

STATE OF NORTH CAROLINA

COUNTY OF WATAUGA

EASEMENT

THIS DEED OF EASEMENT, made and entered into this 28th day of October, 1986, by and between Phyllis M. Clark, (hereinafter referred to as Grantor); and the Town of Boone, a municipal corporation, (hereinafter referred to as Grantee);

W I T N E S S E T H :

4:35- THAT WHEREAS Grantor is the owner of .346 acre tract lying on the northeastern side of U.S. Highway 321-221 in the Town of Boone, North Carolina, as more particularly described in a deed from E. F. Coe and wife, Lea B. Coe, and Garland Lumber Sales, Inc., a North Carolina corporation, to Phyllis M. Clark as more particularly described at Deed of Records Book 42 at Page 741 of the Watauga County Registry, and

THAT WHEREAS Grantee is a municipal corporation charged with the enforcement of the land use ordinances for the Town of Boone; and

THAT WHEREAS Grantor is interested in constructing an addition to enlarge the kitchen facilities of the "Pizza Hut" operation located on an adjoining tract owned by Cutler Watkins as more particularly described at Deed of Records Book 129 at Page 67 of the Watauga County Public Registry; and

THAT WHEREAS, the Town of Boone has agreed to allow the construction in compliance with the land use ordinance in effect for the Town of Boone only upon the condition that the Grantor impose a declaration of easement on a portion of the above-described property so that no improvements are constructed thereon which will allow an open space between the building known as the "Pizza Hut" building and the improvement constructed on the .346 acre tract;

NOW, THEREFORE, in consideration of the premises and the sum of \$1.00 and other good and valuable considerations, the receipt of which is hereby acknowledged, Grantor hereby grants, bargains, sells, and conveys unto the Grantee, its successors and assigns, a non-exclusive easement for the purpose of imposing a sight and open space over and across the following described property:

PREPARED BY:
FINGER, WATSON,
DI SANTI & MCGEE
ATTORNEYS
P. O. BOX 193
BOONE, N. C. 28607

PHONE: 284-6126
18600224.01

A 10 feet strip of land, being located southeast of the boundary line between the above-described tract and the adjoining tract as described at Deed Book 129 at Page 67 of the Watauga County Registry, beginning at a point in U.S. Highway 321, Blowing Rock Road and running 10 feet in width to the southeast of the following described line: North 55° 00' East, 40.00 feet to an iron; North 55° 00' East, 110.00 feet to a monument, and being the boundary line between the two above-described tracts according to a survey of David K. Stern, RLS No. L-1304, map #86032, dated July 3, 1986, said plat being incorporated herein by reference.

It is specifically understood that this easement is for the purpose of maintaining open space which will preclude the construction of any improvements thereon. Grantor specifically reserves the right to place parking spaces, utility improvements, and greenery upon the above-described tract.

This conveyance and easement is made upon the condition that the Town of Boone grant to the Grantor, as lessee of the "Pizza Hut" property the right to add a 16 feet addition for the purposes of kitchen space on the tract described at Deed Book 129 at Page 67 of the Watauga County Registry. In the event the building permit for this addition is not granted by the Grantee, this declaration of easement shall be automatically null and void and revert to the Grantor.

TO HAVE AND TO HOLD the aforesaid easement and all privileges thereto belonging, to the said Grantee, its successors and assigns, to its only use and behoof forever.

IN WITNESS WHEREOF, the said Grantor has hereunto set her hand and seal the day and year first above written.

Phyllis M. Clark (SEAL)
Phyllis M. Clark

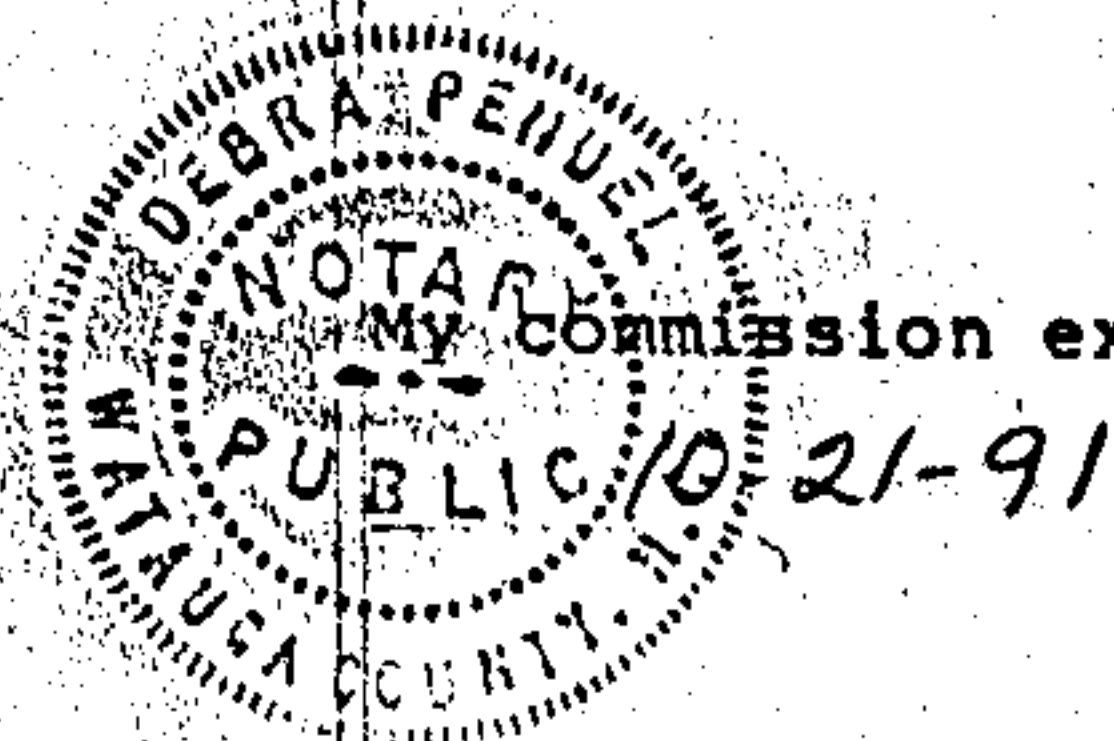
STATE OF NORTH CAROLINA

COUNTY OF WATAUGA

I, DEBRA PENUEL, a Notary Public, do hereby certify that Phyllis M. Clark personally came before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed.

Witness my hand and notarial seal, this 29th day of October, 1986.

Debra Penuel
Notary Public



NORTH CAROLINA - WATAUGA COUNTY

The foregoing certificate _____ of _____

Debra Penuel,

Watauga County, N.C.

Not _____ Public is (are) certified to be correct.
This _____ was presented for registration and re-
cord _____ Office in Book 059, Page 385

This 19th day of January, 1987 at 4:35
o'clock P. M.

Phyllis E. Foster

Register of Deeds

by Lita Green Deputy