

BOOK 3484
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 Buncombe County, NC
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 Otto W. DeBruhl, Register of Deeds

AMENDMENT TO AGREEMENT

Prepared by / Return to: Clifford P. Parson, Patla, Straus, Robinson & Moore, P.A., Box 35

This Amendment to Agreement is made as of this 3rd day of December, 2003, by and between Butler Mountain Estates Property Owners Association, Inc., (the "Association") and all present and future purchasers and owners of property in Section I and II of Butler Mountain Estates (the "Subdivision").

Whereas, the Association and the owners of property in Section II of the Subdivision executed and recorded an Agreement in Buncombe County Deed Book 2378 at page 14 ("Agreement"); and

Whereas, the effect of the Agreement was to terminate all prior restrictive covenants which encumbered Section II and to subject the Section II property to the Section I restrictions, as recorded in Buncombe County Deed Book 1194 at page 440 (the "Restrictive Agreement"); and

Whereas, the Subdivision is therefore subject to the Restrictive Agreement, as amended; and

Whereas, Paragraph 1 of the Restrictive Agreement provides that the Restrictive Agreement may be modified in whole or in part with the consent of the owners of two-thirds of the land subject to the Restrictive Agreement; and

Whereas, the Restrictive Agreement has heretofore provided, in Paragraph 13 thereof, that "The keeping of horses shall be allowed provided same shall not interfere unreasonably with the general health and welfare of property owners so as to constitute a nuisance"; and

Whereas, the parties hereto now desire to prohibit horses and llamas within the Subdivision; and

Whereas, the restrictions encumbering Butler Mountain Highlands indicate that said property, which is accessed by the Subdivision roads, is subject to the road maintenance obligations set forth in the Restrictive Agreement; and

Whereas, because of extraordinary wear and tear on roadways caused by construction vehicles, the parties hereto desire to establish a pre-construction road impact fee for the users of the roads within the Subdivision who are not owners of land within the Subdivision, including those owners in Butler Mountain Highlands; and

Whereas, the parties hereto desire to amend the Restrictive Agreement for the above-stated purposes, which amendment will not disturb the basic scheme of development.

Now, Therefore, in consideration of the foregoing, the Restrictive Agreement is modified as follows:

1. The second sentence of Paragraph 13 of the Restrictive Agreement shall read, "The keeping of

horses or llamas shall not be allowed within the Subdivision."

2. Prior to the commencement of construction, the owners of property within Butler Mountain Highlands and the owners of any other property outside of the Subdivision who use Subdivision roads shall pay a minimum road impact fee of Two Thousand Dollars (\$2,000.00). The Board of Directors reserves the right to increase the fee based upon estimates of damages incurred during the course of construction.

3. In the event of any conflict between the provisions contained in the Restrictive Agreement and the provisions hereof, the provisions hereof shall control.

4. All portions of the Agreement not addressed or modified by this document shall be unmodified and remain in full force and effect. The provisions hereof shall inure to the benefit of and bind the Association, all owners of any part of the Subdivision and their heirs, successors and assigns.

THIS SIGNATURE PAGES OF THOSE SUBDIVISION OWNERS WHO VOTED ON THE ABOVE ISSUES
ARE ATTACHED HERETO.

In Witness Whereof, the undersigned has caused the due execution of the foregoing, as of the day and year above written.

Butler Mountain Estates Property Owners
Association, Inc.

By: Brenda J. Shoff
President

State of North Carolina - County of Buncombe

I, a Notary Public of said County and State, certify that Brenda J. Shoff personally came before me this 3rd day of December 2003, and acknowledged that she is the President of Butler Mountain Estates Property Owners Association, Inc., a corporation, and that she, as President, being authorized to do so, executed the foregoing on behalf of the corporation.

My commission expires: 10/11/07

Clifford P. Parson
Notary Public



State of North Carolina, County of Buncombe

Each of the foregoing certificates of

Clifford P. Parson

is hereby certified to be correct. Filed for registration on this the

5th day of December 2003

Otto W. DeBruhl, Register of Deeds By: Deputy