

**Declaration of Protective and Restrictive Covenants
and Conveyance and Reservation of Rights for
Nacoochee Hills**

DECLARATION OF PROTECTIVE AND RESTRICTIVE COVENANTS AND
CONVEYANCE AND RESERVATION OF RIGHTS FOR NACOOCHEE HILLS

KNOW ALL MEN BY THESE PRESENT:

WHEREAS, Charles W. Smith is the owner of lands shown on the plats of Nacoochee Hills, according to plats there of as recorded in Plat Book 14, page 59-60, and page 61, of the Public Records of White County, Georgia; and

WHEREAS, Charles W. Smith, in order to provide for the orderly development, improvement and maintenance of the property and to provide for the mutual benefit and protection of himself and the persons who may hereafter own and reside in and on the property, desires to establish certain standards, impose certain restrictions, provide for a property owners association and reserve unto himself certain rights and privileges; and

WHEREAS, Charles W. Smith deems it to be suitable and appropriate to publish said standards and restrictions and impose the same upon said land so as to establish the same as Covenants and Restrictions running with the title to the land.

NOW, THEREFORE, for and in consideration of the premises, Charles W. Smith, does hereby declare said real property to be subject to the following Covenants and Restrictions for himself, his heirs and assigns, said Covenants and Restrictions to run with the title to said land, and the grantees of any deed conveying and building site or building sites, parcels or tracts of land that may hereafter be conveyed by Charles W. Smith subject to this Declaration of Protective and Restrictive Covenants and conveyance and Reservation of Rights shall be deemed by the acceptance of such deed to have agreed to all such Covenants and Restrictions and to have covenanted to observe, comply with and be bound by all such Covenants and Restrictions, as follows:

I.

PERMITTED AND PROHIBITED USES

1. All building sites within the development shall be owned and used exclusively for single family residential purposes. No more than one dwelling shall be constructed on any building site as platted. Building sites will not be less than five acres but may be as much as fifteen acres or more.
2. Free standing garages and accessory buildings may be constructed but shall not be used for permanent or temporary residence purposes. Garages or carports shall not have entrances facing the road.
3. No dwelling unit shall be constructed having a ground floor area exclusive of garage, covered walks and open porches of less than 1,000 square feet. No dwelling unit shall have a height of more than 40 feet above existing grade.

4. Recreation facilities such as swimming pools, tennis courts, playhouses and similar structures shall be set back from property lines and screened so as to reasonably conceal the same from abutting or adjacent building sites, and lighting of such recreational facilities shall be permitted only if it is designed and located in such a way as to cast substantially all of the light within building site wherein it is located.
5. Clotheslines or drying yard shall be so located as not to be visible from the road.
6. No trailers or habitable motor vehicles of any nature shall be kept on or stored on any part of the property except within an enclosed garage. No trucks of any nature shall be parked overnight on any building site except in an enclosed garage. No boats or boat trailers may be parked on any part of the property except in an enclosed garage or approved shelter.
7. No sign of any character shall be permanently displayed or place upon any part of the property except a sign identifying the residence or owner, the dimensions and design of which shall be subject to the regulations of the Architectural and Landscape Control Committee. Mailboxes shall comply in dimensions and design to regulations of the Architectural and Landscape Control Committee.
8. Subject to governmental regulations, garbage and trash receptacles shall be so located as not to be visible from the street and shall be maintained in good condition. All homes will be required to use a residential grade trash compactor.
9. Animals, birds and fowl may be kept or maintained in reasonable numbers solely as pets for the pleasure and use of the occupants but not for any commercial use or purpose. Kennels, pens or other facilities wherein pets are kept shall be set back from property lines and adequately screened so as not to be a nuisance to the residents of abutting or adjacent building sites.
10. No trees measuring eight inches or more in diameter at ground level may be removed without the written approval of the Architectural and Landscape Control Committee. It may become desirable to remove trees to provide a scenic view (either by thinning out trees or clear cutting); this may be worked out in cooperation with the landscape committee. This must be approved by the landscape committee.
11. No weeds, underbrush or other unsightly growth shall be permitted to grow or remain on any part of the property and no refuse pile or unsightly objects shall be allowed to be placed or suffered to remain anywhere thereon including vacant building sites.
12. When the construction of any building is once begun, work thereon shall be prosecuted diligently and must be completed within a reasonable time.
13. No property owner will do or permit to be done any act upon his property which may be or is or may become a nuisance to other property owners or residents.

14. Road and bridges will be constructed to provide access to all lots or tracts. All roads will be 25' to 40' (right of way) wide. Will be properly graded and drained. They will be surfaced with crushed gravel 12' in width. The gravel will be applied in several courses. One application will be made, and then a second a few weeks later after the first course has been worked in. The stone will be applied until a solid 4" gravel base is obtained. This will be done before December 31, 1981. All roads and bridges will be owned and maintained by Nacoochee Hills but will be transferred later to the Nacoochee Property Owners Association. All owners of any lands within the Nacoochee Hills development are hereby conveyed a permanent but non-exclusive right of way and easement to provide access, ingress and egress to their lands respectively over all roads within said Nacoochee Hills Development.
15. All green areas, recreational areas, parks, lakes, rivers, small streams, restricted areas along rivers and lakes owned by Nacoochee Hills will be transferred to the Nacoochee Property Owners Association when 80 percent of the building sites have been sold.
16. That part of Nacoochee Hills that is bottom land, and/or the flood plane for the Chattahoochee River and Sautee Creek, can be used only for golf courses, pasture or farmland. This area is covered with flood water from the river and creek from time to time. Building construction will be limited to stables and barns (no chicken houses or residential dwelling) in this flood plane area. These structures to be located on areas selected because of their suitable elevation so as to be above elevation of flood waters.
17. All of the lands which are now or are hereafter made a part of the Nacoochee Hills development whether shown on the original plats referred to above or are hereafter conveyed are subject to this "Declaration of Protective and Restrictive Covenants and Conveyance and Reservation of Rights" and are conveyed subject to the terms, conditions and provisions of the permanent but non-exclusive easement described below and Charles W. Smith hereby reserves for himself, his heirs, executors, administrators, transferees, successors and assigns a permanent nonexclusive easement hereinafter described and the right to convey said easement to other purchasing lots or tracts in Nacoochee Hills Subdivision.
18. Charles W. Smith hereby dedicates to the Grantee of each deed conveying title to any tract of land in the Nacoochee Hills development or conveying any other land owned by Charles W. Smith that is conveyed by him subject to this "Declaration of Protective and Restrictive Covenants and Conveyance and Reservation of Rights", a permanent but non-exclusive easement for use as protection of trees and natural cover for 30' on either side of Chattahoochee River as said Chattahoochee River flows through the Nacoochee Hills Development. This easement is for purpose of protecting the river banks from erosion from the river during floods that will be sure to come.

By acceptance of a deed to any lot or tract of land that fronts on the Chattahoochee River and that is within the Nacoochee Hills development or is otherwise conveyed subject to this "Declaration of Protective and Restrictive Covenants and

Conveyance and Reservation of Rights", the Grantee named in each such deed, his heirs, executors, administrators and assigns does covenant with Charles W. Smith, as the developer of Nacoochee Hills and with the owner of all other lots in Nacoochee Hills that the title to each such river front lot or tract is conveyed subject to the following acts shall be prohibited on the waters of the Chattahoochee River and within the said 30 foot strip of land adjacent thereto:

1. Not to carry on any noxious or offensive activity.
 2. Not to place, erect or maintain a private dock, dam or other structure of a temporary or permanent nature.
 3. Not to hunt, trap or shoot wild animals, fowl or game.
 4. Not to grade, fill or alter in any ways the course of the Chattahoochee River or its banks as now exist; not to cut or remove and trees, shrubs or ground cover for a distance of 30' on either side of the river.
19. Nacoochee Hills will provide underground power lines, telephone lines, and security wiring to the property line of each building site at no expense to property owner.
 20. Nacoochee Hills provides no water or sewage facilities. The property owner will use wells and septic tanks.
 21. Nacoochee Hills will provide a bridge across the Chattahoochee River.
 22. Nacoochee Hills will place a maintenance fee on each building site of \$150.00 per year for road and bridge maintenance.

II.

SETBACKS AND BUILDING LINES

Walls, hedges and fences constructed along lot lines shall be subject to the rules and regulations of the Architectural and Landscape Control Committee.

III.

STREETS, EASEMENTS AND RIGHTS-OF-WAY

Any rights, titles, interest and privileges in and to roads, streets, easements and common areas as shown on the plat are reserved to Charles W. Smith, his agents, employees and assigns or to the Nacoochee Property Owners Association in accordance with this Declaration of Protective and Restrictive Covenants and Conveyance and Reservation of Rights.

IV.

ARCHITECTURAL AND LANDSCAPE CONTROL COMMITTEE

1. All plans for any and all buildings and any additions to existing structures, all walls, fences, hedges used as walls, swimming pools, tennis courts and recreational facilities must be presented to and approved by the Architectural and Landscape Control Committee in writing prior to the commencement of any construction, which approval shall be granted or denied in accordance with the provisions of the manual for the Architectural and Landscape Control Committee.
2. The Architectural and Landscape Control Committee. Shall consist of not less than three members. Until 80% of building sites have been sold and dwelling units have been constructed on said sites with the development, Charles W. Smith shall appoint the members of the Committee. Thereafter, Charles W. Smith shall appoint the members until the Nacoochee Hills Property Owners Association has been created pursuant to Article V hereof, whereupon the Association shall appoint members and shall have the power and authority to establish rules and regulations pertaining to the Committee's authority and function.
3. The Committee shall approve or disapprove plans submitted to it within thirty days after an application has been made to the Committee, or if it fails to act within said thirty days, the application shall be deemed to have been approved.

V.

NACOOCHEE HILLS PROPERTY OWNERS ASSOCIATION

1. Upon the written consent signed by the owner or owners of 80% of the building sites in the development, Charles W. Smith will form a property owners association for the purpose of maintaining the standards and enforcing the Restrictions contained in this Declaration of Covenants and Restrictions, and for such additional purposes as its membership shall from time to time deem necessary or proper. Said Association shall be known as the Nacoochee Hills Property Owners Association, but may be organized as a corporation or unincorporated association. All owners of building sites within the development shall be required to be members of the Association and shall be subject to its rules and regulations. Each platted building site within the development shall have one (1) vote.
2. The Association shall have, in addition to those powers and authority contained elsewhere in this Declaration, and not by way of limitation or restriction, the following powers and authority:

- a. To enforce and provide for the enforcement of the Covenants and Restrictions contained herein.
- b. To maintain and provide for any and all common areas within the development.
- c. To provide for the common protection and security of the development.
- d. To pay in behalf of its members any and all taxes, fees and assessments levied against common areas.
- e. To assess and collect from the members such sums as may be necessary or proper to maintain the roads, bridge and the common areas, provide for the security and protection of the property and enforce the Covenants and Restrictions herein imposed.
- f. Assessments and charges, if not paid within thirty days following notification shall constitute a lien on the subject lot or part thereof, which lien shall also secure all costs including reasonable attorney fees incurred by the Association in connection with the collection of the assessment or enforcement of the lien.
- g. The Association shall have the power and authority to adopt rules and regulations by an eighty percent vote of its members which shall be binding and enforceable against all of the members.
- h. By way of illustration and not as a limitation, the Association shall have the authority to maintain and repair any streets, sidewalks, parkways, easement areas, lighting facilities and the like within the development. It shall have the authority to employ or contract for the employment of security personnel and provide for any trash or rubbish removal services required or desired by its members.

VI.

COVENANTS RELATING TO SALE OR LEASE OF PREMISES

1. Building site owner acknowledges that he has in his possession written acceptance of his membership application in the Nacoochee Hills Property Owners Association for his membership in the Association. Building site owner agrees that the premises will not be used or occupied by any person not a member of the Nacoochee Hills Property Owners Association except as may be specifically provided for by the Charter and By-Laws of that Association.
2. Building site owner, by acceptance of this deed, does hereby covenant and agree that Charles W. Smith or his assignee shall have the right of first refusal to repurchase each

parcel or tract of land shown on the plat or plans identified herein, if, as and when building site owner, respectively, or his heirs, or assigns shall elect to sell said property. Charles W. Smith shall have thirty (30) days within which to exercise his rights to repurchase said property on the same terms and conditions as any legitimate offer which building site owner may have for the purchase of said property. Said 30 day period shall commence upon written notice from building site owner to the Association, and enclosure of a copy of the offer signed by the proposed purchaser. This covenant shall run with the land and be binding upon building site owner, his heirs and assigns, and inure to the benefit of Nacoochee Hills, its successors and assigns. Upon the sale of 80% of the building sites in Nacoochee hills, the above clause giving right of first refusal to Charles W. Smith shall automatically vest in the Nacoochee Hills Property Owners Association.

VII.

ELECT OF COVENANTS AND RESTRICTIONS

1. These Covenants and Restrictions shall run with the land and shall be binding upon all parties and all persons claiming under them for a minimum period of twenty-five years from the date these Covenants and Restrictions are recorded, after which the said Covenants and Restrictions shall be automatically extended for successive periods of ten years unless by an instrument signed by 80% of the then owners of the building sites has been recorded agreeing to terminate or change said Covenants and Restrictions in whole or in part. Provided, however, anything herein to the contrary notwithstanding, Paragraph 17 of Section I hereof shall be of perpetual duration.
2. These Covenants and Restrictions may be changed, modified, or amended by a duly recorded instrument signed by the owner or owners of 80% of the building sites in the development.
3. Each and every Covenant and Restrictions contained herein shall be considered to be an independent and separate Covenant and agreement, and in the event that any one of more of said Covenants or Restrictions shall, for any reason, be held to be invalid of unenforceable, all remaining Covenants and Restrictions shall nevertheless remain in full force and effect. The failure of any party or person to enforce a Covenant or Restriction contained herein in any instance or against any person shall not constitute a waiver or abrogation of said Covenant or Restrictions.
4. The Covenants and Restrictions contained herein are supplementary to and independent of any and all laws or rules of any governmental agency, and except insofar as these Covenants and Restrictions shall be rendered void or shall be in conflict with the laws or rules of any governmental agency that shall not be deemed to have changed by virtue of any laws or rules hereinafter enacted or established by a governmental agency.
5. In the event the Property Owners' Association as contemplated herein is not formed within five years from the date of this instrument or in the event 50 of the platted lots

for Nacoochee Hills development are transferred out of the ownership of Charles W. Smith, his heirs, or assigns in a bankruptcy proceeding within five years from the date of this instrument, then in either such event, these Covenant and Restrictions shall terminate at the end of five years from the date of this instrument, the other provisions hereof notwithstanding.

In WITNESS WHEREOF, Charles W. Smith has hereunto set his hand and affixed his seal as of this 1st day of August, 1980.

(SEAL)
CHARLES W. SMITH, Owner, Nacoochee Hills

WITNESS:

Georgia, White County
Filed 4th day of Aug 1980
Recorded in Book 5N
Page 388-93 8-4-80

Covenants Article VI Paragraph 1

COVENANTS RELATING TO SALE OR LEASE OF PREMISES

- 1 Building site owners acknowledges that he has in his possession written acceptance of his membership application in the Nacoochee Hills Property Owners Association for his membership in the Association. **Building site owner agrees that the premises will not be used or occupied by any person not a member of the Nacoochee Hills Property Owners Association** except as may be specifically provided for by the Charter and By-Laws of that Association.

Rentals are not permitted by Covenant declaration.