

December 21, 1976

RESIDENTIAL AREA COVENANTS

These Restrictive Covenants apply to Section A, Benton Hills Subdivision as more fully set out by metes and bounds on that certain tract entitled "Benton Hills, Section A," in Book \_\_\_\_\_, Page \_\_\_\_\_, in the Transylvania County registry; that the Restrictive Covenants apply to the lots located in said subdivision are as follows:

A-1. LAND, USE AND BUILDING TYPE: No lot shall be used except for residential purposes. No building shall be erected, altered, placed or permitted to remain on any lot other than one detached, single-family dwelling, not to exceed two and one-half stories in height, and a private garage for not more than two cars. However, it is specifically understood and agreed that there may be constructed on any lot having an area of two acres or more a guest house, in addition to the private dwelling, which shall be subject to the provisions of C-1, entitled "Architectural Control Committee."

A-2. ARCHITECTURAL CONTROL: No building shall be erected, placed or altered on any lot until the construction plans, specifications and Architectural Control Committee as to quality of workmanship and materials, harmony of external design with existing structures and as to location with respect to topography and finish grade elevation. No fence or wall shall be erected, placed or altered on any lot unless similarly approved. Approval shall be as provided in part C hereof.

A-3. DWELLING, QUALITY AND SIZE: No dwelling shall be permitted on any lot in Section A of said subdivision unless the same shall meet the following minimum standards. The ground floor of the main structure, exclusive of one story open porches and garages, shall be not less than eleven hundred (1100) square feet for one story dwellings, nor less than one thousand (1000) square feet for a structure of more than one story.

A-4. BUILDING LOCATION: No building shall be located on any lot except at such location as may be determined by the Architectural Control Committee. In any event no building shall be located on any lot nearer than twenty (20) feet to the front lot on all streets. No building shall be located on any interior lot line nearer than twenty (20) feet to the rear lot line.

A-5. LOT WIDTH AND AREA: No dwelling shall be erected or placed on any lot having an area of less than twenty thousand (20,000) square feet.

A-6. EASEMENTS: Easements for installation and maintenance of the utilities and drainage facilities are reserved within the road rights of way as shown on the recorded plat. In addition, the developers reserve the right of exclusive possession of an area one foot in width and running the entire length of each rear lot line, and no right of ingress or egress shall exist over said area without the written approval of the developers, their successors and assigns. Drainage easements are noted on subdivision plat.

A-7. NUISANCES: No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or become any annoyance or nuisance to the neighborhood.

A-8. TEMPORARY STRUCTURES: No structure of a temporary character, trailer, basement, tent, shack, garage, or other outbuilding shall be used on any lot at any time as a residence, either temporary or permanently.

A-9. SIGNS: No sign of any kind shall be displayed to the public view on any lot except one professional sign of not more than one square foot, one sign of not more than five square feet advertising the property for sale or rent, or signs used by a builder to advertise the property during the construction and sales period.

A-10. LIVESTOCK AND POULTRY: No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or other household pets may be kept, provided they are not kept, bred or maintained for any commercial purposes.

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A-11. GARBAGE AND REFUSE DISPOSAL: No lot shall be used or maintained for a garbage dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

AESTHETIC PROVISIONS AND COVENANTS

B-1. SIGHT LINE DISTANCE AT INTERSECTIONS: No fence, wall, hedge, or shrub planting which obstructs sight lines at elevations between two and six feet above the roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points 125 feet from the intersection of the street centerlines, or in the case of a rounded property corner from the intersection of the street property lines extended. The same sight-line limitations shall apply on any lot within ten (10) feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distance or such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such lines.

ARCHITECTURAL CONTROL COMMITTEE

C-1. MEMBERSHIP: The Architectural Control Committee shall be composed of five (5) members duly appointed by the developers who shall serve for a period of one year. A majority of the Committee may designate a representative to act for it. In the event of the death or resignation of any member of the Committee, the remaining members shall have full authority to designate his successor. Neither the members of the Committee nor its designated representatives shall be entitled to any compensation for services performed pursuant to this covenant. At any time, the then record owners of the majority of the lots shall have the power through a duly recorded written instrument to change the membership of the Committee, or to withdraw from the Committee, or to restore to it any of its powers and duties.

C-2. PROCEDURE: The Committee's approval or disapproval as required by the covenants shall be in writing. In the event the Committee, or its designated representative, fails to approve or disapprove within thirty (30) days after plans and specifications have been submitted to it, or in any event, if no suit to enjoin the construction has been commenced prior to the completion thereof, approval will not be required and the related covenants shall be deemed to have been fully complied with.

GENERAL PROVISIONS

D-1. TERM: These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of twenty-five (25) years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by a majority of the then owners of the lots has been recorded, agreeing to change said covenants in whole or in part.

D-2. ENFORCEMENT: Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant either to restrain violation or to recover damages.

D-3. SEVERABILITY: 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.

IN TESTIMONY WHEREOF, the Developers have caused this instrument to be executed, the day and year first above written.

JOHNSON AND SCOTT BUILDERS, A Partnership  
(Developers)

By: Howard Johnson

Betty Johnson  
Wife

By: William B. Scott

Opore M. Scott  
Wife

AMENDED AND RESTATED PROTECTIVE COVENANTS  
BENTON HILLS SUBDIVISION

STATE OF NORTH CAROLINA  
COUNTY OF TRANSYLVANIA

Prepared by Benton Hills Covenant Committee

These Restrictive Covenants apply to the Benton Hills Subdivision as more fully set out by metes and bounds on that certain tract entitled "Benton Hills" as shown by a plat thereof recorded in Plat File 1, Slide 87-A, Records of Plats for Transylvania County in the Office of the Register of Deeds for Transylvania County and apply to all the lots located in said subdivision as set out below. These Covenants supersede previously existing recorded Covenants.

The objectives of these Covenants are:

- To ensure the best use and the most appropriate continued development of properties within the Subdivision.
- To protect the property owners against any action that could depreciate the value of property in the Subdivision.
- To guard against poorly designed and proportioned structures, and structures built with improper or unsuitable materials.
- To preserve the aesthetic value/appearance of the Subdivision.
- To encourage and secure the construction of attractive homes on the lots, to ensure appropriate home locations on the lots, and to secure and maintain proper setbacks from streets and adequate free space between structures.

SECTION A. ARCHITECTURAL CONTROL

A.1. The Benton Hills Property Owners Association has established an Architectural Control Committee to consist of five people selected by a vote of the majority of the "Association" members present in a called meeting to assure that construction and modifications on lots are in compliance with these Covenants.

A.2. The members will be appointed for two years and may be reappointed by the vote of the "Association". In the event of the death or resignation of a committee member, the "Association" shall have the authority to designate a successor. The committee must have at least three members at any given time in order to be empowered to make decisions.

A.3. The committee's approval or disapproval of matters as defined by the covenants shall be in writing. In the event the committee fails to approve or disapprove an action within thirty (30) days after plans and specifications have been submitted to it, or in any event, if no suit to enjoin the construction has been commenced prior to the completion thereof, approval will not be required and the action is considered in compliance with the related covenants.

A.4. No buildings, wall or fence shall be constructed, placed or altered on any lot, nor any grading done, until the construction plans, specifications and a plan showing the location of the structure have been approved by the Architectural Committee as to harmony of external design with existing structures and location with respect to topography. Quality, value, and aesthetics compared to existing homes in the Subdivision will be controlling factors in the approval process.

A.5. Grounds for Disapproval: Approval may be denied for any of the following reasons:

- A.5.1. The house or improvement location on the lot, design proportions, or other exterior details are not in harmony with other structures in the Subdivision.
- A.5.2. The requirements of these Covenants are not met and the Architectural Committee has not granted a variance in writing to the owner.

A.6. Appeal Procedure: Property owners shall have the right to appeal any action of the Architectural Committee to the Property Owner's Association in writing within thirty days after disapproval. The Association shall act upon the appeal within thirty days after it is filed. If no action is taken within that time, the owner's request as set forth in the appeal will be considered approved by the Association. A majority vote of the total Association membership is required to overturn the decision of the Architectural Committee.

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C.5. Fuel Storage Tanks: Fuel storage tanks may be above ground but may not be in the front of the dwelling. Any storage tank must be suitably camouflaged so as not to detract from the aesthetics of the property and neighborhood.

C.6. Inoperable Vehicles: No inoperable vehicle may be stored on any lot for a period in excess of four weeks unless it cannot be seen from the street or by neighbors.

SECTION D. ACTIVITIES

D.1. Nuisance: No loud or offensive activity shall be allowed on any lot, nor shall anything be done that is an annoyance or nuisance to the neighborhood.

D.2. Pets, Livestock and Poultry: Property owners may have dogs, cats or other household pets, provided they are not kept, bred, or maintained for any commercial purposes. No other animals, livestock or poultry of any kind shall be raised, bred or kept on any lot.

D.3. Open Burning: Property owners may burn leaves and small brush piles after obtaining the necessary county permit.

D.4. Safety: It is the responsibility of each homeowner to conduct all activities in the Subdivision in a safe manner for the well being of all, themselves, family, neighbors and visitors.

SECTION E. ROADS

E.1. Road Maintenance: It is the responsibility of the homeowners and lot owners in the Subdivision to maintain the roads until such time the roads may be determined to be acceptable to the State Highway or State maintenance.

E.2. State Maintenance: A two-thirds vote of the homeowners/lot owners is required by the Subdivision before action can be taken to upgrade the roads within the Subdivision for acceptance by the State for state maintenance. Should takeover by the State ever occur, then Section E no longer applies.

SECTION F - GENERAL PROVISIONS

F.1. Term: These Covenants shall run with the land and shall remain binding on current and future owners, and their heirs, executors, administrators, successors and assigns. Lots shall be held, transferred, sold and conveyed subject to these Covenants, whether or not specific reference to these Covenants is made in the Deed of Conveyance. These Covenants shall be binding on all parties for a period of ten years from the date of record, after which time they shall be automatically extended for successive periods of ten years each.

F.2. Amendment: These Covenants may be amended or the term altered at any time by written majority vote of all property owners (one vote per lot) subject to these Covenants. Undeveloped and platted tracts shall be considered a single lot for this purpose.

F.3. Enforcement: Enforcement of these Covenants shall be by proceedings at law or equity against any person or persons violating or attempting to violate any of the provisions. Any owner may enforce these Covenants, or the Association may do so under its own name. If suit is filed, in addition to any other damages awarded, the prevailing party will have a right to recover reasonable legal fees incurred by the party as part of any judgment.

It is expected that each property owner will conduct themselves in a "good neighbor" fashion and will not apply, or misapply, these Covenants in any way to further a personal agenda or vendetta against his/her neighbor/neighbors. Good mature judgement and "common sense" practiced by each one of us in the spirit of the objectives of these Covenants will be critical in our pursuit of maintaining our subdivision as truly an accepting neighborhood that we are all happy to call home.

F.4. Severability: Invalidation of any one provision of these Covenants by judgment or court order shall in no way affect any of the other provisions, which shall remain in full force and effect.

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By signing on the significant pages attached hereto, the parties signing, being the owners of the majority of the lots referred to herein and in the covenants referred to herein, agree to be bound by this Amended and Restated Protective Covenant of the Benton Hills Subdivision and that this document is a duly executed amendment and restatement of the covenants of the Benton Hills Subdivision referred to herein.

Erby Bolt (Seal)  
Erby Bolt

Inola Bolt (Seal)  
Inola Bolt

E. Dentry Bolt (Seal)  
E. Dentry Bolt

Robin P. Bolt (Seal)  
Robin P. Bolt

Kathryn Ann G. Ivin (Seal)  
Kathryn Ann G. Ivin

Gloria L. Gunter (Seal)  
Gloria L. Gunter

David J. Gunter (Seal)  
David J. Gunter

Dolores M. Layman (Seal)  
Dolores M. Layman

Bruce Layman (Seal)  
Bruce Layman

Charles L. Ayers (Seal)  
Charles L. Ayers

Lunice M. Ayers (Seal)  
Lunice M. Ayers

Elizabeth F. Lerauf (Seal)  
Elizabeth F. Lerauf

Roland F. Lerauf (Seal)  
Roland F. Lerauf

Adrian L. Miller (Seal)  
Adrian L. Miller

Athena L. Miller (Seal)  
Athena L. Miller

Robert B. Yarn (Seal)  
Robert B. Yarn

Teresa N. Yarn (Seal)  
Teresa N. Yarn

Ellen C. Waltrip (Seal)  
Ellen C. Waltrip

Basil H. Waltrip (Seal)  
Basil H. Waltrip

Bobbie C. Wood (Seal)  
Bobbie C. Wood

John D. Wood (Seal)  
John D. Wood

Jack C. Perry (Seal)  
Jack C. Perry

Janice R. Perry (Seal)  
Janice R. Perry

Mary G. Palmer (Seal)  
Mary G. Palmer

Michael E. Palmer (Seal)  
Michael E. Palmer

Winifred B. Taylor (Seal)  
Winifred B. Taylor

Emmett K. Taylor, Jr. (Seal)  
Emmett K. Taylor, Jr.

Janice E. Welter (Seal)  
Janice E. Welter

Charles E. Welter (Seal)  
Charles E. Welter

Patricia G. Hampton (Seal)  
Patricia G. Hampton

James W. Hampton (Seal)  
James W. Hampton

Robert E. Perkins (Seal)  
Robert E. Perkins

Christy B. Angelacos (Seal)  
Christy B. Angelacos

Andrea B. Angelacos (Seal)  
Andrea B. Angelacos

Bronis Odom (Seal)  
Bronis Odom

Christel J. Faison (Seal)  
Christel J. Faison

Richard Faison (Seal)  
Richard Faison

Teresa Locke (Seal)  
Teresa Locke

David Locke (Seal)  
David Locke

Jennifer Duncan Bolt (Seal)  
Jennifer Duncan Bolt

Dawson H. Hogsed (Seal)  
Dawson H. Hogsed

Linda H. Hogsed (Seal)  
Linda H. Hogsed

By signing on the significant pages attached hereto, the parties signing, being the owners of the majority of the lots referred to herein and in the covenants referred to herein, agree to be bound by this Amended and Restated Protective Covenant of the Benton Hills Subdivision and that this document is a duly executed amendment and restatement of the covenants of the Benton Hills Subdivision referred to herein.

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Joe Silvers (Seal)  
Joe Silvers

Patricia Silvers (Seal)  
Patricia Silvers

North Carolina  
Buncombe County  
I, LARRY F. GASPERSON a Notary Public for said County and State, do hereby certify that JOE SILVERS and PATRICIA SILVERS personally appeared before me this day and acknowledged the due execution of the foregoing instrument.  
Witness my hand and official seal, this the 29 day of JUNE, 2000.  
(Official Seal) Larry F. Gasperson  
Notary Public  
My commission expires 25-JUNE



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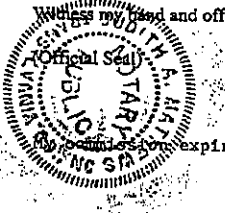
By signing on the significant pages attached hereto, the parties signing, being the owners of the majority of the lots referred to herein and in the covenants referred to herein, agree to be bound by this Amended and Restated Protective Covenant of the Benton Hills Subdivision and that this document is a duly executed amendment and restatement of the covenants of the Benton Hills Subdivision referred to herein.

Naia Parker (Seal)  
Naia Parker

North Carolina  
Transylvania County

I, JUDITH A. MATHEWS, a Notary Public for said County and State, do hereby certify that NAIA PARKER personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal, this the 6th day of July, 2000.



Judith A. Mathews  
Notary Public

Filed for registration on the 6 day of July 2000 at 10:00 o'clock A.M. and registered and verified on the 6 day of July 2000 in Book No. 17 of page 94

STATE OF NORTH CAROLINA TRANSYLVANIA COUNTY

The foregoing certificate of Larry F. Gasperson a Notary Public ( ) of the Quail State and County of Transylvania is (are) certified to be correct.

This 6 day of July 2000

Victor L. Edmunds

Register of Deeds, Transylvania County

By: Beth C. Sales Deputy