

DOUBLE E LAND AND CATTLE COMPANY

OF: ( DEED OF B & S

BEN O. OSBORN  
RACHEL L. OSBORN

Mailed JAN 21 1971

To: Mr. & Mrs. Ben O. Osborn  
5602 Harding Ave.,  
Alexandria, Va. 22311

16,401  
HHW/rse  
12/1/70

#647

THIS DEED made and dated this 16<sup>th</sup> day of December, 1970, by and between DOUBLE E LAND AND CATTLE COMPANY, a Virginia corporation, party of the first part, and BEN O. OSBORN and RACHEL L. OSBORN, his wife, parties of the second part.

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WITNESSETH: That for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt of all of which is hereby acknowledged, the party of the first part does hereby grant, bargain, sell and convey with general warranty of title, unto the parties of the second part, jointly, as tenants by the entireties, with common law right of survivorship, it being intended that the part of the one dying should then belong to the other, his or her heirs or assigns, the following described property and appurtenances thereunto belonging:

All of that certain tract of land, situate about five miles southeast of Berryville in Chapel District, Clarke County, Virginia, lying east of and abutting on the west upon the Shenandoah River, known as "Calmes Neck Estates", designated as Lot No. 27, on the plat of "Calmes Neck Estates" as recorded in the Office of the Clerk of the Circuit Court of Clarke County, Virginia, in Deed Book 58, page 506.

Reference is here made to the aforesaid instruments and the attachments and the references therein contained for a further and more particular description of the property hereby conveyed.

This conveyance is made subject to all duly recorded and enforceable restrictions, easements and rights of way, and to the restrictive covenants following.

## RESTRICTIVE COVENANTS

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The following covenants, conditions, reservations and restrictions are imposed upon any and all lots included in the future lots sold from the existing subdivision of Double E. Land & Cattle Company (hereinafter called Double E) and any and all lots sold from the land of Gordon H. MacDougall and shall be included either specifically in the deed or by reference to this deed in all subsequent deeds conveying any of said lots, and shall run with the land and be binding upon present and future owners of all said lots.

1. Said lot shall be used only for residential purposes. No business or occupation of any kind, other than the home practice of a physician, dentist or lawyer may at any time be carried on or permitted upon subject lot or lots, except by written consent of Double E, its successors or assigns. Not more than one single family dwelling house shall be erected on said lot at a cost of no less than Six Thousand Dollars (\$6,000.00) or with a floor area of no less than ~~one thousand (1000) square feet.~~ <sup>one thousand (1000)</sup>

2. No building of an area of less than six hundred (600) square feet or cost of less than Six Thousand Dollars (\$6,000.00) or addition thereto, or any fence or other structure shall be erected without the written approval of Double E, its successors or assigns. Double E, in addition to its other rights hereunder, shall have the right to remove or destroy any building or structure erected in violation of this covenant. Any building completed and maintained over one year shall be conclusively deemed to have been erected with the written approval of Double E, without objection. In cases of single ownership of more than one lot these restrictions shall apply to the parcel owned as a whole. No dwelling, including porches or bay windows attached thereto shall be built within one hundred (100) feet of the front line of any lot or within fifty (50) feet of the front line of any lot fronting the road leading to the two properties nor within twenty-five (25) feet of the outside lines of corner lots nor within twenty-five (25) feet of side lines of an abutting lot in said subdivision adjoining; however, Double E or its successors shall have the right to waive or modify the set back restrictions. Any garages, carports, or carshelters constructed on said lot(s) shall be attached to and be a part of the main structure.

3. An easement over the twenty (20) foot width adjoining the front, side or rear lines of any lot is specifically reserved for water, sewer, gas, electricity, telephone, drainage, and any other utilities to Double E's property, the other property of this subdivision and the MacDougall properties. An easement for ingress and egress sufficiently wide to accommodate one vehicle for riding horses, recreation, walking, maintenance and fire protection is reserved respectively in Double E on its property and in MacDougall in his property over all of the respective properties for the benefit of the respective developers and all other owners of property in the respective subdivisions, said easements to be at points over the property easily convenient for travel without undue interference with the improvements upon the property.

4. Trees and topography shall remain uncut and undisturbed. Excavation or removal of sand or earth and cutting or trimming of trees shall be allowed for beautification or construction purposes only with prior written consent of Double E Land & Cattle Co., its successors or assigns. Open fires are prohibited on any part of the property. Outdoor fireplaces, grills and all chimneys must be provided with fire screens or sufficient design to prevent scattering of sparks or burning embers. Brush burning may be conducted only with prior written permission of Double E. No sewage or refuse shall be emptied into the Shenandoah River bounding said premises or any lands adjacent thereto, or into any cove or inlet, stream or waterway connected therewith; and any sewage disposal or water supply system installed by property owners shall be of a type approved or recommended by State or Local Departments of Health. All bathroom and toilet facilities shall be incorporated within the main structure of each lot. Firing of rifles, guns or weapons of any kind is prohibited everywhere on the property except in areas specifically reserved for said use and during hunting season by written permit of Double E.

5. No untended boats shall be anchored off shore in the Shenandoah River. When not in use, boats shall be pulled on the bank or moored as closely adjacent to the bank as safety allows, in order that navigation will not be impeded. It is specifically understood that the use of the Shenandoah River for boating, fishing, swimming and anchorage is to be at the person's own risk and the respective developers, their heirs or successors or assigns shall not be liable for damages or injury resulting.

6. The said lot or lots shall be subject to an annual charge for the <sup>common facilities and for the</sup> construction, repair and maintenance of roads leading to both developments and within any Double E subdivision. The charges shall be payable on the first day of January each year and must be paid within thirty (30) days thereafter, and shall not exceed ~~\$30.00~~ <sup>\$50.00</sup> per year, per lot plus a 10% penalty each month after January 30th of each year, with an annual charge <sup>for the first three</sup> ~~thereafter based on cost~~ <sup>years</sup>

7. In the event that water should be made available from a central system, a tap-on charge and a use charge may be made to users thereof.

8. These covenants are attached to and shall run with the land, and it shall be lawful not only for the grantors and their successors, but also for the owner or owners of any lot or lots adjoining or lots which relate to the entire developments of both parties hereto in Chapel Magisterial District, Clarke County, Virginia, of the premises hereby conveyed deriving title through Double E Land & Cattle Company and Gordon H. MacDougall, or their successors or assigns, to institute and prosecute any proceedings at law or in equity against the person or persons violating or threatening to violate the same, it being understood however that these covenants shall not be enforced personally for damages against the grantee or grantor, his or her, or their heirs or assigns, unless he, she or they be the owner of that portion of the premises upon which the violations of these covenants are done at the time of such violation.

All the restrictions and covenants in this instrument shall continue in force until the 31st day of December, 1982, and shall be automatically and successively renewed for ten year periods thereafter, unless the owners of at least a majority of the lots in said developments shall, at least six months prior to any such renewal date, agree in writing to a change, alteration, addition to or abrogation of any or all of the above restrictions and conditions, and record such writings so amending the aforesaid covenants. Such changes, alterations, additions to or abrogation of any or all the agreements, covenants and restrictions as proposed shall be made in writing at least twelve months prior to such renewal date after the mailing of such notice to such proposed changes, alterations, additions to or abrogation, to all the owners of lots of said developments. No such changes, alterations, additions to or abrogation shall become effective until the instrument in writing setting forth such changes in detail, executed by the owners of at least a majority of the lots in said developments shall be recorded in the Office of the Clerk of the Circuit Court of Clarke County, Virginia, and such must be recorded six months or more prior to any renewal date, which would take effect at the renewal period.

Provided, also, that the breach of any of the foregoing agreements, covenants or restrictions shall not defeat or render invalid the lien of any mortgage or deed of trust made in good faith for value as to said land, and any such residential dwelling, or private garage located as above provided, or any part thereof; provided, however, that the breach of either of said conditions or the continuance of any such breach may be enjoined, abated, or remedied by appropriate proceedings, and provided, also, that each of the foregoing agreements, covenants and restrictions shall remain at all times in full force and effect as against any owner of said premises, or any part thereof, by reason of any breach thereof by any such owner, whether such ownership is acquired by purchase, foreclosure, devise, inheritance, or in any other manner.

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Except as noted above, the Grantor covenants that it has the right to convey said property to the Grantees; that it will execute such further assurances of said property as may be requisite; that it is seized in fee simple of the property conveyed; and that the Grantees shall have quiet possession of said property free from all encumbrances.

WITNESS the following signatures and seal in witness whereof said corporation has signed its corporate name and affixed its corporate seal, by the proper officers, thereunto duly authorized:

DOUBLE E LAND AND CATTLE COMPANY

By Kenneth M. Enderbath  
Pres.



Attest:  
Lawrence C. Enderbath  
Sec. Treas.

STATE OF Virginia  
County OF Clarke, To-wit:

I, D. Leonard Tramm, Notary Public in and for the State and County aforesaid, do hereby certify that Kenneth M. Enderbath, whose name is signed to the above writing on behalf of Double E Land and Cattle Company as its President, with the seal of said corporation duly affixed and attested by its Sec. Treas. has acknowledged the same to be the act and deed of said corporation before me in my State and County aforesaid.



Given under my hand this 16<sup>th</sup> day of December, 1970.  
My Commission expires 6/1/71.

D. Leonard Tramm  
Notary Public

VIRGINIA: In the Clerk's Office of Clarke County Circuit Court  
December 18, 1970. This Deed was presented and upon the annexed certificate of acknowledgment admitted to record at 3:45 P.M. The taxes imposed by Section 58-54.1 in the amount of \$ 9.00 and by Section 58-54 of the Code of Virginia have been paid.

TESTE: [Signature] CLERK