

FRENCH'S NECK WEST
DEDICATION OF PLAT AND
DECLARATION OF PROTECTIVE COVENANTS,
CONDITIONS AND RESTRICTIONS

KNOW ALL MEN BY THESE PRESENTS: That the undersigned, referred to as "Declarant" does hereby record the plat of a subdivision known as FRENCH'S NECK WEST, lying and being situate in Springfield District, Hampshire County, West Virginia, and being more fully described on the plat and survey of David G. Vanscoy, Professional Engineer, W.Va. Registration No. 6649, and made a part hereof, and recorded in the Clerk's Office in the County Commission of Hampshire County, West Virginia, just prior to the recording of this instrument in Map Book _____, to which reference is hereby made, and said real estate being part of a larger tract of real estate conveyed to Neat Retreats, Inc., a West Virginia Corporation, by deed from the West Virginia University Foundation, dated January 26, 1987, and recorded in the Hampshire County Clerk's Office in Deed Book No. 290 at Page 439.

All numbered lots in French's Neck West shall be subject to the following protective covenants, conditions, and restrictions and easements which shall run with the land and shall be binding upon all subsequent owners of the lots:

ARTICLE I - DEFINITIONS

1. "Association" shall mean and refer to French's Neck West Property Owners Association, its successors and assigns.

2. "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 property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

3. "Property" shall mean and refer to that certain real property described above and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

4. "Lot" shall mean and refer to the numbered lots shown on the aforesaid plat of French's Neck West recorded in the aforesaid Clerk's office in Map Book No. _____.

5. "Common areas" are all areas shown on the plat designated as such, for the non-exclusive use and benefit of all property owners in French's Neck West.

6. "Declarant" shall mean and refer to Neat Retreats, Inc., its successors and assigns.

ARTICLE 11 - MEMBERSHIP AND VOTING RIGHTS

1. Every owner of a lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any lot which is subject to assessment.

2. On or before January 1, 1991, or when three-fourths (3/4) of the lots have been sold, whichever occurs first, a Property Owners Association shall be established with membership consisting of the owners (and only the owners) of each lot in French's Neck West who shall have one (1) vote per lot owned. The Association shall be governed by the majority of the lot owners. A Board of Directors of three (3) members shall be elected by the lot owners.

The initial Directors of the Association consisting of one to three members shall be appointed by the Declarant or their assigns and thereafter the Board of Directors shall be elected by the lot owners. The initial Directors shall be responsible for calling the first meeting of the Property Owners Association on or before February 1, 1991, and shall be responsible for the mailing of the written notice of the lot assessment which is due and payable by March 10, 1991. The meeting shall be held in Hampshire County, West Virginia, at a suitable place to be designated by the initial Board of Directors. At said meeting, the said owners shall, by majority vote, form the said Association's legal entity as they deem advisable and shall elect a Board of Directors and/or officers of said Association. After the forming of said Association, the common areas and

roads, if applicable, shown on the plat shall be conveyed by the Declarant to the Property Owners Association.

ARTICLE III

COVENANT FOR MAINTENANCE ASSESSMENT

1. The Declarant shall assess initially, for each lot, ONE HUNDRED DOLLARS (\$100.00) per year for the use, upkeep and maintenance for the right-of-ways within French's Neck West, upkeep and maintenance of the rights-of-ways to and from West Virginia State Route 1/1, and the upkeep and maintenance of all common areas and facilities, subject to any increase as provided hereinafter. Said one hundred dollars (\$100.00) to be collected on day of settlement and upon deed conveyance.

2. Any assessment made pursuant to this paragraph, including a late fee of Five Dollars (\$5.00), interest at the rate of ten percent (10%) per annum from the date of delinquency, and reasonable attorney's fees incurred in the collection thereof, shall constitute a lien on this property until paid. The lien is expressly inferior and subordinate to any mortgage liens presently or hereafter encumbering the property affected by these protective covenants. This assessment may not be increased unless said increase is made pursuant to Chapter 36 B, Article 1, Section 114, of the West Virginia Code, as amended. The owner of each lot, by acceptance of a deed thereto, automatically becomes a member of the Property Owners Association and does thereby covenant and agree to pay One Hundred Dollars (\$100.00) per lot per year, beginning March 10, 1991, and to pay annually thereafter to the Property Owners Association, to be created as herein set forth, an amount determined by the positive vote of owners of at least two-thirds (2/3) of the lots in said subdivision as necessary for the purpose of maintaining and improving rights-of-way and roadways shown on the subdivision plat and the right-of-way from said subdivision to West Virginia State - Route 1/1 over other real estate not a part of this subdivision and all common areas and facilities. Within sixty (60) days of the creation of the Property Owners Association and each year thereafter,

said Association shall notify each lot owner in writing, as to the amount of the lot assessment which shall be due and payable by the lot owner to the French's Neck West Lot Owners Association. In the event of a resale or transfer of one or more parcels in said subdivision, this obligation shall run with the land and become the obligation of the new owner(s) even though it may have been assessed to a prior owner. In the event of a transfer by judicial sale or sale under deed of trust, any past due and unpaid road maintenance fees shall be paid by the party forcing the sale of the lot or be paid by the new purchaser. This section does not apply to Declarant should they reacquire title through judicial sale, deed of trust sale, or by voluntary sale from owner. (See Paragraph No. 4 below.)

3. If the owner of any lot is in default in the payment of any assessments, including interest and costs of collection, in addition to any other means of collection, the Property Owners Association may bring an action at law against the owner personally obligated to pay same.

4. In exchange for Declarant's agreement to install and maintain said roadways and rights-of-way until January 1, 1991, the Declarant shall be forever exempt from the payment of said annual assessments and maintenance fees and assessment fees as to all real estate presently owned by or later reacquired by the Declarant. In the event the Declarant should reacquire real estate through purchase at a foreclosure sale or through settlement of owner's default in any contract, note or deed of trust. Declarant shall not be required to pay any past due Assessments that the previous owner may have owed the Association, nor shall Declarant be required in the future to contribute to the maintenance of the roadways.

5. If any one owner owns two or more adjoining lots, only one assessment shall be payable so long as two or more adjoining lots are so owned, and only one house is built by said owner of said lots. If any of said lots is hereafter sold or conveyed or improved by an additional dwelling, it shall be subject to separate assessment of one hundred dollars (\$100.00). Nothing herein shall be deemed to alter the "one vote per one

lot owned" rule which is established in Article II, paragraph 2 above.

6. The Property Owners Association shall be governed by all applicable federal, state and county laws, rules, regulations and ordinances, now in effect or hereinafter enacted.

ARTICLE IV

USE RESTRICTIONS

1. Each lot owner shall have an unobstructed and nonexclusive right of ingress and egress to and from his lot and the South Branch of the Potomac River over the rights-of-ways and roadways as shown on the subdivision plat, and the plat attached to the hereinafter described Right of Way Agreement. The Lot Owners Association shall be responsible for maintenance of the subdivision roads, and responsible for the maintenance of the access road to and from West Virginia State Route 1/1, and all other obligations in that certain Right-of-Way Agreement dated the 20th day of August, 1989, by and between William E. Rogers and Susan L. Rogers, husband and wife, and the Declarant, a copy of which is to be recorded in the aforesaid Clerk's office, which is expressly incorporated herein by reference. The rights-of-ways shall be subject to the common usage of the Declarant, its successors and assigns.

2. The Declarant reserves unto itself and its successors and assigns, easements for the installation, erection, maintenance, operation and replacement of telephone and electric light poles, (guy wires may extend beyond the easement limit), cable t.v., electric, and water lines, on, over and under a strip of land fifteen (15) feet wide along all property lines not serving as the centerline for rights-of-ways, and fifteen (15) feet along each side of all the rights-of-ways, in addition to easements reserved by any other instrument duly recorded. However, the rights and responsibilities concerning the right-of-way road from West Virginia Route 1/1 to French's Neck West shall be controlled solely by the Right of Way Agreement dated August 20, 1989, signed by William E. Rogers and Susan L. Rogers and recorded in the office of the Clerk of the County

Commission of Hampshire County, West Virginia, contemporaneously with this document. Nothing herein shall be construed as creating any duty on Declarant to install or maintain any utility services, however, as it is contemplated that actual installation will be made at the expense of the utility and/or the owners.

3. No signs or advertising of any nature shall be erected or maintained on any residential lot, except for sale or rental signs not to exceed six (6) square feet in area, except for directional and informational signs of Declarant.

4. Any lot in French's Neck West may be resubdivided by the owner or the Declarant so long as the size of any resulting lot or residue thereof shall not be less than two (2) acres. Construction of any improvements on the lots resubdivided shall be governed by Paragraph No. 8 below.

5. No owner of any lot shall interfere with the natural drainage of surface water from such lot to the detriment of any other lot. Consequently, in the construction of a driveway into any lot, a twelve (12) inch diameter culvert, or larger if necessary, shall be used in constructing the driveway in order to alleviate blockage of natural drainage. No parking is permitted upon any subdivision roads within the subdivision at any time and as a part of the development of any lot, the owner shall provide adequate off-road parking for owner and his guest(s).

6. No trucks, buses, old cars, or unsightly vehicles of any type or description may be left, stored or abandoned on said lots.

7. No building of a temporary nature shall be erected or placed on any lot except those customarily erected in connection with building operations and in such cases, for a period not to exceed eight (8) months; provided, however, nothing shall be construed to prevent the owner from erecting tents or temporary camping trailers on the lot and to camp overnight in said tents or camping trailers for a period of up to fifteen (15) days.

8. Not more than one single family residence per two (2) acres may be placed on any lot shown upon the plat for French's Neck West or on the lots as resubdivided by the Declarant or the owner as elsewhere provided for herein. For example, a four (4) acre lot can have no more than two (2) single family residences placed thereon and a six (6) acre lot can have no more than three (3), etc. Residences shall contain a minimum of 600 square feet of living area, excluding basement, garage, porch, carport, deck, and overhanging eaves. All exterior construction must be completed and closed in within eight (8) months of the commencement of construction.

9. Each lot shall be used for residential/recreational purposes only, and any garage or outbuilding must conform generally in appearance and material with any dwelling on said lot. Use of the numbered lots for any form of commercial or agricultural use or the raising of livestock or poultry (regardless of number) is not allowed, except that commercial or agricultural enterprises may be constructed and maintained with prior written approval of the Declarant or the Property Owners Association.

Notwithstanding the prior paragraph, the following uses are permitted, subject to applicable state and local laws:

- (a) The raising and use of horses.
- (b) Home occupations conducted by occupant.
- (c) Home gardening.

10. The owner shall maintain, repair and restore, as necessary, the exterior of any building or other improvements erected on any lot owned by him. Owners likewise agree to repair and restore promptly to its prior condition any part of a subdivision road damaged by equipment of owner or his contractor enroute to or from owners' lot. All lots improved or unimproved, must be maintained by the lot owner in a neat and orderly condition at all times. No garbage, trash or inoperative vehicle or other debris shall be permitted to accumulate or remain on any lot.

11. No building shall be erected closer than fifty (50) feet from the centerline of any subdivision road, nor closer than twenty (20) feet to the side or rear property lines, with the exception that where two or more tracts are used together for the construction of one dwelling, then said twenty (20) feet setback rule is thus waived for the individual lots and the two or more lots which comprise the consolidated lots shall thereafter be sold and conveyed as one unit with the aforementioned set back lines applying to same and may not thereafter be sold separately, but voting and membership rights shall not be affected.

12. Each owner is responsible to comply with all applicable building ordinances now or hereafter adopted by the Hampshire County Commission or other governmental body which regulates the building of homes or structures.

13. All sanitation facilities constructed on any lot shall conform with the regulations of the Hampshire County Health Department.

14. No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage, or other waste must be kept in sanitary containers. All trash, garbage, fuel storage tanks, garden equipment, supplies and stored raw materials must be kept from view of the public. In the event any lot owner shall fail to discharge his aforesaid responsibilities in a manner satisfactory to the Board of Directors of the Property Owners Association, upon two-thirds (2/3) vote of the Board of Directors, and after fifteen (15) days notice to the owners of the Property, the Property Owners Association shall have the right, through its agents and employees, to enter upon said lot and perform necessary maintenance repairs (including mowing and removal of grass over 24" high), and restoration, or to remove any offending material or object. Such action shall not be deemed a trespass, and the cost of same when performed by the Association shall be added to and become a part of the assessment to which such lot is subject.

15. No noxious or offensive trade or activity shall be carried on upon any tract or right of way and the use of any motorcycle or motor vehicle without proper noise abatement equipment is prohibited within French's Neck West.

16. No hunting or discharging of firearms shall be allowed in French's Neck West, except with the prior written approval of the Property Owners Association.

17. Pollution of the South Branch of the Potomac River is prohibited by any of the property owners of French's Neck West, their family, guests or invitees.

18. All animals shall be restrained to the property of their owners and not allowed to run free on property owned by others in French's Neck West, nor allowed to run free on the 268 acre parcel now owned by William Rogers.

19. If any lot owner shall violate any of the covenants herein, it shall be lawful for any other person or persons owning any real estate situate in said subdivision to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such covenant, either to prevent him or them from so doing or to recover damages or other dues for such violation. Failure to enforce any provision herein contained shall in no way be deemed a waiver of the right to do so hereafter.

20. The Association, by vote of two-thirds (2/3) of its members, may make additional rules, covenants, and restrictions for the use of the Property, which together with the above, may be enforced by fines or other penalties.

ARTICLE V

GENERAL PROVISIONS

1. Declarant, for itself, its successors and assigns, reserves the right to replat, resubdivide and renumber any unsold real estate shown on the aforesaid plat. Nothing herein shall be construed to prevent

Declarant from imposing additional covenants or restrictions on any unsold real estate in the subdivision. In addition, any lot in French's Neck West may be re-subdivided by the purchaser, his heirs, successors and/or assigns as long as the minimum size of each lot subdivided and the residue thereof shall not be less than two (2) acres.

2. All sewage disposal systems constructed on said lots shall conform to the regulations of the Hampshire County Health Department. Free standing toilets are also subject to the aforementioned requirements and shall not be constructed unless specific authority is first obtained from the Health Department, and then they must be placed in such location with respect to the residence, cabin, or accessory building located on the premises that the free standing toilet does not create an unnecessarily unsightly condition to the adjoining lot owners with the subdivision. In this connection, the owner shall submit plans for the construction to the Property Owners' Association, and obtain prior approval from the Board of Directors prior to the location and construction of a free standing toilet.

3. The Association, or any owner, shall have the right to enforce by any proceedings, at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Declarant or Association or by any owner to enforce any provisions herein contained shall in no event be deemed a waiver of the right to do so thereafter.

4. The covenants, restrictions and other provisions of this Declaration shall run with and bind the land for a term of twenty (20) years from the date this Declaration is recorded, after which they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended by not less than seventy-five percent (75%) of the lot owners, by an instrument signed by not less than seventy-five percent (75%) of the lot owners. However, the obligations of the Property Owners Association in regard to the Right-of-Way Agreement attached hereto shall not be changed except with the consent of all the necessary parties

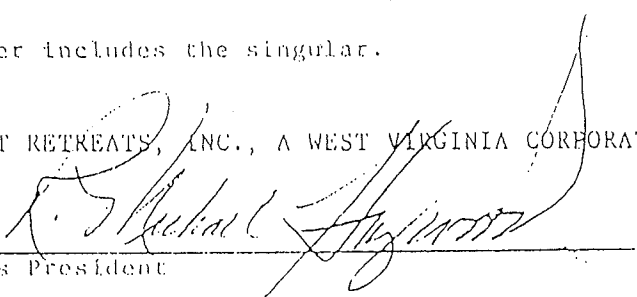
having an interest therein.

5. Invalidation of any of the covenants, restrictions or other provisions of this Declaration by judgment or Court Order shall in no wise affect any other provisions, which shall remain in full force and effect.

6. Whenever in this Declaration the context so required, the masculine gender includes the feminine and neuter, singular number includes the plural and the plural number includes the singular.

NEAT RETREATS, INC., A WEST VIRGINIA CORPORATION

BY:


Its President

ATTEST:

Secretary

(Corporate Seal)

STATE OF WEST VIRGINIA,

COUNTY OF HAMPSHIRE, TO WIT:

The foregoing instrument was acknowledged before me this the ____ day of _____, 1989, by Mike Haywood, who has signed this instrument as President of Neat Retreats, Inc., and he has acknowledged his signature to be duly authorized as the act and deed of the corporation.

My commission expires: _____.

Notary Public