

BOOK PAGE 187

Delivered To Severson WD 24901
By April 27 day Sept 20 04

MONROE COUNTY COMMISSION
Clerk 03
DATE RECORDED 09/20/2004 15:09
Inst #: 25107
Book/Page: 240- / 187-
Fee/Tax: 23.00 .00

DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS,
RESERVATION AND EASEMENTS FOR WALNUT SPRINGS MOUNTAIN RESERVE
A RESIDENTIAL HOME DEVELOPMENT
NEAR UNION, WEST VIRGINIA
THIS DECLARATION, MADE THIS [xx] TH DAY OF [month], 2004, BY [X]
WITNESSETH

Declarant does hereby covenant and declare that all land known as Walnut Springs Mountain Reserve owned by Mountain America, LLC and Chaya Schonberger in Union District, Monroe County, West Virginia, more particularly described as four certain tracts; a) 447 acres, b) 40.7 acres, c) 214 acres less outsales and d) 67.5 acres less a right of way, shall be held, transferred, sold, and conveyed subject to the following covenants, conditions, restrictions, reservations, easements, and affirmative obligations (hereinafter collectively referred to as Restrictions), relating to the use and occupancy thereof, said Restrictions to be construed as restrictive covenants running with the land, and which shall inure to the benefit of and be binding upon all parties having any right, title, or interest in the property more particularly described on said plat, their heirs, successors and assigns.

Every person or other party hereafter acquiring any of the property in Walnut Springs Mountain Reserve, by acceptance of a deed or contract for deed of any interest in or to said property, whether or not it shall be so expressed in any such deed or contract for deed, and regardless of whether the same shall be signed by such person, and whether or not such person shall otherwise consent in writing, shall take such property interest subject to this Declaration made to the terms and conditions hereof, and shall be deemed to have assented to the same.

ARTICLE I
DEFINITIONS

- The following words when used in this Declaration or any Supplemental Declaration (unless the context shall prohibit) shall have the following meanings:
- Declarant shall mean and refer to [x], its heirs, successors and assign, where Declarant has expressly assigned rights under this Declaration for the put-poses of future development by another party who acquires all remaining property of Declarant at the time of transfer.
 - The Properties shall mean and refer to all such existing properties as are described on the aforementioned plat, and such additional properties as may hereafter be subject to this Declaration by any appropriate amendment describing such additional real estate.
 - (c) Common Areas shall mean and refer to any real property as shown on the aforementioned plat or as deeded by declarant at any time and set aside for the common use and benefit of the property owners in Walnut Springs Mountain Reserve,
 - (d) Lot shall mean and refer to any numbered tract or plat of land, as shown upon the aforementioned plat.
 - (e) 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 part of the land, described on the aforementioned plat, but excluding those having such interest merely as security for the performance of an obligation.
 - (f) Association shall mean and refer to Walnut Springs Mountain Reserve Homeowner Association, a non-profit, non-stock homeowners association, its successors and assigns.
 - (g) Member shall mean and refer to all those Owners who are members of the Association.
 - (h) Developer shall mean Walnut Springs Mountain Reserve, its employees or corporation entity.
 - (i) Design Review Board shall mean the design review committee first made up of the developer, yet assignable by developer to professional reviews or developer assigned community members.

ARTICLE II

ARCHITECTURAL DESIGN REVIEW BOARD

Each Property Owner shall be responsible to acquire from this development and then review and accept; prior to purchasing any of this development's land homes or real estate, a valid current copy of this Development's Design Review Board Guidelines [consisting of land and structure rules, regulations, and design review charges]
No residences, buildings, facilities, or other structures, or any additions, changes to grade, terrain, land, or forests, thereto shall be erected, or the erection thereof begun, until the site plans and specifications, and building plans and specifications, shall have been presented to and approved in writing by the Design Review Board (the Design Review Board) consisting of the Declarant, or such other Design Review Board designated in writing by the Declarant. Said plans and specifications shall be submitted to the Design Review Board at least thirty (60) days prior to the intended construction date, and any modifications in such plans shall be submitted to the Design Review Board for approval prior to commencing any such work. The Design Review Board shall be in the sole control of the Developers of Walnut

188

Book Page 240

Springs Mountain Reserve. At its sole discretion it may elect one or more board members for Design Criteria & Review from the Walnut Springs Mountain Reserve Community, and or a professional architect, residential designer, contractor, engineering firm or employees, or other residential design personal to serve on the Design Review board or just the Developer or at any point of the development decide to allow that to be in the control for the community members within Walnut Springs or any combinations that best suits the developer. The following rules and regulations shall govern the approval of building plans and Lot improvements by the Design Review Board:

- (1) Unless otherwise approved by the Design Review Board, no building or structure shall be erected closer than fifty (50) feet to the centerline of any street or Road, nor closer than seventy-five (75) feet to the side or rear of the Lot, unless specifically approved, plus the house and auxiliary structures must be placed in accordance with the building envelope outline on that particular lot so as not to obstruct the views of neighbors. Plus any side of the homes structure may not be any closer to any neighbors home structure than: 130ft on wooded parcels that are 1 acres & 150 on non wooded; 150ft on wooded parcels that are 1.1 to 3 acres & 200 f on no-wooded; 250 ft 3.1 to 5.1 acres on wooded & 300 ft on non-wooded; 350ft on wooded 5.2 to 7 acres & 400ft on non-wooded, 400 ft on wooded 7.1 to 10 acres & 500 ft on non-wooded, 450ft on wooded parcels 10.1 to 20 acres & 500ft on non-wooded, and 500 ft on parcels above 20 acres, unless such restriction is eased due to it would place an unreasonable boundary condition on that design and placement of that home and site, and as long as any such ease of restrictions doesn't place a view or privacy burden on neighboring or effected sites, and as allowed by building envelope as illustrated by developer on each parcel sold by developer. Pools and deck may not be closer than 50ft without a review exception and never closer than 15 ft to a side boundary with exception.
- (2) In order to assure that houses or structures will be located with regard to the topography or in relation to adjacent Lots, the Design Review Board reserves the right to control the site and location of any house or other structure upon said Lot, provided, however, that such location shall be determined by a building envelope as detailed on each plot a dashed lines showing the building area for homes and stables or other structures.
- (3) For any Lot measuring Five point nine-nine (5.99) acres or less, nothing but one single-family private dwelling shall be erected, altered, placed or permitted to remain on any Lot. Garages and outbuildings shall be permitted, but the same shall conform in design, style, and construction to the dwelling. Lots may be subdivided once for residential purposes, where at minimum both side are at least 6 acres and the structures are residence unless approved in advance for a special or different use.
- (4) No parcel or lot shall be able sell of or provide a temporary or permanent, license of use or and access or easement to any lot on or to this property without express written and recorded approval of the developer.
- (5) The minimum & maximum ground floor area of living space of any single-family dwelling shall be: Following sqft calculation are based on air-conditioned space and doesn't include fully submerged basements, garages, or stables.
 - a. Special use cabins within the developments special use area, or in areas specifically designated by developer [such as possible B&B/Stables as allowed by developer at rear parcel, near Highway 219 acreage; 1 to 2 acres: Minimum of 700 square feet for a one-story dwelling and Minimum 1000 square ft for a two story. Maximum of 950 square feet for a one-story dwelling and Maximum 1250 square ft for a two story with no more than 25% of the sq ft may be upstairs [2nd story] if the home is in an open field with no tree coverage, and no more than 40% if within tree coverage, both subject to approval & exception if non obtrusive to the overall vistas and views. 2-car garage maximum. No horse stalls unless an approved training and stable area approved by the developer and Design Review Board. Wall pate height of home may not exceed 10 ft except at balloon walls. Width of home may not exceed 40 ft & overall with garage not more than 50 ft wide, garage not to exceed 15 ft wide by 20 ft long, 8 ft tall plate max, and must be a separate lower roof line.
 - b. 2.1 to 3 acres: Minimum of 950 square feet for a one-story dwelling and Minimum 1200 square ft for a two story. Maximum of 1400 square feet for a one-story dwelling and Maximum 1650 square ft for a two story with no more than 25% of the sq ft may be upstairs [2nd story] if the home is in an open field with no tree coverage, and no more than 40% if within tree coverage, both subject to approval & exception if non obtrusive to the overall vistas and views 2-car garage maximum. No horse stalls unless an approved training and stable area approved by the developer and Design Review Board. Wall pate height of home may not exceed 10 ft except at balloon walls. Width of home may not exceed 50 ft & overall with garage not more than 60 ft wide, garage not to exceed 20 ft wide by 28 ft long, 8 ft tall plate max, and must be a separate lower roof line.
 - c. 3.1 to 4.5 acres: Minimum of 1200 square feet for a one-story dwelling and Minimum 1400 square ft for a two story. Maximum of 2200 square feet for a one-story dwelling and Maximum 2500 square ft for a two story with no more than 25% of the sq ft may be upstairs [2nd story] if the home is in an open field with no tree coverage,

DEED BOOK 240

and no more than 40% if within tree coverage, both subject to approval & exception if non obtrusive to the overall vistas and views 3-car garage maximum. No horse stalls unless a minimum 2.5 clearing is a existing or approved in advance.

- d. 4.6 to 5.9 acres: Minimum of 1400 square feet for a one-story dwelling and Minimum 1700 square feet for a two story. Maximum of 1900 square feet for a one-story dwelling and Maximum 2\800 square ft for a two story with no more than 25% of the sq ft may be upstairs [2nd story] if the home is in an open field with no tree coverage, and no more than 40% if within tree coverage, both subject to approval & exception if non obtrusive to the overall vistas and views 4-car garage maximum. No horse stalls unless a minimum or 2.5 acres of cleared land is approved by developer and Design Review Board /stalls/stable may not encroach any views, plus Stall must be a approved roof design not higher than 18 ft form base foundation soil. One horse per 2.5 acres of cleared land not including building envelope area used for home and garage. First horse one horse per 2.5 cleared and approved land; subsequent horses 1 additional for each 4 acres of approved cleared land, with a maximum of 2 horses, unless approved by developer and Design Review Board.

6 to 12 acres: Minimum of 1900 square feet for a one-story dwelling and Minimum 2200 square feet for a two story. Maximum of 5700 square feet for a one-story dwelling and Maximum 7500 square ft for a two story with no more than 25% of the sq ft may be upstairs [2nd story] if the home is in an open field with no tree coverage, and no more than 40% if within tree coverage, both subject to approval & exception if non obtrusive to the overall vistas and views 6-car garage maximum. No horse stalls unless developer and Design Review Board approve a minimum or 2.5 acres of cleared land and stalls may not encroach any views, plus must be a approved roof design not higher than 18 ft from base foundation soil. One horse per 2.5 acres of cleared land not including building envelope subsequent horses 1 additional for each 4 acres of approved cleared land, with a maximum of 3 horses, unless approved by developer and Design Review Board.

Above 12.1 acres Minimum 2000 square feet for a one-story dwelling and 2300 square ft for a two story. Maximum of 15500 square feet for a one-story dwelling and Maximum 19500 square ft for a two story with no more than 25% of the sq ft may be upstairs [2nd story] if the home is in an open field with no tree coverage, and no more than 40% if within tree coverage, both subject to approval & exception if non obtrusive to the overall vistas and views 6-car garage maximum. No horse stalls unless developer and Design Review Board approve a minimum or 2.5 acres of cleared land and stalls may not encroach any views, plus must be a approved roof design not higher than 18 ft from base foundation soil. One horse per 2.5 acres of cleared land not including building envelope subsequent horses 1 additional for each 4 acres of approved cleared land, with a maximum of 3 horses, unless approved by developer and Design Review Board

- h. The above calculations shall not include basement, garage, or porch.
- i. No building shall exceed one (1) story above viewable ground, without prior consent of the Design Review Board, to make sure that it is not an abstraction or blockage of view of neighboring parcels, we recommend a design review member pre-view your lot prior beginning design or selection of your home. The home shall be positioned that the rear windows doesn't show and only 20% of the roof line shows to any immediate rear parcels/lots and the front doesn't show more than 25% windows to the parcels/lots in front.
- (6) Community Roads to higher elevation sites may require, chains or studded winter tire, or 4 or full wheel drive, especially during winter seasons.
- (7) Private driveways, the location of which shall be subject to approval by the Design Review Board, will access all Lots. Where private driveways cross drainage ditches for the main access Road, said driveways shall have a drainpipe installed of not less than twelve (12) feet in length and twelve (12) inches in diameter in order to insure proper drainage and proper construction, smooth if on level area, and ribbed if on an incline. For those Lots with shared driveways, the cost of the drainpipe shall be shared equally between the Owners of the lots serviced by the driveway. Owner's sloped driveways may require a heated under-base treatment for winter access at owner's expense.
- (8) No parking shall be allowed on street and Roads of community, and no permanent parking of any vehicles outside of garages or storage of equipment tools, vehicles, boats, etc may be stored outside the garage or home.
- (9) Barns are not permitted, yet stable with low roofline are permitted if within other guidelines listed herein.
- (10) Above ground pools may be approved as an exception if there is legitimate sold rock excavation problem and there is o other area within the property owner building area, and if the above ground pool meets design review approval for look and view concerns.
- (11) No trailers, double or singlewides, all home must meet a minimum quality standard, with design including porches, window standards, and architectural elements for all structures.

- (12) System homes or higher quality pre-manufactured modular homes are allowed if approved by the Design Review Board committee. All exterior construction of residences and any additional buildings must be completed within one (1) year of the commencement date of construction, unless otherwise approved by the Design Review Board. All exterior structure shall have Design Review Board approval and be of like finish and construction as approved main structures and homes.
- (13) The Design Review Board shall ultimate and final control of the designs of homes and land use on them project and as out lined kin the Walnut Springs Mountain Reserve Design Guidelines that include but are not limited to:
- Submittal Charges
 - The Exterior Of All Residences
 - Garden Walls And Fences
 - Entrance Treatments On Lots
 - Window Treatments.
 - All Exterior Colors
 - Pools
 - Height Restrictions,
 - Exposed Foundations And Ground Floor Piers
 - Exterior Design, Materials & Finishes
 - Standards For Roofs
 - Standards For Gutters And Downspouts:
 - Septic Fields.
 - Standards For Solid, Glazed, Storm/Screen Doors
 - Wood Shutters
 - Standards For Windows, Shutters And Storm/Screen Sash
 - Awnings And Canopies
 - Standards Pertain To Mechanical, Electrical And Other Equipment
 - Clotheslines Are Not Permitted
 - Prohibited Designs
 - View Corridors
 - Site Work
 - Tree Policy
 - General Site Clearing Requirements
 - Site Grading And Drainage
 - System Homes
 - Building Envelope & setbacks
 - Design Acceptance & Variances

ARTICLE III GENERAL PROVISIONS

Declarant does declare that all Lots in Walnut Springs Mountain Reserve shall be and are hereby subject to covenants, conditions, restrictions, reservations, and easements, which shall apply to all, said Lots, more particularly described as follows:

- (1) Said Lots shall be used for residential and recreational purposes; no business, commercial or professional enterprise, which regularly attracts customers, patrons, or clients to the residence, shall be permitted or conducted thereon, except as specified specially and approved by Mounatin America, LLC for Walnut Springs Mounatin Reserve Properties and developments.
- (2) Prior to the occupation of any residence situated on said Lot, the Lot Owner shall, at his/her expense, tap in the city water source brought to the lot by declaring, or if city water is not available then drill a well and approved by the appropriate County Health Department. The lot owner shall install an approved septic tank and drainage field or sewage disposal system. All toilets, septic tanks, sewage and waste disposal systems constructed on said Lot shall conform to the rules and regulations of the County Health Department; further, activities or use of said Lot shall not pollute or cause waste to any spring, drain, or stream situate within Walnut Springs Mountain Reserve.
- (3) No house trailers, trucks, buses, dilapidated cars, or unsightly vehicles of any type or description may be stored, used for buildings, left or abandoned on said Lot. Upon prior approval by the Design Review Board, exceptions will be allowed for the temporary use of a storage trailer during the construction of any buildings.

DEED BOOK 240

- CASTO & HARRIS, INC., SPEAKER, WV RECORD No. 14997B-04
- (4) No mobile home, house or travel trailer, camper unit, tent, basement residence, garage, Stall or other outbuildings shall be used on any Lot at any time as a residence.
 - (5) Each Lot Owner shall provide receptacles for trash and garbage in an area not visible from the main access Road. Each Lot owner shall be responsible for the removal of trash to the county landfill or use of a contracted service.
 - (6) Other than household pets, no livestock, sheep, swine or poultry shall be kept or raised on said Lot, provided, however, pets, may be maintained if proper fencing or other suitable constraints are installed and approved in advance by the Design Review Board and such animals do not violate the provisions of the following section. No vicious or uncontrollable pets are allowed. Pit bulls and King-Corso must have proof of being neutered prior to 9 month old to be allowed within the development at any time. No kennels, boarding or Breeding of animals or pets allowed.
 - (7) No obnoxious or offensive use shall be made of said Lot, nor shall any offensive trade or activity be carried on upon said Lot, nor shall any activity of any nature whatsoever be conducted thereon, which may constitute a nuisance. Except as specifically performed or authorized by the Declarant, No construction, mowing, maintenance or operating of equipment or noisy equipment may take place from 2PM Saturday through to 6:30 am Monday, or on Legal Holidays, unless an emergency maintenance, repair or situation. All construction during the rest of the time may be for 6:30 am to 6:30 PM Monday- Friday and 8am to 2 pm Saturday, if non-offense or non loud activities, loud activity such as exterior equipment [saws, drilling, excavating, mowing, hammering, etc] is to be within 7 am to 5 pm Monday through Friday only.
 - (8) In general, no satellite dishes larger than 18" in diameter are allowed, unless otherwise approved by the Design Review Board. The Design Review Board must approve placement of satellite dishes and television receiving devices. No radio towers are permitted.
 - (9) All utilities will be brought in from the main transmission lines as installed by the Power Company to the individual homes.
 - (10) No Lot Owner may restrict, block, or re-channel any natural drainage within the bounds of his/her Lot unless such action has been reviewed and approved by the Design Review Board.
 - (11) No signs of any kind may be displayed for public view on any Lot except that one professional sign of not more than five square feet advertising the property for sale or rent, or such other signs as may be used by the Declarant to advertise the property during the construction and sales period shall be permitted. Lot ownership signs may be erected only after prior approval from the Design Review Board.
 - (12) No fuel tanks or similar storage receptacles may be maintained on any Lot so as to be visible to the public.
 - (13) No motorized trail bikes, mini-bikes, or similar all-terrain vehicles or snowmobiles shall be permitted to be driven upon the easements or common areas in Walnut Springs Mountain Reserve.
 - (14) No trees with a butt diameter of ten (10) inches or more measured one foot above the ground may be cut down without permission of the Design Review Board unless said tree is within ten (10) feet of the residence or other approved building. Any tree that dies from natural causes may be removed with permission from the Design Review Board.
 - (15) The Roads as shown on the aforementioned plat of Walnut Springs Mountain Reserve are private Roads and provide the sole means of access to and from the Lots shown on the plat. Each Lot Owner, as evidenced by their acceptance of the deed to their respective Lots, acknowledges that the Roads are private and the portion of any Road that might cross their respective Lots shall remain unobstructed at all times and shall be subject to the rights of other Lot Owners in Walnut Springs Mountain Reserve to use the portion of their Lots within the bounds of said private right-of-way. These Roads shall be available for the developer and community at all times. Each Lot Owner acknowledges that it is in their best interest that all Roads be maintained in a good and passable condition at all times and that they agree to share equally in the cost of maintaining said Roads regardless of the size or location of their Lot, or the distance traveled over said Roads to provide access to their respective Lots.
 - (16) Each Lot Owner shall be responsible for maintaining his/her Lot, Facilities and Buildings in a working, tidy and well-kept manner and as not negatively effect any other lot owner within the development. All Lots shall be kept clean and free of garbage, junk, debris, non-operating vehicles, or any substance that might contribute to a health hazard or in significantly detracting from the aesthetics of Walnut Springs Mountain Reserve. Failure to maintain any Lot, residence, outbuildings, facilities, or fences, in a good state of repair will entitle the Design Review Board, after fourteen (14) days written notice to the Lot Owner, to have the necessary services or repairs conducted at the expense of the Lot Owner, which charge shall be levied against the Lot Owner and shall constitute a lien against his/her property until paid. Neither the Design Review Board, nor any of its agents, employees, or contractors shall

be liable for any damage, which may result from any maintenance work performed under this provision except in the case of gross negligence.

ARTICLE IV

HOMEOWNERS ASSOCIATION

Upon the sale of 75% of the total Lots within Walnut Springs Mountain Reserve, or at any time prior thereto at the discretion of the Declarant, all rights and responsibilities contained and reserved in this Declaration will be delegated to a Homeowners' Association (the "Association"), to be formed as provided herein.

- (1) The Association shall be a non-profit corporation formed under the corporation laws of the State of West Virginia and shall be composed of the Declarant and the Owners of the Lots within Walnut Springs Mountain Reserve. Every person or entity who is a record Owner of any Lot in Walnut Springs Mountain Reserve by accepting delivery of a deed or deeds to said Lot accepts membership in the Association and shall be a Member thereof and shall be entitled to one vote for each Lot owned. Where more than one person or entity owns any Lot, then such Owners shall collectively be considered a Member, and entitled to only one vote for the Lot.
- (2) The Roadways, right-of-ways, common areas, entrance areas are to be conveyed to the Association per Article V, Section 3, and/or per the declarant discretion such areas may be deeded back to the federal, and/or state, and/or local government for use of the Walnut Springs Mountain Reserve Community.
- (3) The Association shall maintain the rights-of-way, and common amenities & facilities, within Walnut Springs Mountain Reserve, and shall assess each lot owner on a pro rata basis, the amount necessary for the maintenance and any improvements to the Roads, with said assessment not to exceed \$500.00 per Lot annually, or as adjusted by a vote of at least 66 2/3% of the Members of the Association. Assessments may also be used for the payment of taxes, insurance, and expenses for utilities on any of the common areas, and repair, replacement, and additions thereto, and for the cost of labor, equipment, materials, management, and supervision thereof, and such other purposes as may be set forth in the Articles of Incorporation and by-laws of the Association.
- (4) The annual assessments provided for herein shall be on a calendar year basis, due and payable by the first business day in January annually. New owners purchasing Lots from the Declarant will be responsible for payment at closing of the assessment prorated to the end of the year in which the purchase is made.
- (5) If an assessment is not paid on the date when due as provided for in Section 4 of this article, such assessment shall become delinquent and shall, together with such interest thereon and cost of collection thereof as hereinafter provided, become a continuing lien on the Lot of the then Owner, his or her heirs, devisees, personal representatives and assigns. If the assessment is not paid within thirty (30) days after the delinquency date, the assessment shall bear interest from the date of delinquency at the highest legal rate. The Association or any Owner may bring action at law against the Owner personally obligated to pay the same, and there shall be added to the amount of such assessment the costs of preparing and filing the complaint in such action, and in the event a judgment is obtained, cash judgment shall include interest on the assessment as above provided and a reasonable attorney fee to be fixed by the Court together with the costs of the action.
- (6) Any Lot that may be repossessed by the Declarant with back assessments owed will become exempt from payment of those unpaid assessments and said Lot shall be exempt from current Association assessments until a new owner of record is established for the Lot.

ARTICLE V

PROPERTY RIGHTS AND PERMITTED USES OF THE COMMON PROPERTIES

- (1) Every Member of the Association, including the Declarant, shall have a right and easement of enjoyment in and to the Roads and other common areas in Walnut Springs Mountain Reserve. This right and easement shall be appurtenant to and shall pass with the title to every Lot, provided, however, that the Declarant, its members and assigns, shall enjoy said easements and rights of use and enjoyment perpetually, regardless of whether the Declarant owns any Lots, and shall include a minimum forty foot wide (60) easement for the utilities, private Roadways, walkways, bridle paths or trails [and any combination of these], that provide utilities, access & egress to the lots and community and common areas in Walnut Springs Mountain Reserve, the entrance area at the state Road as well as any easements, Roads or access in existence now or created by Declarant.
- (2) Declarant or its assigns reserves an easement to maintain a sales office in Walnut Springs Mountain Reserve and to erect sales signs in locations chosen by Declarant or its assigns. An easement to complete construction of all

DEED BOOK 240

facilities and utilities in Walnut Springs Mountain Reserve is also reserved by Declarant and is assignable at Declarant discretion. Declarant may permit the use of the Roads and other common areas by purchasers of Lots or potential purchasers of Lots at Declarant discretion.

- (3) Declarant shall deed the Roads, entrances, and all common areas as shown on the aforementioned plat to the Association, subject to the Declarant rights to construct improvements thereon and further subject to the common easements set forth in Section (1) hereof. This dedication shall not inhibit convenient use of the Property Roadways or common areas by any person or entity entitled to use the same hereby. Such dedication shall occur at such time in the future, as Declarant deems appropriate in its sole discretion. Declarant may at its discretion deed the common areas instead to the federal government for use as and under common land for the community of Walnut Springs Mountain Reserve.
- (4) The Declarant expressly reserves unto itself, its assigns, owners and affiliates, without the payment of any consideration, the right to use the Roads and utilities constructed and installed in Walnut Springs Mountain Reserve together with the right to use all easements within Walnut Springs Mountain Reserve, for the development of other properties adjoining, adjacent to, or in the vicinity of Walnut Springs Mountain Reserve so long as such development is complimentary to and consistent with Walnut Springs Mountain Reserve.
- (5) Each lot shall maintain a minimum 30 ft easement around its entire boundary for the access and use of utilities for by the declarant for the development and or the said lot.
- (6) All common areas are provided for the private use and enjoyment of the Members of the Association and their guests. The maintenance of the areas, any improvements located or constructed thereon, and rules for their use shall be the responsibility of the Association.

CASTO & HARRIS, INC., SPENCER, WV RE-ORDER NO. 997B-04

ARTICLE VI

UTILITY AND ROADWAY EASEMENTS

The Declarant reserves unto itself, it successors and assigns, including the Association, the following easements upon, over, through, and under the properties of Walnut Springs Mountain Reserve, together with the right of ingress and egress, to the extent reasonably necessary to exercise such easements:

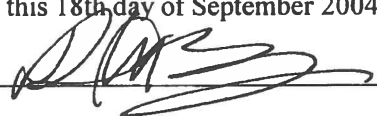
- (1) An easement for the construction, maintenance, upkeep, and repair of all Roadways, and any associated rights-of-way.
- (2) An easement to construct, install, erect, operate, maintain, and remove all utility poles, conduits, cables, pipes, transformers, lines, and other equipment necessary for electrical, television cable, and/or telephone service to the Walnut Springs Mountain Reserve, including, but not limited to the ancillary right to cut, trim, or remove trees, shrubs, or plantings wherever necessary.
- (3) An easement for non-exclusive, perpetual access of ingress across all private Roads, access Roads, to and from all Lots, common areas, and all improvements and undeveloped lands belonging to Declarant.
- (4) An easement for the purpose of cutting, filling, draining, and maintenance of any common area and drainage courses for Roadways, trails, and/or the entrance areas. ARTICLE VII MISCELLANEOUS

- (1) All covenants, conditions, restrictions, reservations, and easements set forth in this declaration shall run with the land and be binding on all parties and persons claiming under them for a period often (10) years from the date that this declaration is recorded, after which time said covenants shall be automatically extended for successive periods often (10) years unless an instrument signed by a majority of Lot Owners is recorded in the County Clerks office agreeing to change, amend, modify, or terminate the restriction in whole or in part.

Until the transfer of the rights to the Association, pursuant to Article IV, Declarant reserves the right to modify, revoke, alter or amend these covenants, conditions, restrictions, reservations, and easements at any time and to whatever extent it deems necessary. Declarant shall not amend any provision of this Declaration in a way that would adversely affect property values in Walnut Springs Mountain Reserve.

- (3) The invalidation by any Court of any covenant, condition, restriction, reservation, or easement, or any part thereof in this Declaration, shall in no way affect any of the remaining ones or parts thereof, and they shall remain in full force and effect.

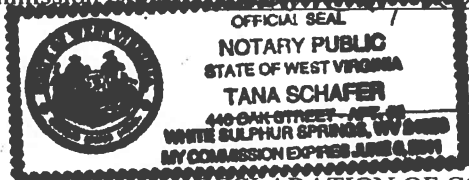
IN WITNESS WHEREOF, the Declarant does hereby set his hand this 18th day of September 2004.



STATE OF WEST VIRGINIA
COUNTY OF Greenbrier

The foregoing instrument was acknowledged before me this 18th day of September 2004.

My commission expires: June 1, 2011



Tana Schaffer
Notary Public
27 Forren Lane

DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS,
RESERVATION AND EASEMENTS FOR WALNUT SPRINGS MOUNTAIN RESERVE
A RESIDENTIAL HOME DEVELOPMENT
NEAR UNION, WEST VIRGINIA
THIS IDECLARATION, MADE THIS [xx] TH DAY OF [month], 2004, BY [X]
WITNESSETH

Declarant does hereby covenant and declare that all land known as Walnut Springs Mountain Reserve owned by Mountain America, LLC and Chaya Schonberger in Union District, Monroe County, West Virginia, more particularly described as four certain tracts; a) 447 acres, b) 40.7 acres, c) 214 acres less outsales and d) 67.5 acres less a right of way,, shall be held, transferred, sold, and conveyed subject to the :following covenants, conditions, restrictions, reservations, easements, and affirmative obligations (hereinafter collectively referred to as Restrictions), relating to the use and occupancy thereof, said Restrictions to be construed as restrictive covenants framing with the land, and which shall inure

DEED BOOK 240

to the benefit of and be binding upon all parties having any right, title, or interest in the property more particularly described on said plat, their heirs, successors and assigns.

Every person or other party hereafter acquiring any of the property in Walnut Springs Mountain Reserve, by acceptance of a deed or contract for deed of any interest in or to said property, whether or not it shall be so expressed in any such deed or contract for deed, and regardless of whether the same shall be signed by such person, and whether or not such person shall otherwise consent in writing, shall take such property interest subject to this Declaration and to the terms and conditions hereof, and shall be deemed to have assented to the same.

ARTICLE I DEFINITIONS

The following words when used in this Declaration or any Supplemental Declaration (unless the context shall prohibit) shall have the following meanings:

- (a) Declarant shall mean and refer to [x], its heirs, successors and assign, where Declarant has expressly assigned rights under this Declaration for the purpose of future development by another party who acquires all remaining property of Declarant at the time of transfer.
- The Properties shall mean and refer to all such existing properties as are described on the aforementioned plat, and such additional properties as may hereafter be subject to this Declaration by an appropriate amendment describing such additional real estate.
- Common Areas shall mean and refer to any real property as shown on the aforementioned plat or as deeded by declarant at any time and set aside for the common use and benefit of the property owners in Walnut Springs Mountain Reserve,
- Lot shall mean and refer to any numbered tract or plat of land, as shown upon the aforementioned plat.
- 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 part of the land, described on the aforementioned plat, but excluding those having such interest merely as security for the performance of an obligation.
- Association shall mean and refer to Walnut Springs Mountain Reserve Homeowner Association, a non-profit, non-stock homeowners association, its successors and assigns.
- (j) Member shall mean and refer to all those Owners who are members of the Association.
- (k) Developer shall mean Walnut Springs Mountain Reserve, its employees or corporation entity.
- (l) Design Review Board shall mean the design review committee first made up of the developer, yet assignable by developer to professional reviews or developer assigned community members.

ARTICLE II

ARCHITECTURAL DESIGN REVIEW BOARD

Each Property Owner shall be responsible to acquire from this development and then review and accept; prior to purchasing any of this developments land homes or real estate, a valid current copy of this Developments Design Review Board Guidelines [consisting of land and structure rules, regulations, and design review charges]

No residences, buildings, facilities, or other structures, or any additions, changes to grade, terrain, land, or forests, thereto shall be erected, or the erection thereof begun, until the site plans and specifications, and building plans and specifications, shall have been presented to and approved in writing by the Design Review Board (the Design Review Board) consisting of the Declarant, or such other Design Review Board designated in writing by the Declarant. Said plans and specifications shall be submitted to the Design Review Board at least thirty (60) days prior to the intended construction date, and any modifications in such plans shall be submitted to the Design Review Board for approval prior to commencing any such work. The Design Review Board shall be in the sole control of the Developers of Walnut Springs Mountain Reserve. At its sole discretion it may elect one or more board members for Design Criteria & Review from the Walnut Springs Mountain Reserve Community, and or a professional architect, residential designer, contractor, engineering firm or employees, or other residential design personal to serve on the Design Review board or just the Developer or at any point of the development decide to allow that to be in the control for the community members within Walnut Springs or any combinations that best suits the developer. The following rules and regulations shall govern the approval of building plans and Lot improvements by the Design Review Board:

- (1) Unless otherwise approved by the Design Review Board, no building or structure shall be erected closer than fifty (50) feet to the centerline of any street or Road, nor closer than seventy-five (75) feet to the side or rear of the Lot, unless specifically approved, plus the house and auxiliary structures must be placed in accordance with the building envelope outline on that particular lot so as not to obstruct the views of neighbors. Plus any side of the homes structure may not be any closer to any neighbors home structure than: 130ft on wooded parcels that are 1 acres & 150 on non wooded; 150ft on wooded parcels that are 1.1 to 3 acres & 200 f on no-wooded; 250 ft 3.1 to 5.1 acres on

- wooded & 300 ft on non-wooded; 350ft on wooded 5.2 to 7 acres & 400ft on non-wooded, 400 ft on wooded 7.1 to 10 acres & 500 ft on non-wooded, 450ft on wooded parcels 10.1 to 20 acres & 500ft on non-wooded, and 500 ft on parcels above 20 acres, unless such restriction is eased due to it would place an unreasonable boundary condition on that design and placement of that home and site, and as long as any such ease of restrictions doesn't place a view or privacy burden on neighboring or effected sites, and as allowed by building envelope as illustrated by developer on each parcel sold by developer. Pools and deck may not be closer than 50ft without a review exception and never closer than 15 ft to a side boundary with exception.
- (2) In order to assure that houses or structures will be located with regard to the topography or in relation to adjacent Lots, the Design Review Board reserves the right to control the site and location of any house or other structure upon said Lot, provided, however, that such location shall be determined by a building envelope as detailed on each plot as dashed lines showing the building area for homes and stables or other structures.
- (14) For any Lot measuring Five point nine-nine (5.99) acres or less, nothing but one single-family private dwelling shall be erected, altered, placed or permitted to remain on any Lot. Garages and outbuildings shall be permitted, but the same shall conform in design, style, and construction to the dwelling. Lots may be subdivided once for residential purposes, where at minimum both side are at least 6 acres and the structures are residence unless approved in advance for a special or different use.
- (15) No parcel or lot shall be able sell of or provide a temporary or permanent, license of use or and access or easement to any lot on or to this property without express written and recorded approval of the developer.
- (16) The minimum & maximum ground floor area of living space of any single-family dwelling shall be: Following sqft calculation are based on air-conditioned space and doesn't include fully submerged basements, garages, or stables.
- a. Special use cabins within the developments special use area, or in areas specifically designated by developer [such as possible B&B/Stables as allowed by developer at rear parcel, near Highway 219 acreage; 1 to 2 acres: Minimum of 700 square feet for a one-story dwelling and Minimum 1000 square ft for a two story. Maximum of 950 square feet for a one-story dwelling and Maximum 1250 square ft for a two story with no more than 25% of the sq ft may be upstairs [2nd story] if the home is in an open field with no tree coverage, and no more than 40% if within tree coverage, both subject to approval & exception if non obtrusive to the overall vistas and views. 2-car garage maximum. No horse stalls unless an approved training and stable area approved by the developer and Design Review Board. Wall pate height of home may not exceed 10 ft except at balloon walls. Width of home may not exceed 40 ft & overall with garage not more than 50 ft wide, garage not to exceed 15 ft wide by 20 ft long, 8 ft tall plate max, and must be a separate lower roof line.
 - b. 2.1 to 3 acres: Minimum of 950 square feet for a one-story dwelling and Minimum 1200 square ft for a two story. Maximum of 1400 square feet for a one-story dwelling and Maximum 1650 square ft for a two story with no more than 25% of the sq ft may be upstairs [2nd story] if the home is in an open field with no tree coverage, and no more than 40% if within tree coverage, both subject to approval & exception if non obtrusive to the overall vistas and views 2-car garage maximum. No horse stalls unless an approved training and stable area approved by the developer and Design Review Board. Wall pate height of home may not exceed 10 ft except at balloon walls. Width of home may not exceed 50 ft & overall with garage not more than 60 ft wide, garage not to exceed 20 ft wide by 28 ft long, 8 ft tall plate max, and must be a separate lower roof line.
 - c. 3.1 to 4.5 acres: Minimum of 1200 square feet for a one-story dwelling and Minimum 1400 square ft for a two story. Maximum of 2200 square feet for a one-story dwelling and Maximum 2500 square ft for a two story with no more than 25% of the sq ft may be upstairs [2nd story] if the home is in an open field with no tree coverage, and no more than 40% if within tree coverage, both subject to approval & exception if non obtrusive to the overall vistas and views 3-car garage maximum. No horse stalls unless a minimum 2.5 clearing is a existing or approved ir advance.
 - d. 4.6 to 5.9 acres: Minimum of 1400 square feet for a one-story dwelling and Minimum 1700 square feet for a two story. Maximum of 1900 square feet for a one-story dwelling and Maximum 2\800 square ft for a two story with no more than 25% of the sq ft may be upstairs [2nd story] if the home is in an open field with no tree coverage, and no more than 40% if within tree coverage, both subject to approval & exception if non obtrusive to the overall vistas and views 4-car garage maximum. No horse stalls unless a minimum or 2.5 acres of cleared land is approved by developer and Design Review Board /stalls/stable may not encroach any views, plus Stall must be a approved roof design not higher than 18 ft form base foundation soil. One horse per 2.5 acres of cleared land not including building envelope area used for home and garage. First horse one horse per 2.5 cleared and approved land;

subsequent horses 1 additional for each 4 acres of approved cleared land, with a maximum of 2 horses, unless approved by developer and Design Review Board.

- e. 6 to 12 acres: Minimum of 1900 square feet for a one-story dwelling and Minimum 2200 square feet for a two story. Maximum of 5700 square feet for a one-story dwelling and Maximum 7500 square ft for a two story with no more than 25% of the sq ft may be upstairs [2nd story] if the home is in an open field with no tree coverage, and no more than 40% if within tree coverage, both subject to approval & exception if non obtrusive to the overall vistas and views 6-car garage maximum. No horse stalls unless developer and Design Review Board approve a minimum of 2.5 acres of cleared land and stalls may not encroach any views, plus must be a approved roof design not higher than 18 ft from base foundation soil. One horse per 2.5 acres of cleared land not including building envelope subsequent horses 1 additional for each 4 acres of approved cleared land, with a maximum of 3 horses, unless approved by developer and Design Review Board.
- f. Above 12.1 acres Minimum 2000 square feet for a one-story dwelling and 2300 square ft for a two story. Maximum of 15500 square feet for a one-story dwelling and Maximum 19500 square ft for a two story with no more than 25% of the sq ft may be upstairs [2nd story] if the home is in an open field with no tree coverage, and no more than 40% if within tree coverage, both subject to approval & exception if non obtrusive to the overall vistas and views 6-car garage maximum. No horse stalls unless developer and Design Review Board approve a minimum of 2.5 acres of cleared land and stalls may not encroach any views, plus must be a approved roof design not higher than 18 ft from base foundation soil. One horse per 2.5 acres of cleared land not including building envelope subsequent horses 1 additional for each 4 acres of approved cleared land, with a maximum of 3 horses, unless approved by developer and Design Review Board
- The above calculations shall not include basement, garage, or porch.
- No building shall exceed one (1) story above viewable ground, without prior consent of the Design Review Board, to make sure that it is not an abstraction or blockage of view of neighboring parcels, we recommend a design review member pre-view your lot prior beginning design or selection of your home. The home shall be positioned that the rear windows doesn't show and only 20% of the roof line shows to any immediate rear parcels/lots and the front doesn't show more than 25% windows to the parcels/lots in front.
- (7) Community Roads to higher elevation sites may require, chains or studded winter tire, or 4 or full wheel drive, especially during winter seasons.
- (18) Private driveways, the location of which shall be subject to approval by the Design Review Board, will access all Lots. Where private driveways cross drainage ditches for the main access Road, said driveways shall have a drainpipe installed of not less than twelve (12) feet in length and twelve (12) inches in diameter in order to insure proper drainage and proper construction, smooth if on level area, and ribbed if on an incline. For those Lots with shared driveways, the cost of the drainpipe shall be shared equally between the Owners of the lots serviced by the driveway. Owner's sloped driveways may require a heated under-base treatment for winter access at owner's expense.
- (19) No parking shall be allowed on street and Roads of community, and no permanent parking of any vehicles outside of garages or storage of equipment tools, vehicles, boats, etc may be stored outside the garage or home.
- (20) Barns are not permitted, yet stable with low roofline are permitted if within other guidelines listed herein.
- (21) Above ground pools may be approved as an exception if there is legitimate sold rock excavation problem and there is o other area within the property owner building area, and if the above ground pool meets design review approval for look and view concerns.
- (22) No trailers, double or singlewides, all home must meet a minimum quality standard, with design including porches, window standards, and architectural elements for all structures.
- (23) System homes or higher quality pre-manufactured modular homes are allowed if approved by the Design Review Board committee. All exterior construction of residences and any additional buildings must be completed within one (1) year of the commencement date of construction, unless otherwise approved by the Design Review Board. All exterior structure shall have Design Review Board approval and be of like finish and construction as approved main structures and homes.
- (24) The Design Review Board shall ultimate and final control of the designs of homes and land use on them project and as out lined kin the Walnut Springs Mountain Reserve Design Guidelines that include but are not limited to:

Submittal Charges
The Exterior Of All Residences
Garden Walls And Fences

Entrance Treatments On Lots
 Window Treatments.
 All Exterior Colors
 Pools
 Height Restrictions,
 Exposed Foundations And Ground Floor Piers
 Exterior Design, Materials & Finishes
 Standards For Roofs
 Standards For Gutters And Downspouts:
 Septic Fields.
 Standards For Solid, Glazed, Storm/Screen Doors
 Wood Shutters
 Standards For Windows, Shutters And Storm/Screen Sash
 Awnings And Canopies
 Standards Pertain To Mechanical, Electrical And Other Equipment
 Clotheslines Are Not Permitted
 Prohibited Designs
 View Corridors
 Site Work
 Tree Policy
 General Site Clearing Requirements
 Site Grading And Drainage
 System Homes
 Building Envelope & setbacks
 Design Acceptance & Variances

ARTICLE III GENERAL PROVISIONS

Declarant does declare that all Lots in Walnut Springs Mountain Reserve shall be and are hereby subject to covenants, conditions, restrictions, reservations, and easements, which shall apply to all, said Lots, more particularly described as follows:

- (1) Said Lots shall be used for residential and recreational purposes; no business, commercial or professional enterprise, which regularly attracts customers, patrons, or clients to the residence, shall be permitted or conducted thereon, except as specified specially and approved by Mounatin America, LLC for Walnut Springs Mounatin Reserve Properties and developments.
- (2) Prior to the occupation of any residence situated on said Lot, the Lot Owner shall, at his/her expense, tap in the city water source brought to the lot by declaring, or if city water is not available then drill a well and approved by the appropriate County Health Department. The lot owner shall install an approved septic tank and drainage field or sewage disposal system. All toilets, septic tanks, sewage and waste disposal systems constructed on said Lot shall conform to the rules and regulations of the County Health Department; further, activities or use of said Lot shall not pollute or cause waste to any spring, drain, or stream situate within Walnut Springs Mountain Reserve.
- (3) No house trailers, trucks, buses, dilapidated cars, or unsightly vehicles of any type or description may be stored, used for buildings, left or abandoned on said Lot. Upon prior approval by the Design Review Board, exceptions will be allowed for the temporary use of a storage trailer during the construction of any buildings.
- (4) No mobile home, house or travel trailer, camper unit, tent, basement residence, garage, Stall or other outbuildings shall be used on any Lot at any time as a residence.
- (5) Each Lot Owner shall provide receptacles for trash and garbage in an area not visible from the main access Road. Each Lot owner shall be responsible for the removal of trash to the county landfill or use of a contracted service.
- (6) Other than household pets, no livestock, sheep, swine or poultry shall be kept or raised on said Lot, provided, however, pets, may be maintained if proper fencing or other suitable constraints are installed and approved in advance by the Design Review Board and such animals do not violate the provisions of the following section. No vicious or uncontrollable pets are allowed. Pit bulls and King-Corso must have proof of being neutered prior to 9 month old to be allowed within the development at any time. No kennels, boarding or Breeding of animals or pets allowed.

DEED BOOK 240

- (7) No obnoxious or offensive use shall be made of said Lot, nor shall any offensive trade or activity be carried on upon said Lot, nor shall any activity of any nature whatsoever be conducted thereon, which may constitute a nuisance. Except as specifically performed or authorized by the Declarant, No construction, mowing, maintenance or operating of equipment or noisy equipment may take place from 2PM Saturday through to 6:30 am Monday, or on Legal Holidays, unless an emergency maintenance, repair or situation. All construction during the rest of the time may be for 6:30 am to 6:30 PM Monday- Friday and 8am to 2 pm Saturday, if non-offense or non loud activities, loud activity such as exterior equipment [saws, drilling, excavating, mowing, hammering, etc] is to be within 7 am to 5 pm Monday through Friday only.
- (8) In general, no satellite dishes larger than 18" in diameter are allowed, unless otherwise approved by the Design Review Board. The Design Review Board must approve placement of satellite dishes and television receiving devices. No radio towers are permitted.
- (9) All utilities will be brought in from the main transmission lines as installed by the Power Company to the individual homes.
- (10) No Lot Owner may restrict, block, or re-channel any natural drainage within the bounds of his/her Lot unless such action has been reviewed and approved by the Design Review Board.
- (11) No signs of any kind may be displayed for public view on any Lot except that one professional sign of not more than five square feet advertising the property for sale or rent, or such other signs as may be used by the Declarant to advertise the property during the construction and sales period shall be permitted. Lot ownership signs may be erected only after prior approval from the Design Review Board.
- (12) No fuel tanks or similar storage receptacles may be maintained on any Lot so as to be visible to the public.
- (14) No motorized trail bikes, mini-bikes, or similar all-terrain vehicles or snowmobiles shall be permitted to be driven upon the easements or common areas in Walnut Springs Mountain Reserve.
- (14) No trees with a butt diameter of ten (10) inches or more measured one foot above the ground may be cut down without permission of the Design Review Board unless said tree is within ten (10) feet of the residence or other approved building. Any tree that dies from natural causes may be removed with permission from the Design Review Board.
- (15) The Roads as shown on the aforementioned plat of Walnut Springs Mountain Reserve are private Roads and provide the sole means of access to and from the Lots shown on the plat. Each Lot Owner, as evidenced by their acceptance of the deed to their respective Lots, acknowledges that the Roads are private and the portion of any Road that might cross their respective Lots shall remain unobstructed at all times and shall be subject to the rights of other Lot Owners in Walnut Springs Mountain Reserve to use the portion of their Lots within the bounds of said private right-of-way. These Roads shall be available for the developer and community at all times. Each Lot Owner acknowledges that it is in their best interest that all Roads be maintained in a good and passable condition at all times and that they agree to share equally in the cost of maintaining said Roads regardless of the size or location of their Lot, or the distance traveled over said Roads to provide access to their respective Lots.
- (16) Each Lot Owner shall be responsible for maintaining his/her Lot, Facilities and Buildings in a working, tidy and well-kept manner and as not negatively effect any other lot owner within the development. All Lots shall be kept clean and free of garbage, junk, debris, non-operating vehicles, or any substance that might contribute to a health hazard or in significantly detracting from the aesthetics of Walnut Springs Mountain Reserve. Failure to maintain any Lot, residence, outbuildings, facilities, or fences, in a good state of repair will entitle the Design Review Board, after fourteen (14) days written notice to the Lot Owner, to have the necessary services or repairs conducted at the expense of the Lot Owner, which charge shall be levied against the Lot Owner and shall constitute a lien against his/her property until paid. Neither the Design Review Board, nor any of its agents, employees, or contractors shall be liable for any damage, which may result from any maintenance work performed under this provision except in the case of gross negligence.

ARTICLE IV

HOMEOWNERS ASSOCIATION

Upon the sale of 75% of the total Lots within Walnut Springs Mountain Reserve, or at any time prior thereto at the discretion of the Declarant, all rights and responsibilities contained and reserved in this Declaration will be delegated to a Homeowners' Association (the "Association"), to be formed as provided herein.

- (1) The Association shall be a non-profit corporation formed under the corporation laws of the State of West Virginia and shall be composed of the Declarant and the Owners of the Lots within Walnut Springs Mountain Reserve. Every person or entity who is a record Owner of any Lot in Walnut Springs Mountain Reserve by accepting delivery of a deed or deeds to said Lot accepts membership in the Association and shall be a Member thereof and shall be entitled

to one vote for each Lot owned. Where more than one person or entity owns any Lot, then such Owners shall collectively be considered a Member, and entitled to only one vote for the Lot.

- (2) The Roadways, right-of-ways, common areas, entrance areas are to be conveyed to the Association per Article V, Section 3, and/or per the declarant discretion such areas may be deeded back to the federal, and/or state, and/or local government for use of the Walnut Springs Mountain Reserve Community.
- (3) The Association shall maintain the rights-of-way, and common amenities & facilities, within Walnut Springs Mountain Reserve, and shall assess each lot owner on a pro rata basis, the amount necessary for the maintenance and any improvements to the Roads, with said assessment not to exceed \$500.00 per Lot annually, or as adjusted by a vote of at least 66 2/3% of the Members of the Association. Assessments may also be used for the payment of taxes, insurance, and expenses for utilities on any of the common areas, and repair, replacement, and additions thereto, and for the cost of labor, equipment, materials, management, and supervision thereof, and such other purposes as may be set forth in the Articles of Incorporation and by-laws of the Association.
- (4) The annual assessments provided for herein shall be on a calendar year basis, due and payable by the first business day in January annually. New owners purchasing Lots from the Declarant will be responsible for payment at closing of the assessment prorated to the end of the year in which the purchase is made.
- (5) If an assessment is not paid on the date when due as provided for in Section 4 of this article, such assessment shall become delinquent and shall, together with such interest thereon and cost of collection thereof as hereinafter provided, become a continuing lien on the Lot of the then Owner, his or her heirs, devisees, personal representatives and assigns. If the assessment is not paid within thirty (30) days after the delinquency date, the assessment shall bear interest from the date of delinquency at the highest legal rate. The Association or any Owner may bring action at law against the Owner personally obligated to pay the same, and there shall be added to the amount of such assessment the costs of preparing and filing the complaint in such action, and in the event a judgment is obtained, cash judgment shall include interest on the assessment as above provided and a reasonable attorney fee to be fixed by the Court together with the costs of the action.
- (6) Any Lot that may be repossessed by the Declarant with back assessments owed will become exempt from payment of those unpaid assessments and said Lot shall be exempt from current Association assessments until a new owner of record is established for the Lot.

ARTICLE V

PROPERTY RIGHTS AND PERMITTED USES OF THE COMMON PROPERTIES

- (2) Every Member of the Association, including the Declarant, shall have a right and easement of enjoyment in and to the Roads and other common areas in Walnut Springs Mountain Reserve. This right and easement shall be appurtenant to and shall pass with the title to every Lot, provided, however, that the Declarant, its members and assigns, shall enjoy said easements and rights of use and enjoyment perpetually, regardless of whether the Declarant owns any Lots, and shall include a minimum forty foot wide (60) easement for the utilities, private Roadways, walkways, bridle paths or trails [and any combination of these], that provide utilities, access & egress to the lots and community and common areas in Walnut Springs Mountain Reserve, the entrance area at the state Road as well as any easements, Roads or access in existence now or created by Declarant.
- (2) Declarant or its assigns reserves an easement to maintain a sales office in Walnut Springs Mountain Reserve and to erect sales signs in locations chosen by Declarant or its assigns. An easement to complete construction of all facilities and utilities in Walnut Springs Mountain Reserve is also reserved by Declarant and is assignable at Declarant discretion. Declarant may permit the use of the Roads and other common areas by purchasers of Lots or potential purchasers of Lots at Declarant discretion.
- (3) Declarant shall deed the Roads, entrances, and all common areas as shown on the aforementioned plat to the Association, subject to the Declarant rights to construct improvements thereon and further subject to the common easements set forth in Section (1) hereof. This dedication shall not inhibit convenient use of the Property Roadways or common areas by any person or entity entitled to use the same hereby. Such dedication shall occur at such time in the future, as Declarant deems appropriate in its sole discretion. Declarant may at its discretion deed the common areas instead to the federal government for use as and under common land for the community of Walnut Springs Mountain Reserve.

DEED BOOK 240

- (4) The Declarant expressly reserves unto itself, its assigns, owners and affiliates, without the payment of any consideration, the right to use the Roads and utilities constructed and installed in Walnut Springs Mountain Reserve together with the right to use all easements within Walnut Springs Mountain Reserve, for the development of other properties adjoining, adjacent to, or in the vicinity of Walnut Springs Mountain Reserve so long as such development is complimentary to and consistent with Walnut Springs Mountain Reserve.
- (5) Each lot shall maintain a minimum 30 ft easement around its entire boundary for the access and use of utilities for by the declarant for the development and or the said lot.
- (5) All common areas are provided for the private use and enjoyment of the Members of the Association and their guests. The maintenance of the areas, any improvements located or constructed thereon, and rules for their use shall be the responsibility of the Association.

CASSTO & HARRIS, INC., SPENCER, WV RE-ORDER No. 14997B-04

ARTICLE VI

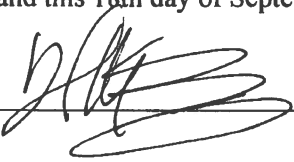
UTILITY AND ROADWAY EASEMENTS

- The Declarant reserves unto itself; it successors and assigns, including the Association, the following easements upon, over, through, and under the properties of Walnut Springs Mountain Reserve, together with the right of ingress and egress, to the extent reasonably necessary to exercise such easements:
- (1) An easement for the construction, maintenance, upkeep, and repair of all Roadways, and any associated rights-of-way.
 - (2) An easement to construct, install, erect, operate, maintain, and remove all utility poles, conduits, cables, pipes, transformers, lines, and other equipment necessary :for electrical, television cable, and/or telephone service to the Walnut Springs Mountain Reserve, including, but not limited to the ancillary right to cut, trim, or remove trees, shrubs, or plantings wherever necessary.
 - (3) An easement for non-exclusive, perpetual access of ingress across all private Roads, access Roads, to and from all Lots, common areas, and all improvements and undeveloped lands belonging to Declarant.
 - (4) An easement for the purpose of cutting, filling, draining, and maintenance of any common area and drainage courses for Roadways, trails, and/or the entrance areas. ARTICLE VII MISCELLANEOUS
 - (1) All covenants, conditions, restrictions, reservations, and easements set forth in this declaration shall run with the land and be binding on all parties and persons claiming under them for a period often (10) years from the date that this declaration is 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 Lot Owners is recorded in the County Clerks office agreeing to change, amend, modify, or terminate the restriction in whole or in part.

Until the transfer of the rights to the Association, pursuant to Article IV, Declarant reserves the right to modify, revoke, alter or amend these covenants, conditions, restrictions, reservations, and easements at any time and to whatever extent it deems necessary. Declarant shall not amend any provision of this Declaration in a way that would adversely affect property values in Walnut Springs Mountain Reserve.

(3) The invalidation by any Court of any covenant, condition, restriction, reservation, or easement, or any part thereof in this Declaration, shall in no way affect may of the remaining ones or parts thereof, and they shall remain in full force and effect.

IN WITNESS WHEREOF, the Declarant does hereby set his hand this 18th day of September, 2004.

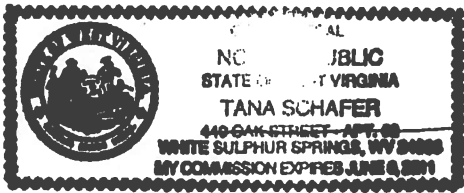


STATE OF WEST VIRGINIA
COUNTY OF Greenbrier

The foregoing instrument was acknowledged before me this 18th day of September, 2004.

My commission expires: June 6, 2011


Notary Public



27 Forren Lane