

DEED 65J PG 831

STATE OF SOUTH CAROLINA)
) USE AND SHARING AGREEMENT
COUNTY OF SPARTANBURG)

THIS AGREEMENT is hereby entered between WILSON FERRY HOMEOWNERS' ASSOCIATION SECTION ONE (hereinafter referred to as the First Association) and WILSON FERRY HOMEOWNERS' ASSOCIATION SECTION TWO (hereinafter referred to as the Second Association) which Association is to be organized.

WHEREAS, the Declaration of Restrictions for Wilson Ferry Section One is recorded in the RMC Office for Spartanburg County in Deed Book 59A at Page 930 (hereinafter referred to as Wilson Ferry One); and

WHEREAS, the First Association is the entity created for the purpose of managing and operating Wilson Ferry One; and

WHEREAS, the Declaration of Restrictions for Wilson Ferry Section Two is recorded in the RMC Office for Spartanburg County in Deed Book 63 at Page 242 (hereinafter referred to as Wilson Ferry Two) which restrictions are to be amended in their entirety and recorded; and

WHEREAS, the Second Association is the entity created for the purpose of managing and operating Wilson Ferry Two; and

WHEREAS, recreational facilities, parking areas and roadways are located on the common elements of Wilson Ferry One, as described in Exhibit A attached hereto and made a part hereof by reference (hereinafter referred to as the Property), and are intended to be made available for use by members of both Associations; and

RECORDED
97 FEB - 6 PM 2:46
R.M.C.
SPARTANBURG, S.C.

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EXHIBIT A

ALL that parcel of land lying and being in Spartanburg County, State of South Carolina, being shown and described as the "Recreation Area" containing 2.26 acres as shown on Plat made for Wilson Ferry Subdivision, Section One, Plat Two, by Wolfe & Huskey, Inc., Surveyors/Engineers dated May 19, 1992 and recorded in RMC Office for Spartanburg County, South Carolina in Plat Book 117 at Page 301.

This being a portion of the property conveyed to the Wilson Ferry Homeowners Association, Inc. by deed of L.P. Pitts Development Corp. which deed was recorded in the RMC Office for Spartanburg County, South Carolina on January 29, 1996 in Deed Book 63-U at Page 107.

TMS 5-33-00-023.00

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WHEREAS, the parties have agreed to the sharing of expenses related to the Property, and the parties have agreed to share such expenses on a per lot basis, and in accordance with the provisions of this Agreement; and

WHEREAS, the Declarations do not provide for the common use of the Property by two or more Associations and do not specify the procedures for operating, budgeting and maintaining the Property, and the parties wish to provide for such common use and establish procedures that will be followed in the future.

NOW THEREFORE, that for and in consideration of the sum of Ten and no/100 (\$10.00) Dollars, paid each to the other, the receipt and sufficiency thereof is hereby acknowledged, the parties hereto agree as follows:

1. The recitals set forth above are true and correct and are incorporated herein by reference.
2. All of the members of both Associations, as well as their families, guests and invitees, shall have the right to use all of the Property and all facilities located thereon, subject to the terms of this Agreement and to the rules and regulations promulgated by the "Committee" (defined in paragraph 3 below). The First Association hereby grants to the members of the Second Association, their families, guests and invitees, a non-exclusive easement over all the common elements of Wilson Ferry One in order for them to exercise the rights granted herein. In addition, the Second Association hereby grants to the members of the First Association, their families, guests and invitees a non-exclusive easement over all the common elements of Wilson Ferry Two in order for them to exercise the rights granted herein.

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3. The First Association and the Second Association hereby agree to form a Facilities Committee (hereinafter referred to as the Committee). The purpose of the Committee will be to operate the facilities of the Property described on Exhibit A hereto, in accordance with the terms of the Agreement.

4. Each of the two Associations shall appoint three (3) persons to serve on the Committee. One Committee member from each Association must also be a member of the Board of Directors of such Association. Such persons shall serve at the pleasure of the Board of Directors appointing them, and such Boards may remove and/or replace the Committee members representing its Association at any time. Either Board can also determine that some or all of its representatives will be elected by the membership in its Association.

5. In connection with voting rights of the Committee members for any decisions to be made by the Committee, each Committee member shall have an equal vote on each issue. Each Committee member will have the right to vote as he or she chooses on any particular issue, and the votes of the Associations will therefore not be voted in a block.

6. Deadlocks between the Committee members from the First Association and the Committee members from the Second Association shall be resolved by the President of Wilson Ferry Phase One Homeowners Association who shall cast the deciding vote.

7. A quorum of the Committee shall consist of a minimum of two (2) persons from Wilson Ferry One and two (2) persons from Wilson Ferry Two. All decisions shall be decided by majority vote. Furthermore, in order to allow the Committee to move forward in the event that one of the Associations fails to appear, in the event that a quorum of Committee members from one Association is not present for two (2) consecutive meetings, despite proper notice

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having been given to the Committee members from such Association, then the Committee will be allowed to proceed with a vote so long as there is a quorum present on behalf of the other Association at the second meeting.

8. Notice of all meetings of the Committee shall be posted in conspicuous places on the Property as designated in writing by the respective Boards of Directors from time to time, at least forty-eight (48) hours in advance of the meeting except in the case of an emergency. Notice of the Committee meetings shall also be given to each of the members of the Committee personally, or by mail, or telephone, at least forty-eight (48) hours in advance of the meeting. In the event of mailed notice, any such notice shall be sent in a manner so that it is reasonably expected to be received at least forty-eight (48) hours prior to the time of the scheduled meeting.

9. Members of the First Association and the Second Association shall have the right to attend meetings of the Committee, and to participate in such meetings. The Committee shall determine its own rules and procedures, which may be adopted in the form of Bylaws, and the Committee will be authorized to elect officers or a Chairman and Vice Chairman to facilitate the operation of the Committee. Any such rules and Bylaws shall provide that a majority vote of the Committee members, in writing or at a meeting, may call for a special meeting of the Committee at any time they determine it is necessary or appropriate.

10. Since the Property is located on the common elements operated and managed by the First Association, the Second Association shall pay its share of the expenses pursuant to this Agreement directly to the First Association. All income and expenditure of funds shall be deposited into and paid out of the bank account of the First Association and shall be

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reported on the Federal and State Income tax returns of the First Association, and the Federal I.D. number of the First Association will be used in connection with accounts and transactions. Any taxes that are anticipated to be incurred in connection with the operation and management of the Property will be included as a line item in the budget for the operation of the Property.

11. Complete financial records are to be maintained with respect to the budget and operations of the Property, and all Committee members are to have convenient access to such records. Additionally, by majority vote of the members of the Committee, an audit or special review may be obtained with respect to any particular items that are in question.

12. The Committee will hold an annual budget meeting on the second Tuesday of September, or such other date as the Committee may deem to be advisable. At least fourteen (14) days in advance of the meetings, a copy of the proposed budget for the upcoming year and a notice of the meeting will be provided by mail or hand delivery to each member of the Committee, and to each of the lot owners of the subdivision. The Board of Directors of Wilson Ferry One shall have the authority to modify and approve the budget as approved by the Committee. The budget for the Property shall consist of two (2) components:

(a) Operating expenses. Such expenses include, but are not limited to, maintenance and repair costs, management fees, charges for landscaping, pool, parking lot and road maintenance, electricity, water, taxes and insurance and other items reasonably determined to be appropriate in the discretion of the Committee.

(b) Reserves. Reserves shall be established for any item anticipated to require in excess of \$400.00 for repair or replacement. Reserves shall be promulgated and included in the proposed budget each year. Reserves shall be funded as proposed, unless

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waived or reduced by a majority vote of the Committee at the final budget meeting of the Committee. While reserves will be budgeted according to the expected requirements for maintenance, repair and replacement of the individual items, the funds held in the reserve account will not be allocated toward these specific purposes and may be used as needed for repair and replacement of any items for which reserves have been budgeted and assessed.

13. In connection with any contract where the annual expense is anticipated to be in excess of \$1,000.00, the Committee shall in its judgment require multiple bids as it may deem appropriate with respect to such item, although the Committee will not be bound to enter a contract with the lowest bidder.

14. Each of the Associations shall be responsible for the collection of the annual dues. The Second Association shall deliver sixty eight percent (68%) of its total assessment of dues to the First Association for the purposes herein stated. The Second Association shall be required to fund its portion of the budget (as provided for by the Declaration of Restrictive Covenants referred to herein) regardless of whether individual lot owners are delinquent in the payment of assessments to the Association. Monies not paid within ten (10) days from the due date will bear interest at the rate of twelve percent (12%) per year.

15. A special one time assessment of Five Hundred and no/100 (\$500.00) Dollars (joining fee), and a Two Hundred Fifty and no/100 (\$250.00) Dollar (initiation fee) shall be paid by the builder within one month after each lot purchase.

16. In the event an unbudgeted expense in excess of \$1,000.00 appears to be required and the Committee determines that there are not sufficient funds available to pay for such expense, the Committee may amend the budget by following the same procedures as are

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required for the adoption of the annual budget. Upon an amendment to the budget by the Committee, each Board of Directors shall amend its budget by adopting a special assessment if needed in order to provide the additional funds required.

17. The amenities of the Property that the Committee will be responsible for operating are shown on Exhibit A, which is attached hereto and incorporated herein by reference. Management of the property is reserved for the Board of Wilson Ferry One. In addition, the parties recognize and agree that even though the Property is owned by the First Association, it is understood and agreed that in the event that the Committee determine that maintenance or repairs need to be done to any of the facilities or the buildings located on the Property, the Committee will have the ultimate right to determine whether and to what extent such maintenance and repair need to be undertaken. The cost of any such repairs shall be paid by the Committee from the annual budget collected from the Associations. The Committee shall in its judgment require multiple bids as it may deem appropriate with respect to such maintenance and repair items, although the Committee will not be bound to enter a contract with the lowest bidder. Any additional charges for repair or maintenance pursuant to this paragraph will be adopted by the Committee as an amendment to the budget for the Property.

18. The terms of this Agreement shall become effective upon the date of its full execution by the parties hereto, and following the approval of any amendment to the Declarations of Restrictions that is required. The Agreement will continue in full force and effect until such time as it is amended in whole or in part by majority vote of the Board of Directors in each Association, and not less than a majority of the members of both Associations who participate in person or by proxy in connection with any meeting of the

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membership to consider such an amendment. This Agreement shall automatically terminate upon the merger of the First Association and the Second Association. The parties agree to review any portions of the Agreement at any time, upon a request by a majority vote of the Committee, in order to determine whether any requested amendments are necessary or appropriate.

19. If this Agreement is terminated at any point in the future, any excess annual budgeted funds or obligations of the Committee will be equitably divided between the two Associations.

20. Except as expressly provided herein, this Agreement does not restrict, waive or replace any of the easement rights which are otherwise provided for in the respective Declarations of Restrictions.

21. In the event that either Association is required to take legal action to enforce the terms of this Agreement, after first providing the other party with reasonable notice under the circumstances, the prevailing Association shall be entitled to recover all costs and reasonable attorneys' fees incurred in connection with any action to enforce or implement the terms of this Agreement.

THIS DOCUMENT
MARGINAL
FOR IMAGING

DEED 65J PG 840

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG) PROBATE

PERSONALLY APPEARED before me the undersigned witness who, after being duly sworn, says that (s)he saw the within Declarant, seal, and as its act and deed deliver the within written Declaration of Covenants, Conditions, and Restrictions, and that (s)he, with the other two witnesses subscribed above, witnessed the execution thereof.

SWORN to before me this _____
day of December, 1996.

Notary Public for South Carolina
My commission expires:

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE) PROBATE

PERSONALLY APPEARED before me the undersigned witness who, after being duly sworn, says that (s)he saw the within Declarant, seal, and as its act and deed deliver the within written Use and Sharing Agreement, and that (s)he, with the other two witnesses subscribed above, witnessed the execution thereof.

SWORN to before me this 31st Melanie Peak
day of December, 1996.

[Signature]
Notary Public for South Carolina
My commission expires: 4/30/03

Received: 12/16/96; 8:17PM;
DEC 16 '96 17:15

=> PULTE OF SC ; #2

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P.2

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto
set its hands and seals this 30th day of December, 1996.

WITNESSES:

BOARD OF DIRECTORS, WILSON FERRY
HOMEOWNERS ASSOCIATION

Susan D. Rast ^{By} Neil F Wynn

Joseph H. Dawn
Laura M. Thompson ^{By} Michael C. [Signature]

Susan D. Rast
Jose B. Whem ^{By} Henry Wrenn

Susan D. Rast
Lizy [Signature] ^{By} E. Lewis Rast

Susan D. Rast

THIS DOCUMENT
MARGINAL
FOR IMAGING

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BOARD OF DIRECTORS, WILSON FERRY
TWO HOMEOWNERS ASSOCIATION

Melanie Beard

BY James W. Amos

Sarah Jane Whitchel

Melanie Beard

BY [Signature]

Sarah Jane Whitchel

Melanie Beard

BY [Signature]

Sarah Jane Whitchel

Melanie Beard

BY June B. Grogan

Sarah Jane Whitchel

Received: 12/16/96; 6:18PM;
DEC 16 '96 17:16

=> PULTE OF SC ; #3
DEED b5J PG 843

THIS DOCUMENT
MARGINAL
FOR IMAGING

STATE OF SOUTH CAROLINA)
) PROBATE
COUNTY OF SPARTANBURG)

PERSONALLY APPEARED before me the undersigned witness who, after being
duly sworn, says that (s)he saw the within Declarant, seal, and as its act and deed deliver the
within written Declaration of Covenants, Conditions, and Restrictions, and that (s)he, with the
other two witnesses subscribed above, witnessed the execution thereof.

SWORN to before me this 24th of December 1996
day of December, 1996.

[Signature]
SOL Susan D. Best

[Signature]

Notary Public for South Carolina
My commission expires: 1/12/2003

STATE OF SOUTH CAROLINA)
) PROBATE
COUNTY OF GREENVILLE)

PERSONALLY APPEARED before me the undersigned witness who, after being
duly sworn, says that (s)he saw the within Declarant, seal, and as its act and deed deliver the
within written Declaration of Covenants, Conditions, and Restrictions, and that (s)he, with the
other two witnesses subscribed above, witnessed the execution thereof.

SWORN to before me this _____
day of October, 1996.

Notary Public for South Carolina
My commission expires: