

210 Post Oak Road
Leicester, NC

BK 2004 PG 517

Prepared by and return to: Marc Rudow of Roberts & Stevens, P.A., Post Office Box
7647, Asheville, NC 28802

STATE OF NORTH CAROLINA

COUNTY OF BUNCOMBE

PROTECTIVE COVENANTS

REGISTERED

THESE PROTECTIVE COVENANTS, made this 14th day of January, 1998, by
and between GAY S. SNELSON and BETTY A. SNELSON, husband and wife, their heirs,
successors, and assigns (hereinafter referred to as "Developer"); and PROSPECTIVE
PURCHASERS of lots in Poplar Hills, (hereinafter referred to as "Owners");

WITNESSETH:

WHEREAS, Developer is the owner of all of that tract of real property located in
Leicester Township, Buncombe County, North Carolina, and being more particularly
shown and described on that certain plat entitled POPLAR HILLS (hereinafter referred to
as the "Subdivision") as recorded in Plat Book 68 at Page 87 in the Office of the Register
of Deeds of Buncombe County, North Carolina, reference to said plat being hereby
specifically made; and,

WHEREAS, Developer proposes to sell and convey certain lots shown on the
aforesaid plat to be used for residential purposes and to develop said lots into a well
planned community; and,

WHEREAS, Developer, prior to selling and conveying the aforesaid residential
lots, desires to impose upon such lots certain mutual and beneficial restrictions,
covenants and conditions and charges (hereinafter collectively referred to as "Protective
Covenants") for the benefit and complement of all of the residential lots in the
subdivision in order to promote the best interests and protect the investments of
Developer and Owners;

NOW, THEREFORE, Developer hereby declares that all numbered lots shown on
the aforesaid plat entitled POPLAR HILLS recorded in Plat Book 68 at Page 87 in the
Office of the Register of Deeds of Buncombe County, North Carolina (hereinafter "Lots"),
are held and shall be held, conveyed, encumbered, leased, rented, used, occupied and
improved subject to these Protective Covenants. These Protective Covenants shall run
with the land and shall be binding on all parties having or acquiring any right, title or
interest in and to the real property or any part or parts thereof described herein.

1. Land Use and Building Type. All of the Lots in the Subdivision shall be
used solely for the development of one detached single-family residence and shall not be
used for any other purpose. Except as hereinafter provided for Lot Nos. 1, 2, 3, 6, 16 &
19, in the case of a one-story residence, the main floor shall contain not less than 1,600

R&S:19380-1

001384

square feet of heated, finished living area. In the case of a one and one-half or two-story building, the dwelling shall contain not less than 1,800 square feet of heated, finished living area. For Lot Nos. 1, 2, 3, 6, 16 & 19, the main floor of a one-story residence shall contain not less than 1,400 square feet of heated living area, and the dwelling in the case of a one and one-half or two story building shall contain not less than 1,600 square feet of heated finished living area. Dwellings of more than one story shall have a minimum of 1,000 square feet on the main floor. For the purpose of this covenant, split-level and split-foyer homes shall be considered one and one-half story residences. Finished living space excludes basements, porches, breezeways, garages, patios and greenhouses.

2. Setback Lines. No dwelling, porch, carport, garage or permitted outbuilding shall be erected or located nearer than twenty (20) feet from any road right of way or nearer than fifteen (15) feet from any side, rear or interior lot line as shown on the Subdivision plat. Notwithstanding the foregoing, Developer shall have the absolute discretion to grant such building set-back variances as he deems to be either in the best interest of the Subdivision or to not be injurious to it.

An Owner of a Lot and a portion of all or an adjoining and contiguous Lot or Lots may construct a dwelling and/or other structures permitted hereunder upon and across the dividing line of such adjoining and contiguous Lots, all such structures to comply with the minimum building setback lines from the actual boundary lines of the subject Owner's property, and thereafter such combinations of Lots or portions thereof shall be treated for all purposes under these Protective Covenants as a single Lot.

3. Commercial Use Prohibited. No Owner shall erect, license or suffer to be erected or maintained in the Subdivision, or any part thereof, any commercial, business, or trade venture, manufacturing establishment, factory, apartment house, multi-unit dwelling or house or building to be used for a sanitorium or hospital of any kind, or at any time, use or suffer to be used, any house or building erected thereon for any such purpose. No office serving the public, no day care center, bed and breakfast, or group home may be maintained within the Subdivision. No commune or similar type living arrangements shall exist anywhere in the Subdivision.

4. Temporary Structures. No trailer, mobile home, modular home, motor home, camper truck, travel trailer or other vehicle or non-site-built structure or any tent, garage, shack, basement, barn, or other outbuilding shall at any time be used as a residence, temporarily or permanently, nor shall any residence of a temporary character be permitted. No guest house, garage, carport, or other building, except as approved by Developer, shall be constructed on any Lot until after construction of the dwelling house on the same Lot is completed or simultaneously therewith.

5. Use of Building Materials. The exterior finish of all houses, outbuildings or other structures must be approved by Developer, and Owner must complete such finish

before occupancy. All exposed foundation walls and chimneys shall be covered with brick or rock or stucco materials as required by Developer. No building or retaining wall may have any exposed concrete block.

No home located in Poplar Hills shall be covered with metal roofing. All homes and/or other buildings shall be completed within one year from commencement of construction. All buildings and specifications therefor shall be in accordance with those approved by Developer. No metal utility and/or outbuildings shall be allowed on any lot unless same is approved by Developer.

No fence shall be erected on any Lot until the size, location and materials thereof are approved by Developer in writing. Barbed wire, chicken wire or any similar metal fencing shall not be permitted on any Lot.

All buildings must meet all applicable building codes.

6. Hunting. Hunting of wildlife shall not be permitted within the boundaries of the Subdivision. Firearms, explosives and/or arrows shall not be shot or discharged within the Subdivision.

7. Vehicular Use. No vehicle requiring its operator to have an operator's license under the laws of the State of North Carolina shall be operated upon the roads located within the Subdivision unless such operator has a valid operator's license. Noisy vehicles of any kind, such as unmuffled trail bikes, automobiles or motorcycles, shall not be used anywhere within the Subdivision.

Unless licensed and maintained in an operable condition, no vehicle, whether self-propelled or not, shall be permitted to remain on or be stored on any Lot unless it is enclosed within a building or garage. No vehicle, whether self-propelled or not, shall be parked upon any Lot in such a manner so as to constitute a nuisance to other Owners. The making of vehicle repairs outside of an enclosed garage and/or leaving an inoperable vehicle exposed on a Lot shall constitute a nuisance.

Each Owner shall provide off street space for parking the number of licensed and operable vehicles regularly owned or used by Owner and other Lot occupiers. Parking on the street of the Subdivision will not be permitted except during those infrequent times when normal parking facilities on the Lot will not accommodate all the vehicles owned by persons visiting said Owner.

8. Signage. No billboard, outdoor advertising, display, or other sign shall be constructed, erected, used or placed on any Lot other than one professional quality sign of not more than four square feet in area, advertising such Lots, or improvement thereon, for sale, lease or rent.

9. Drainage. All natural drainage channels shall remain open and no diversion of natural drainage shall be allowed where such diversion will affect any adjacent lot.

Each driveway connected to a private drive or roadway shall have a 15-inch culvert installed at the point of intersection of such driveway with the drive or roadway. Developer reserves the right to require a larger culvert to be installed at the Owner's expense, when the same is necessary for proper drainage. All culverts shall be corrugated, galvanized and a minimum of twenty (20) feet in length.

Developer shall have the right to control surface water wherever and whenever such action may appear to Developer to be necessary in order to maintain proper drainage and reasonable standards of health, safety and appearance.

10. Satellites Dishes and Antennas. Television satellite dishes with a maximum diameter of 36" will be allowed. No outside radio, television or cellular towers will be allowed.

11. Tanks. Any tank for the storage of gas, oil, or any other liquid shall be buried underground.

12. Garbage and Refuse Disposal. All refuse, rubbish, trash, garbage or waste shall be kept, disposed of or removed in a sanitary manner. All household refuse and rubbish, trash, garbage or waste shall be kept in closed containers, shielded from view, until collected by the proper public authority for such disposal. Refuse, rubbish, trash, garbage or waste shall not be permitted to remain exposed on a Lot.

13. Animals. Subject to limitations as may from time to time be set by the Developer or the Homeowner's Association if and when created, generally recognized house or yard pets in reasonable numbers may be kept and maintained at an Owner's residence, provided such animals and pets are not kept and maintained for commercial purposes. All pets must be kept under the control of their Owner when on the outside of the Owner's premises and must not become a nuisance to other Owners at any time.

14. Nuisance. All improvements shall be maintained in such a manner that they do not become unsightly, in disrepair, unsanitary, or a hazard. No noxious, obnoxious, noisy, unsightly, or otherwise offensive objects or activities, specifically including, but not limited to, vehicle repairs outside of an enclosed garage, dogs, barking on a regular basis audible on other Lots, other noise making animals or pets, shall be permitted in the Subdivision; nor shall any condition be permitted to remain that is an unreasonable annoyance or nuisance to other Owners. Further, no substance, thing, or material shall be kept upon any property within the Subdivision that will emit foul or obnoxious odors or will cause any noise that will or might unreasonably disturb the peace, quiet, and comfort of any Lot Owner. Developer reserves the right to enter upon

any Lot for the purpose of abating a nuisance or breach hereof.

15. Trees and Shrubbery. No trees shall be cut, topped, pruned or otherwise altered from their natural state other than those removed to clear the site necessary to construct an approved single family residence (not more than 20 feet from any side of a house and not more than 10 feet from the side of the driveway). Notwithstanding the foregoing, Developer shall have the absolute discretion to allow such additional cutting, topping, pruning, etc., as he deems to be either in the best interest of the Subdivision or to not be injurious to it. Any approval of specific pruning and topping rights must be approved by Developer in writing and signed by Developer. Trees within the Subdivision must be protected from damage or destruction by pets maintained by any Owner. In addition to the foregoing limitations on tree cutting, topping and pruning, no Lot shall be clear-cut of more than fifty percent (50%) of the standing trees which are at least six inches in diameter, with the exception of the driveways and foundation for the residential building and/or outbuilding. Exceptions may be made by the Developer

Grass and weeds (including all growth under and around fence lines) are to be trimmed down on all lots in order to prevent an unsightly and unsanitary condition. This obligation shall apply to the area of the lot shown on the Plat and that area within the right of way of the roadway adjoining such Lot, which obligation is that of the Owner of the Lot in question and it is to be done at his expense. In case of violation of this covenant, the Developer or the Homeowners' Association may, after written notice to the Owner of such Lot which fails to comply with this covenant, perform necessary mowing or clearing of such Lot and assess the Owner of such Lot the cost incurred, which assessment shall constitute a lien against the Lot.

16. Architectural Review. No residence, structures or other improvements or portions thereof shall be constructed, placed or erected on any Lot until the plans and specifications therefor shall have been submitted to Developer and approved by him in writing. Developer shall have the absolute discretion to disapprove the size, elevation, placement, style, specification, materials or other qualities of the proposed building for any reason or no reason. Should Developer fail to approve or disapprove such plans and specifications within sixty (60) days after their receipt of same, the plans shall be deemed approved.

17. Electrical Distribution Contracts. Electric power, telephone and cable television services to all structures on all Lots must be by underground cable or wires from the utility company's main underground cables or lines to said structures. The Developer reserves the right to subject the Subdivision to a contract with Carolina Power & Light or other electric utility companies servicing properties within the Subdivision for the installation of underground electric cables and/or the installation of street lighting, either or both of which may require an initial assessment and/or a continuing monthly payment to said electric utility companies by the Owner of each Lot. All Owners shall promptly pay such assessments and monthly charges.

Developer reserves all those easements shown on the Plat for the installation and maintenance of appropriate utilities and for drainage purposes. The easement reserved herein shall entitle Developer to convey easements to utility companies or appropriate government authorities or agencies.

18. Homeowners Association. Developer reserves the right, but not the obligation, to create an incorporated or unincorporated Homeowners' Association to which all Owners shall automatically be a member. The rules, bylaws, etc. of the Association shall be formulated by Developer in conformity herewith. Upon creation of the Association, Developer may transfer to the Association all functions and rights of approval as set forth herein. All Owners shall automatically be members of the Homeowners' Association from and after its establishment by Developer. The Association from and after its establishment shall conduct annual meetings and such other meetings as may be necessary to assure the proper maintenance of said roadways. Ownership of a Lot shall carry with it one vote in the Association with each of the numbered Lots as shown on the Plat having one vote. All decisions of the Association shall be by majority vote.

19. Driveways and Roads. Developer will pave roads shown on the Plat at his initial expense. The paving shall be completed on or before August 31, 1998, barring any unforeseen circumstances beyond Developer's control. Said roads are presently private, but Developer reserves the right, without the joinder of Owners to declare said roads and any other roads subsequently located within the Subdivision to be public and to dedicate or grant the same to the North Carolina Department of Transportation.

All driveways connecting to the Subdivision streets shall have a minimum width of at least ten (10') of either asphalt, concrete or other hard surface pavement for a distance of at least 50 feet into the building lot from where it connects to the street to prevent the washing of loose stone, gravel, or dirt onto the street on which the lot abuts within four (4) months of completion of the house. Individual lot owners shall be responsible for ensuring that Subdivision streets abutting their lots remain free of gravel, dirt and other debris during periods of construction on the lot. Any damage done to Subdivision roadways during periods of home construction either by Owners themselves, agent, contractors, servants or employees shall be the responsibility of the individual Owners causing the said damage. Owners agree to immediately tender such funds as may be necessary to repair this damage to either the Developer or the Homeowners' Association when requested to do so.

No Lot Owner, other than Developer in accordance with the procedure outlined herein, may grant, sell or convey an easement, license or right of way for road purposes across any portion of the Subdivision or subdivision road, or subdivide a Lot. Developer, however, retains the right to use the reserved rights of way as shown on said plat between Lots 15 and 16 and Lots 12 and 13 as well as all other roads shown on the above referenced plat for access to additional property acquired by or currently owned

by Developer for the development of additional phases of Poplar Hills in Developer's sole discretion. Any additional properties using said reserved rights of way for ingress and egress and the roads shown on the above referenced plat for Poplar Hills shall also be obligated to pay a pro-rata share for maintenance of the roads as shown on a plat of Poplar Hills Subdivision recorded in Plat Book 68 at Page 87, Buncombe County Registry, in accordance with road maintenance provisions substantially similar to the Road Maintenance Agreement executed the 14th day of January, 1998 by Gay S. and Betty A. Snelson as Developers of Poplar Hills Subdivision and recorded in the Buncombe County Registry.

20. Sewage Disposal. No individual sewage disposal system shall be permitted on any lot unless such system is designed in accordance with the requirements, standards, and recommendations of the Buncombe County Health Department. Approval of such systems as installed shall be obtained from such authority.

21. Right of First Refusal. Developer shall have at all times hereafter the right of first refusal as outlined herein to repurchase any Lot which is not improved with a residence. No conveyance of an unimproved Lot by someone other than Developer shall be valid as against Developer unless the Deed for the same is accompanied by a written document in recordable form executed by Developer waiving the right of first refusal.

If Owner shall elect to sell any unimproved lot and shall receive a bona fide offer for the purchase of said Lot and determine that it wishes to accept said offer, then Owner shall notify Developer in writing of said offer, the terms thereof, and its intent to accept said offer. Developer shall then have the right to purchase said property from Owner upon the same terms and conditions of said bona fide Offer to Purchase of which Developer has been notified. Developer shall execute the right herein granted by giving notice in writing to Owner and tendering to Owner an Offer to Purchase said property upon the same terms and conditions of which Developer has been notified, fully executed by Developer and accompanied by such earnest money deposit as may be required by the terms of said offer, on or before the expiration of twenty (20) calendar days from the date upon which Owner shall deposit the aforesaid written notice to Developer in the United States mail addressed to Developer at the address hereinafter set forth. If Developer shall not so elect to exercise its right of first refusal within said period of twenty (20) days, Owner may then sell such unimproved property as is described in offer to the said Offeror, provided that the sale to the Offeror is on the same terms and conditions and for the same purchase price set forth in the proposed offer sent to Developer. If Developer elects not to purchase such property as is described in the said offer, Developer agrees to execute a document in recordable form prepared by and recorded at the expense of Owner, to reflect such election not to exercise the right of first refusal granted herein with respect to the offer. In the event the property is not sold to the Offeror, then any further offers to sell or purchase the property or any part thereof by the same or a different Offeror must be submitted to Developer in accordance with

this Agreement.

Notice of bona fide offer and intent to sell by Owner shall be deemed to have been given to Developer upon receipt of this same in the United States mail and addressed to Developer as follows: Gay and Betty Snelson, 1405 New Leicester Highway, Asheville, NC 28806. Notice of written intent to exercise the right granted herein and tender of an executed offer and earnest money by Developer shall be deemed to have been given to Owner upon actual receipt of the notice, offer, and earnest money by Owner and shall be addressed to Owner at an address designated in Owner's initial notification to Developer.

The terms of this Right of First Refusal shall be binding upon the Owners, their heirs, successors and assigns, but in no event shall the term of the Right of First Refusal exceed the lifetime of the survivor of Gay S. Snelson and Bruce Snelson plus a period of twenty-one (21) years.

22. Variations. Developer in its discretion may allow reasonable variations and adjustments of these Protective Covenants by written instrument in order to alleviate practical difficulties and hardship in their enforcement and operation. Any such variations shall not violate the spirit or the Intent of this Covenant to create a regulated Subdivision.

23. Time. These Protective Covenants are to be covenants and restrictions running with the land and shall be binding upon all Owners, whether the same are purchasers or otherwise receive an interest in the Subdivision, their heirs, assigns, and successors in interest, and all parties, firms and corporations, claiming by, through or under them until December 31, 2020, at which time said Covenants shall be automatically extended for successive terms of ten (10) years each, unless modified or deleted by a majority vote of the then Owners. Except as otherwise reserved herein, these Protective Covenants may, however, be modified or deleted in whole or in part at any time by a properly recorded and executed instrument signed by the written declaration of the holders of seventy-five (75%) percent of the Poplar Hills Subdivision votes as set forth below.

24. Enforcement. If any Owner shall violate, or attempt to violate, any of the Protective Covenants herein, it shall be lawful for Developer or for any other Owner to prosecute any proceeding at law or in equity against the person or persons violating or attempting to violate any such Protective Covenants, and to either enjoin such breach and/or to recover damages for such violation, including reasonable attorney's fees incurred in prosecuting said action.

25. Severability. Invalidation of any of these Protective Covenants by judgment or Court order shall in no way affect any of the other provisions which shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned have set their hands and seals as of the day and year first above written.

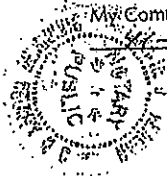
Gay S. Snelson (SEAL)
Gay S. Snelson

Betty A. Snelson (SEAL)
Betty A. Snelson

NORTH CAROLINA
COUNTY OF BUNCOMBE

I, a Notary Public of the County and State aforesaid, certify that Gay S. Snelson and Betty A. Snelson, personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my hand and official stamp or seal, this 14th day of January, 1998.

My Commission Expires: 11-3-98



Connie J. Reagan
Notary Public

State of North Carolina, County of Buncombe

Each of the foregoing certificates, namely of

Connie J. Reagan

a notary or Notaries public of the State and County designated is hereby certified to be correct.

Filed for registration on this the 31 day of January, 19 98 at 3:11 P. M.

Otto W. DeBruhl
OTTO W. DeBRUHL
Register of Deeds, Buncombe County

Sharon C. Taylor
By: Asst./Deputy/Registrator of Deeds

Prepared by and return to: Marc Rudow of ROBERTS & STEVENS, P.A., Post Office Box 7647, Asheville, NC 28802

STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

ROAD MAINTENANCE AGREEMENT

THIS AGREEMENT, made and entered into this 14th day of January, 1997 among the undersigned owners of property within the Poplar Hills Subdivision, as shown on a Plat recorded in Plat Book 68 at Page 87, Buncombe County, North Carolina Registry.

WITNESSETH:

WHEREAS, the undersigned desire to provide for maintenance and upkeep of those certain road rights of way shown on the aforesaid Plat of Poplar Hills Subdivision;

NOW THEREFORE, in consideration of the mutual benefits to be derived from the joint maintenance of the road rights of way within the Poplar Hills Subdivision, as shown on the Plat of said subdivision recorded in Plat Book 68 at Page 87 of the Buncombe County Registry, and in further consideration of the sum of One (\$1.00) Dollar, each to the other in hand paid, the receipt of which is hereby acknowledged, the undersigned for themselves, their successors in interest, heirs or assigns, do hereby agree as follows:

1. That Gay S. Snelson and Betty A. Snelson, Developer of Poplar Hills Subdivision (hereinafter referred to as "Developer"), will pave the roadways within the rights of way shown on the aforesaid Plat with asphalt or a similar material of North Carolina Department of Transportation standards to the following widths:

- A. Post Oak Trail, Shadow View Drive and Cane Brook Drive will be paved to a width of eighteen (18) feet;
- B. Shady Places Lane and Hawkwood Lane will be paved to the width of sixteen (16) feet;

The aforesaid paving shall be completed on or before August 31, 1998, barring any unforeseen circumstances beyond Developer's control.

2. That Developer will pay the costs of maintenance of the roadways within Poplar Hills Subdivision until such time as Developer has sold 12 lots within the Subdivision.

3. That after Developer has sold the 12th lot within the Subdivision, the cost of maintenance of all roadways and rights of way within Poplar Hills Subdivision shall be borne equally among property owners of Lots 1 - 25 inclusive within Poplar Hills

Subdivision as shown in Plat Book 68 at Page 87 of the Buncombe County Registry (with each Lot bearing its pro-rata share).

4. It is further agreed that if Developer should cause a homeowner's association to be established pursuant to the Protective Covenants for Poplar Hills Subdivision recorded in Deed Book 1004 at Page 517 of the Buncombe County Registry, all property owners of Lots 1 - 25 of the Poplar Hills Subdivision shall be members of the homeowner's association, and the homeowner's association shall undertake roadway maintenance within the Subdivision, and the cost of maintenance shall be included in the homeowner's association's dues and assessments, and the pro-rata share of roadway maintenance assessed shall serve as a lien against each property owner's lot as set forth in the aforesaid Protective Covenants.

IN WITNESS WHEREOF, we have hereunto set our hands and seals, this day and year first above written.

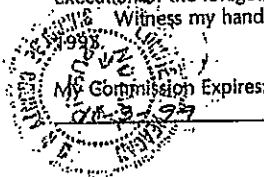
Gay S. Snelson (SEAL)
Gay S. Snelson

Betty A. Snelson (SEAL)
Betty A. Snelson

STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

I, a Notary Public of the County and State aforesaid, certify that Gay S. Snelson and Betty A. Snelson personally appeared before me this day and acknowledged the execution of the foregoing instrument.

Witness my hand and official stamp or seal, this 14 day of January



Connie J. Reagan
Notary Public

State of North Carolina, County of Buncombe
Each of the foregoing certifies, namely of

Connie J. Reagan

a notary or Notaries public of the State and County designated is hereby certified to be correct.

Filed for registration on this the 21 day of January, 19 98 at 3:20 P. M.

Otto W. DeBruhl

Judy R. Smith

OTTO W. DeBRUHL
Register of Deeds, Buncombe County

By: Judy R. Smith
Deputy Register of Deeds