING:** No automobiles or other motor vehicles shall be parked in or within 25 feet from the rights-of-ways or roads of the Subdivision and no on-street parking are permitted by Lot owners. Visitors, guests, delivery vehicles, or others legitimately using said roads and streets are excepted, and are permitted to temporarily park along said streets.
11. **ADVERTISING:** No advertising signs or billboards of any nature shall be erected, placed or maintained on any Lot, with the exception of a lot address identification sign or a sign offering the premises for sale. The Grantor reserves a right to erect subdivision entrance signs and structures, which shall remain erected on the Lot(s) upon which each is situated unless a majority of the members of the Association vote otherwise. The Association shall repair and maintain such signs and structures along with the right to enter upon the property on which the same are affixed, or is reasonably necessary for maintenance.
12. **AGRICULTURE:** No swine, livestock or poultry shall be raised or bred on any Lot, except household pets, such as dogs, cats, which may be kept provided they are not bred or maintained for commercial purposes. Any domestic pet shall not be permitted to run at large so as to become an annoyance to the Subdivision. With suitable facilities and proper fencing, horses and ponies, shall be permitted on Subdivision Lots, provided at least one (1) acre per each horse or pony animal is fenced for the maintenance of said animal.
13. **FURTHER SUBDIVISION:** No Lot shall be further subdivided or its boundary lines changed in any way except by the Grantor, as follows:

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

The relocation of a lot boundary line that does not create an additional lot shall not be considered a sub-division.

14. COMMON DRIVEWAYS: Lots 7, 20, 16, 17, 18, and 19 are subject to and together with certain common driveway rights of way and reference is hereby made to the aforesaid subdivision plat for a more specific explanation thereof.

15. RESERVATION: American Acreage, LLC, hereby reserves the right for itself, its successors and assigns to also use the roadways and access for utilities within Beaver Run and any potential future lots which may be developed, which will have full use and access of the roads, utilities and common area set forth on the plats of Beaver Run.

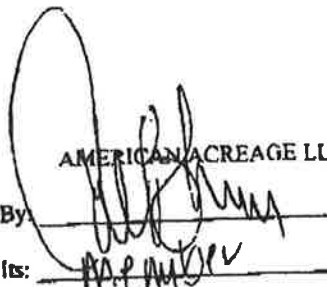
16. OPTIONAL MODIFICATION AND EXPANSION: American Acreage, LLC, hereby reserves the right to add additional lots to be members of the Beaver Run Property Owners Association, by recording a document among the land records of Mineral County, West Virginia. Said lots may have modified covenants and restrictions but will have the same voting rights and expense obligations as those lots in this declaration. Additional roadways and common areas may also be added to this declaration and will then become owned by the Association and maintained by the expanded Association. This shall not obligate the developer to develop any further lots not specifically set forth here with in.

Grantor reserves the right to develop future phases, which will make use of the roadways and utilities within Beaver Run.

17. CONFLICT: In the event of any conflict between the provisions of these Reservations and Restrictive Covenants and the constraints reflected in the Plat of record for Beaver Run, the constraints of the Plat shall govern. Any conflict existing within the provisions of this instrument itself shall result in application of the most restrictive provision herein. Any existing structures and/or improvements located upon any restrictions in this instrument which would otherwise result in a violation thereof shall not be considered a violation. However, alteration or replacement of any part of said structures and/or improvements, aside from routine maintenance, requires compliance with these provisions in their entirety.

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STATE OF Maryland

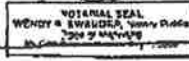
AMERICAN ACREAGE LLC
By: 
Its: AAE

CITY/COUNTY OF Garrett, to wit:

The foregoing instrument was acknowledged before me this 21 day
of July, 2004, by Carol B. Larson, Managing Member
of American Acreage LLC, a limited liability company.

[Signature]
Notary Public

My Commission Expires: _____



2nd
of August 2004
at Garrett County
in the presence of the Clerk of County
Commission and before me.