

Return to:

Dan Moser Company  
PO Box 350  
Mineral Springs, NC 28108

RECORDED  
AND  
VERIFIED  
JT

Filed for record  
Date 11.11, 2005  
Time 12:35 o'clock P.M.  
Crystal D. Grump, Registrar of Deeds  
Union County, Monroe, North Carolina

04679

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR PRESTWICK SUBDIVISION

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS is made this 7<sup>th</sup> of October, 2005 by Dan Moser Co., Inc., a North Carolina "S" Corporation, hereinafter referred to as "Declarant."

WITNESSETH:

WHEREAS, Declarant is the owner of the real property which is described in Article II hereof, and desires to create thereon an exclusive residential community of single-family houses to be named "Prestwick Subdivision"; and

WHEREAS, Declarant desires to insure the attractiveness of the subdivision and to prevent any future impairment thereof, to prevent nuisances, to preserve, protect, and enhance the values and amenities of all properties within the subdivision and to provide for the maintenance and upkeep of the Common Area, as hereinafter defined; and to this end desires to subject the said real property to the covenants, conditions, restrictions, easements, charges, and liens hereafter set forth, each and all of which is and are for the benefit of said property and each owner thereof; and

WHEREAS, Declarant has incorporated or will incorporate under North Carolina law the Prestwick Homeowners Association as a nonprofit corporation for the purpose of exercising and performing the aforesaid functions.

NOW, THEREFORE, Declarant, by this Declaration of Covenants, Conditions, and Restrictions, does declare that all of the property described in Article II hereof is and shall be held, transferred, sold, conveyed, and occupied subject to the covenants, conditions, restrictions, easements, charges, and liens set forth in this Declaration which shall run with the real property and be binding on all parties owning any right, title, or interest in said real property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

**ARTICLE I  
DEFINITIONS**

Section 1. "Homeowners Association" shall mean and refer to the "Preswick Homeowners Association."

Section 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 (as hereinafter defined) which is a part of the Properties, including contract sellers, but excluding Declarant and those having such interests merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to the property described in Article II hereof, and any additions thereto as are or shall become subject to this Declaration and brought within the jurisdiction of the Preswick Homeowners Association.

Section 4. "Common Area" shall mean all real property owned by the Homeowners Association for the common use and enjoyment of the Owners. Common Area within the Properties shall be shown on the Plat(s) of Preswick Subdivision recorded or to be recorded in the Union County Public Registry and designated thereon as "Common Areas," but shall exclude all Lots and public streets dedicated and accepted in accordance with Article IV, Section 3.

Section 5. "Lot" shall mean and refer to any numbered plot of land, with delineated boundary lines, appearing on any recorded subdivision map of the Properties with the exception of the Common Area and public streets dedicated and accepted in accordance with Article IV, Section 3.

Section 6. "Declarant" shall mean and refer to Dan Moser Co., Inc., and its assigns.

Section 7. "Member" shall mean and refer to every person or entity that holds membership in the Preswick Homeowners Association.

**ARTICLE II  
PROPERTY SUBJECT TO THIS DECLARATION  
AND WITHIN THE JURISDICTION OF THE  
HOMEOWNERS ASSOCIATION**

Section 1. The real property which is and shall be held, transferred, sold, conveyed, and occupied subject to this Declaration, and shall be within the jurisdiction of the Homeowners Association is located in Union County, North Carolina, and is more particularly described on the Final Plat of Preswick Subdivision, Map 1 dated 11 and recorded in Map Book J Pages 204 of the Union County Public Registry (the "Map").

Section 2. Additional land may be brought within the scheme of and made subject to this Declaration and the Homeowners Association by the Declarant.

Section 3. Union County Zoning Code. The provisions of the County of Union land use ordinances and any amendments thereto and the conditions and requirements set forth shall at all times be paramount to the restrictions set forth in this Declaration and in the event of a conflict, the former shall be controlling over the latter.

**ARTICLE III  
MEMBERSHIP AND VOTING RIGHTS**

Section 1. Every owner of a Lot which is subject to assessment shall be a Member of the Homeowners Association. Membership shall be apportionment to and may not be separated from ownership of any Lot which is subject to assessment. Every owner of a Lot shall notify the Homeowners Association of the owner's acquisition of title to a Lot within fifteen (15) days after title is acquired.

Section 2. The voting rights of the membership shall be apportionment to the ownership of the Lots. There shall be two classes of Lots with respect to voting rights and assessments:

(a) Class A Lots. Class A Lots shall be all Lots except Class B Lots as the same are hereinafter defined. Each Class A Lot shall entitle the Owner(s) of said Lot to one vote. When more than one person owns an interest (other than a leasehold or a security interest) in any Lot, all such persons shall be Members and the voting rights apportionment to said Lot shall be exercised as they, among themselves, determine, but in no event shall more than one vote be cast with respect to any one Class A Lot.

(b) Class B Lots. Class B Lots shall be all Lots owned by Declarant which have not been converted to Class A Lots as provided in (1) below. The Declarant shall be entitled to three votes for each Class B Lot owned by it. The Class B Lots shall cease to exist and shall be converted to Class A Lots on the first to occur of:

- (1) When the total number of votes apportionment to the Class A Lots is greater than or equal to the total number of votes apportionment to the Class B Lots.

Section 3. Notwithstanding the provisions of Section 1 and Section 2 above, the total votes cast by any nonresident Owners, other than the Declarant, shall not exceed forty-nine percent (49%) of all votes cast on any matter for action by the Owners or the Homeowners Association.

**ARTICLE IV  
PROPERTY RIGHTS**

Section 1. Owner's Easement of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area, which shall be apportionment to and pass with the title to every Lot, subject to the following provisions:

(a) The right of the Homeowners Association to charge reasonable admission and other fees for the use of any recreation facilities situated upon the Common Area and to limit the use of said facilities to owner using their lots as their principle residence in Union County, North Carolina, and to their families, tenants, contract purchasers, and guests, as provided in Section 2 of this Article IV.

(b) The right of the Homeowners Association to suspend the voting rights and rights to the use of the recreational facilities of any Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations.

(c) The right of the Homeowners Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members; provided, however, that such dedication or transfer shall comply with the conditions and requirements of the Special Use Permit. No such dedication or transfer shall be effective unless the Members entitled to at least two-thirds (2/3) of the votes to Class B Lots consent to such dedication or transfer and signify their consent and agreement in a signed and recorded written instrument. This subsection shall not preclude the Board of Directors of the Homeowners Association from granting easements to public authorities or others for the installation and maintenance of sewerage, utilities, and drainage facilities upon, over, under, and across the Common Area without the assent of the membership when, in the sole opinion of such Board, such easements do not interfere with the use and enjoyment of the Properties or are necessary for the convenient use and enjoyment of the Properties; provided, however, that such easements shall comply with the conditions and requirements of the Special Use Permit.

(d) The right of the Homeowners Association, with the written assent of the Members entitled to at least two-thirds (2/3) of the votes appurtenant to Class A Lots and at least two-thirds (2/3) of the votes appurtenant to Class B Lots, and so long as any of its real or personal property as security for money borrowed or debts incurred.

Section 2.

Delegation of Use

(a) Family. The right and easement of enjoyment granted to every Owner in Section 1 of this Article IV may be exercised by members of the Owners' family who occupy the residence of the Owner within the Properties as their principle residence in Union County, North Carolina.

(b) Tenants or Contract Purchasers. The right and easement of enjoyment granted to every Owner in Section 1 of this Article may be delegated by the Owner to his tenants or contract purchasers who occupy a residence within the Property, or a portion of said residence, as their principle residence in Union County, North Carolina; provided that no such delegation shall relieve the Owner of his responsibilities and obligations under this Declaration and the Owner shall remain fully responsible for the acts or omissions of any tenant or contract purchaser.

(c) Guests. Recreational facilities situated upon the Properties may be utilized by guests of Owners, tenants, or contract purchasers subject to the rules and regulations of the Homeowners Association, as may be established by its Board of Directors, governing said use. Owners, tenants and contract purchasers shall be responsible for the conduct, acts and omissions of their guests.

Section 3. Ownership of Common Areas. Declarant shall convey the Common Areas to the Association free and clear of all liens and encumbrances. Notwithstanding the reclamation of any map or any other action by Declarant or the Association, all Common Areas, including cul-de-sacs and roads, if any, shall remain private property and shall not be considered as dedicated to the use and enjoyment of the public; provided, however, that the Declarant or the Association may offer such cul-de-sacs and roads for dedication to the appropriate governmental authorities. If accepted for dedication by such government authorities, then the cul-de-sacs or roads shall then be considered dedicated to the use and enjoyment of the public. Declarant shall maintain the common areas until such time as the common areas are turned over to the Association. Declarant shall convey the common areas to the Association upon the closing of 50% of the lots in each phase.

Section 4. Owners' Easements for Ingress and Egress. To the extent that cul-de-sacs and roads have not been dedicated to the use and enjoyment of the public sufficient to provide access to a Lot, every Lot shall be conveyed with and each Owner is hereby granted a perpetual, nonexclusive easement over any cul-de-sac or roadway which may be constructed by the Declarant and conveyed to the Association as part of the Common Area for the purpose of providing access to and from each Lot. Upon dedication and acceptance of such cul-de-sacs and roadways, these easement rights shall terminate with respect thereto.

ARTICLE V  
COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Homeowners Association: (1) annual assessments and (2) special assessments, such assessments to be established and collected as hereinafter provided. Any such assessment, together with interest, costs and reasonable attorney's fees shall be a charge on the land and shall be a continuing lien upon the property against which such assessment is made. Each such assessment, together with interest costs, and reasonable attorney's fees shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Homeowners Association shall be used to promote the recreation, health, safety, and welfare of the residents of the Properties in connection with the use and enjoyment of the Common Area, including, but not limited to, the cost of maintenance, repair, replacement, or additions thereto, the cost of labor, equipment, materials, management, and supervision thereof, the payment of taxes assessed against the Common Area, the procurement and maintenance of insurance in accordance with the Bylaws of the Homeowners Association, the employment of attorneys to represent the Homeowners Association, when necessary, and such other needs as may arise.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be Three Hundred Seventy Five and no/100 Dollars (\$375.00) per Class A Lot.

- (a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment above established may be increased without limitation, by the Board of Directors of the Homeowners Association, effective January 1 of each year, without a vote of the membership.
- (b) The Board of Directors of the Homeowners Association may permit the annual assessment to be paid in installments but the ratio of the assessment established for each Class A Lot to the assessment established for each Class B Lot shall always be four to one, except that Declarant and Builder shall not be liable for Annual Assessments on any Lots if the Association is operating without a deficit.

Section 4. Special Assessments. In addition to the annual assessments authorized above, the Homeowners Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or part, any operating cost deficit or other expense for which annual assessments receipts are insufficient or the cost of any construction, reconstruction, repair, or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the same assent of the Members as provided in Section 3 (b) of this Article.

Section 5. Assessment Rate. Both annual and special assessments must be fixed at a uniform rate for all Lots within each class.

Section 6. Notice and Quorum for Any Action Authorized Under Section 3 and 4  
Written notice of any meeting of the Homeowners Association called for the purpose of taking any action authorized under Section 3 or 4 above shall be sent to all Members not less than thirty (30) days or more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty percent (60%) of the votes appurtenant to each Class of Lots (Class A and Class B) shall constitute a quorum. If the required quorum is not present, another meeting may be called for the same purpose and subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting date.

Section 7. Date of Commencement of Annual Assessments; Due Dates; Certificate of Payment. The annual assessments provided for herein shall commence as to all Lots on the earlier of:

- (a) The first day of the month following the conveyance to the Homeowners Association of the Common Area; or
- (b) At least thirty (30) days before January 1 of each year, the Board of Directors of the Homeowners Association shall fix the amount of monthly assessments against each Lot for the next year and at least fifteen (15) days before January 1 shall send written notice of such fixed assessment to every Owner subject thereto. Failure of the Board of Directors of the Homeowners Association to fix the amount of annual assessment or to notify any Owners shall not relieve any Owner of the obligation to pay assessment when due. The due dates for the payment of annual and special assessments shall be established by the Board of Directors. The Homeowners Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Homeowners Association setting forth whether the assessments on a specified Lot have been paid.

Section 8. Effect of Nonpayment of Assessment; Remedies of the Homeowners Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the annual rate of eighteen percent (18%) or the maximum interest rate permitted to be legally charged under the laws of the State of North Carolina at the time of such delinquency, whichever is the lesser. In addition to such interest charge, the delinquent Owner shall also pay such late charge as may have been theretofore established by the Board of Directors of the Homeowners Association to defray the costs of late payment. The Homeowners Association may bring an action at law against the Owner personally obligated to pay the same and/or foreclose the lien against the Lot by action or by power of sale to the extent permitted under North Carolina law, and interest, late payment fees, costs, and reasonable attorney's fees of such action or foreclosure shall be added to the amount of such assessment. No Owner may

waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. The liens provided for herein shall be subordinate to the lien of any first mortgage, or first deed of trust on a Lot. Sale or transfer of any Lot shall not affect any assessment lien. However, the sale or transfer of any Lot which is subject to any first mortgage or first deed of trust, pursuant to a foreclosure thereof, shall extinguish the lien of such assessments to the extent the assessments became due prior to such sale or transfer. No such sale or transfer shall relieve such Lot from liability for any assessment thereafter becoming due or from the lien thereof, but the liens provided for herein shall continue to be subordinate to the lien of any first mortgage or first deed of trust.

Section 10. Exempt Property. All property dedicated to, and accepted by, a local public authority and all properties owned by a charitable or nonprofit organization exempt from taxation by the laws of the State of North Carolina shall be exempt from the assessments created herein. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

#### ARTICLE VI ARCHITECTURAL CONTROL

No building, fence, wall, structure or other improvement shall be commenced or maintained upon the Properties, nor shall any exterior addition, change or alteration be made, including, without limitation, the erection of antennas, aerials or awnings or the placement of reflective or other material in windows until detailed plans and specifications showing the nature, kind, shape, heights, materials, colors, and location of the same shall have been submitted to and approved in writing by the Board of Directors of the Homeowners Association, or by an architectural control committee composed of three (3) or more representatives appointed by that Board. The Board or architectural control committee shall review the plans and specification to determine if the external design and location of the proposed improvement is in harmony with surrounding structures and topography. The Board may, but is not required, to adopt more specific guidelines for architectural review and may revoke or amend guidelines previously adopted at any time. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required, and this Article will be deemed to have been fully complied with. No action or inaction by the Board of Directors or the architectural control committee with respect to a specific improvement, addition or alteration made or proposed shall operate as a waiver or estoppel with respect to any later submission or proposal. The Homeowners Association shall have the right to charge a reasonable fee for receiving such application in an amount not to exceed fifty dollars (\$50.00). Neither the Board of Directors nor the architectural control committee shall approve any alterations, decorations, or modifications which would jeopardize or impair the value or appearance of any Lot or the Common Area. Provided that nothing herein contained shall be construed to permit interference with the development of the Properties by the Declarant in accordance with its general plan of development.



ARTICLE VII  
USE RESTRICTIONS

WHEREAS, Dan Moser Co., Inc., P.O. Box 350, Mineral Springs, North Carolina is the owner of a certain tract of land located on Fincher Road, Matthews, North Carolina in Union County, and described in a plat recorded in the Office of the Register of Deeds in Union County, North Carolina, in Map Book 35 and Pages Five 004, and designated as Prestwick Subdivision.

WHEREAS, Dan Moser Co., Inc. now desires for the use and benefit of their Company, its heirs, successors and assigns and its future grantees and lessees, to place and impose certain restrictive covenants on the subject property and the owners and holders.

NOW, THEREFORE, in consideration of the premises, and for the purpose aforesaid, Dan Moser Co., Inc., for their Company, its heirs, successors and assigns and their future grantees and lessees, do hereby place and impose upon each lot shown on the above referenced plat and included in the subject property the following restrictive covenants for the period ending 20 years from the date hereof:

**Section 1. Land Use.** All lots shall be known and described as residential purposes and are devoted exclusively to dwelling use. No structure shall be erected, altered, placed, or permitted to remain on any Lot other than a single-family dwelling, not to exceed two and one-half stories height.

**Section 2. Building Lines.** No building shall be located nearer to the front or sidelines than the building setback lines shown on the recorded plat, if such lines are shown. In any event, no building shall be placed nearer to any front, side, or rear setback line as required by the County of Union Zoning Ordinance.

**Section 3. Subdivision of Lots.** No person or entity may subdivide or resubdivide any Lot or Lots without the prior written consent of the Declarant and must be in compliance with County Subdivision Regulations.

**Section 4. Size of Structure.** No residential structure shall be erected or placed having a total finished heated are of less than 1,000 square feet. Only a single family dwelling and its ancillary buildings may be erected on a lot. No building, as aforementioned, may be erected until construction of the dwelling has been begun. Any dwelling or ancillary building shall be set back according to the set back lines as shown on the recorded ~~Map Book~~ Map Book 35, ~~Page 004~~ Page 004 of the Union County Registry. Any ancillary building or storage building must be constructed from material matching the house on the lot and shall not exceed 150 square feet.

**Section 5. Foundation.** All homes must have a brick, stone, block, block & parge, or concrete foundation.

Section 6. The exterior walls of all dwellings (excluding trim) shall be made of wood, brick, vinyl, stone, stucco, or similar materials.

Section 7. The majority of all roof areas on any house shall have a minimum 6/12 roof pitch.

Section 8. Temporary Structures. No structure of a temporary nature shall be erected or allowed to remain on any Lot unless and until permission for the same has been granted by the Homeowners Association, or its designated agent of representative. This Section shall not be applicable to temporary construction trailers, sales offices, and material storage facilities used during construction.

Section 9. Use of Common Area. The Common Area shall not be used in any manner except as shall be set forth in this Declaration or as shall be approved or specifically permitted by the Homeowners Association.

Section 10. Clothes Drying. No drying or airing of any clothing or bedding shall be permitted outdoors on any Lot or in any other unenclosed area (including patios) within the properties other than between the hours of 8:00 A.M. and 5:00 P.M. on Monday through Friday and 8:00 A.M. and 1:00 P.M. on Saturdays (except when any such day shall fall on a holiday) and clothes hanging devices such as lines, reels, poles, frames, etc. shall be stored out of sight other than during the times and days aforementioned.

Section 11. Regulations. Reasonable regulations governing the use of the Common Area may be made and amended from time to time by the Board of Directors of the Homeowners Association. All such regulations and amendments thereto shall be approved by a majority of the votes of Owners voting in person or by proxy at the annual meeting or a special meeting called for that purpose before the same shall become effective. Copies of such regulations and amendments thereto shall be furnished to each Member by the Homeowners Association upon request.

Section 12. Nuisances. No noxious or offensive trade or activity shall be carried on upon any Lot nor shall anything be done thereof which may be or become an annoyance or nuisance to the neighborhood.

Section 13. Residences. No mobile homes, manufactured houses, relocation of existing older homes, no metal buildings, basement, tent, shack, garage, barn, or other outbuilding erected on the Properties shall be at any time used as a dwelling or residence, temporarily or permanently, nor shall any structure of a temporary character be used as a dwelling or residence.

Section 14. Each owner shall keep his lot in an orderly condition and shall keep the improvements thereon in a suitable state of repair, promptly repairing any damage thereto by fire or other casualty. None of the following items shall be erected or located closer to the front yard than the rear corners of any dwelling erected on the lot:

- (a) Free standing radio or television transmission or reception towers and antennas, satellite dishes must be less than three (3) feet in diameter and they must not be visible from in front of the house.
- (b) Swimming pools (above ground pools prohibited), Jacuzzis, or hot tubs.
- (c) Trampolines.
- (d) Fences or walls, including invisible fencing. Any fencing should not have a height over 4 feet except a 6-foot fence may be allowed to enclose the perimeter of a patio, pool, Jacuzzi, or hot tub for privacy. All fencing shall be white vinyl fencing as designated by the Board of Directors of the Homeowners Association, its Architectural Control Committee, or its designated Sub-Committee. No structures (including fences) shall be built or placed on berm. The following fencing would be prohibited: chain link and/or chicken wire.

**Section 15. Harmful of Structures.** No structure shall be constructed or moved onto any Lot unless it shall conform to and be in harmony with existing structures on the Properties.

**Section 16. Easements.** A perpetual easement is reserved over the rear 10 feet of each Lot for utility installment and maintenance and/or as shown on recorded map. A perpetual easement is reserved over the side 5 feet and rear 10 feet of each Lot for public storm drain and/or as shown on recorded map. Any water, sewer, or storm drain easements shall also be used as reserved easements for access to common area.

**Section 17. Animals.** No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Lot, except that dogs, cats, or other household pets may be kept, provided that they are not kept, bred, or maintained for any commercial purpose.

**Section 18. Trash Disposal.** All rubbish, trash, garbage, or waste of any kind shall be kept in sanitary containers and shall in no event be placed on Common Area. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

**Section 19. Sight Line Limitations.** No fence, wall, hedge, or shrub planting which obstructs sight lines at elevations between 2 and 6 feet above the roadways shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines and a line connecting them at points 35 feet from the intersection of the street lines, or in the case of a rounded property corner, from the intersection of the street property lines extended, or as shown on the Recorded Plat. The same sight-line limitations shall apply on any Lot within 10 feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstructions of such sight lines.

**Section 20. Parking of Vehicles.** No truck over one ton, school bus, camper, trailer, boat or boat trailer, recreation vehicles, craft or watercraft shall be parked in the street, in a driveway, in the front yard, in a side yard, or in the back yard of any Lot, or anywhere else outside of the garage, except as expressly permitted by the Board of Directors of the Homeowners Association, its architectural control committee or its designated subcommittee. No vehicles of any type which are abandoned, inoperative, or dismantled shall be allowed on property. There will be no dirt bikes, mopeds, 4-wheelers, or go-carts allowed on streets and vacant lots. The preceding restriction shall not affect parking of passenger cars, sport utility vehicles, or light trucks.

**Section 21. Mailbox and Newspaper Box.** No masonry mailbox supports shall be permitted. Declarant shall designate the type of mailbox and newspaper box that may be installed on the Properties, and no other type of mailbox or newspaper box may be installed on any Lot. No planting of trees, shrubs, or any other objects may be placed on the street right-of-ways.

**Section 22. Basketball Goal Support.** No basketball goal supports shall be erected or placed within any street right-of-way.

**Section 23. Construction of Driveway.** All homes shall have a concrete driveway. If the house has no garage, then a 9' wide concrete driveway will begin from the back of the curb to the front foundation of the house. If the house has an attached garage, a 9' wide driveway will begin at the back of the curb until it joins the garage. If the house has a detached single garage, a 9' wide concrete driveway will begin at the back of the curb where it adjoins the garage. If the house has a detached double garage, then a 9' driveway will begin at the back of the curb and flare to 16' where it adjoins the garage.

**Section 24. Signs.** No sign of any kind shall be displayed to the public view on any Lot except one professional sign of not more than one square foot; one sign of not more than five square feet, advertising the property for sale or rent; or signs used by a Builder to advertise the property during the construction and sales period.

**Section 25. No Access from Fincher Road.** No driveway, accessway, curbcut, or other vehicular access shall be permitted between any lot abutting Fincher Road and connecting directly to Fincher Road and all lots shall access to Fincher Road only by streets within the property.

**ARTICLE VIII  
EASEMENTS**

Easements for the installation and maintenance of fences, driveways, walkways, parking areas, water lines, gas lines, telephone, cable TV, electric power lines, sanitary sewer and storm drainage facilities and for other utility installations are reserved as shown on the recorded plat and as further described in Article VII, Section 13 of this instrument. Within any such easements above provided for, no structure, planting, or other material shall be placed or permitted to remain which may interfere with the installation and maintenance of sewerage disposal facilities and utilities, or which may change the direction of flow or drainage channels in the easements or which may obstruct or retard the flow of water through drainage channels in the easements or Declarant, its successors and assigns, hereby reserves and shall have temporary easements for itself, its agent and employees over the Common Area to facilitate construction of living units and related improvements to be completed in developing the Properties. A 10' easement is hereby reserved for Declarant, Developer, and their Assigns for construction purposes.

**ARTICLE IX  
GENERAL PROVISIONS**

**Section 1. Enforcement.** The Homeowners Association or any Owner shall have the right to enforce by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration. In any such action, the court may award reasonable attorney's fees to the prevailing party. Failure by the Homeowners Association of any Owner to enforce any covenant or restriction herein contained shall in no way be deemed a waiver of the right to do so thereafter.

**Section 2. Severability.** Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

**Section 3. Effect of Restrictions and Amendment.** The covenants and restrictions of this Declaration shall bind only to the land specifically herein described and shall run with and bind that land. This Declaration may be amended prior to ~~December 31, 2006~~ (date), by the Declarant, so long as the Declarant still owns any Lots, and thereafter by an instrument signed by the Owners of not less than seventy-five percent (75%) of the Lots. Any amendment must be properly recorded.

**Section 4. Annexation.** Additional residential property and Common Area may be annexed to the Properties with the consent of two-thirds (2/3) of each class of members.

**Section 5. FHA/VA Approval.** As long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: Annexation of additional properties, dedication of Common Area, and amendment of this Declaration of Covenants, Conditions and Restrictions.

IN WITNESS THEREOF, the parties hereto have executed this Declaration under seal as of the 1<sup>st</sup> day of October, 2005.

Dan Moser Co., Inc.

BY: D L Moser  
Dan L. Moser

ATTEST:  
Miranda News  
Assistant Secretary

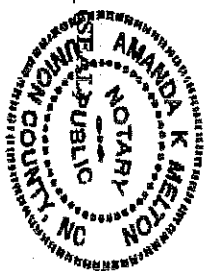


STATE OF NORTH CAROLINA  
COUNTY OF UNION

I, Amanda K Melton, a Notary Public of the County and State aforesaid, certify that Tara D. News, personally came before me this day and acknowledged that she is Secretary of Dan Moser Co., Inc., a North Carolina corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal and attested by her as its Secretary.

Witness my hand and official stamp or seal, this 1<sup>st</sup> day of October, 2005.

Amanda K Melton  
Notary Public



My Commission Expires: 01-22-2008

3989  
0821

RK 3 9 8 9 PR 8 2 1

STATE OF NORTH CAROLINA  
COUNTY OF UNION

Paid for record  
Date 11-22, 2005  
Time 1:45 of box 0 in  
Crystal D. Gump, Register of Deeds  
Union County, Morgans, North Carolina  
Em

AMENDMENT TO DECLARATION  
OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
PRESTWICK SUBDIVISION

06125

THIS AMENDMENT, made this 22nd day of November, 2005 by Dan Mosser Company, Inc, hereinafter referred to as "Declarant":

WITNESSETH:

WHEREAS, Declarant executed the Declaration of Covenants, Conditions and Restrictions for Prestwick Subdivision on the 7th day of October, 2005, and recorded same on the 11th day of November, 2005 in Book 3980 at Pages 368-381 in the Union County Public Registry.

THEREFORE, the Declarant does hereby amend the Declaration of Covenants, Conditions and Restrictions for Prestwick Subdivision as follows:

Section 1. The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration and shall be within the jurisdiction of the Homeowners Association is located in Union County, North Carolina, and is more particularly described on the final plat of Prestwick Subdivision, Map 1 dated 6/03/05 and recorded the 11/11/05 in Plat Cabinet J, File 004 of the Union County Public Registry and re-recorded in Plat Cabinet J, File 11 of the Union County Public Registry.

Section 4. Size of Structures. No residential structure shall be erected or placed having a total finished heated area of less than 1,000 square feet. Only a single family dwelling and its ancillary buildings may be erected on a lot. No building, as aforementioned, may be erected until construction of the dwelling has been begun. Any dwelling or ancillary building shall be set back according to the set back lines as shown on the recorded Plat Cabinet J, File 004 of the Union County Public Registry and re-recorded in Plat Cabinet J, File 11 of the Union County Public Registry. Any ancillary building or storage building must be constructed from material matching the house on the lot and shall not exceed 160 square feet.

Rt. Dan Mosser Co.  
PO Box 350  
Morgans Springs, NC 28108

3989  
0822

BK 3989 PG 822

IN WITNESS WHEREOF, the Declarant has set their hands the day first written above.  
Dan Moser Company, Inc.

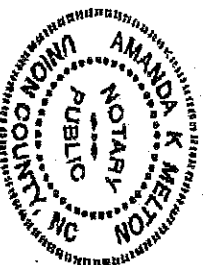
By: Wanda Stafford  
Wanda Stafford, Vice President



STATE OF NORTH CAROLINA  
COUNTY OF UNION

I, the undersigned, a Notary Public for the State and County aforesaid, do certify that Wanda Stafford, Vice President of Dan Moser Company, Inc., personally appeared before me this day and acknowledged the execution of the foregoing instrument on behalf of Dan Moser Company, Inc. Witness my hand and seal this 22nd day of November, 2005.

Amanda K Melton  
Notary Public



My Commission Expires: 01-22-2008



4335  
0152

BK4335PG0152

FILED  
UNION COUNTY  
CRYSTAL CRUMP  
REGISTER OF DEEDS

FILED Oct 16, 2006  
AT 04:35 pm  
BOOK 04335  
START PAGE 0152  
END PAGE 0153  
INSTRUMENT # 47819  
EXCISE TAX (None)  
J

State of North Carolina  
County of Union

Drawn by and Mail to:  
Catherine C. Hunter  
10710 Sikes Place, Suite 300  
Charlotte, NC 28277

SUPPLEMENTAL DECLARATION  
OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
PRESTWICK SUBDIVISION

THIS SUPPLEMENTAL DECLARATION, made this the 16<sup>th</sup> day of October,  
2006, by Dan Moser Company, Inc., hereinafter referred to as "Declarant",

WITNESSETH

WHEREAS, Declarant executed and recorded the Declaration of Covenants, Conditions  
and Restrictions for PRESTWICK SUBDIVISION, on the 1<sup>st</sup> day of November, 2005, and  
they are recorded in Book 3980 at Page 368 in the Mecklenburg County Public Registry (the  
Declaration).

WHEREAS, the Declaration allows annexation of additional land into PRESTWICK  
SUBDIVISION and:

NOW THEREFORE, the Declarant does hereby publish and declare that all the land more particularly described below is subject to the Declaration and all the terms and conditions thereof, and, further, such land is subject to the jurisdiction of the Association and the assessments levied by the Association allocable to such additional lands. The additional land hereby annexed is more particularly described as follows:

Located in the Union County, North Carolina, and being more particularly described as follows:

Being all of the property described as PRESTWICK SUBDIVISION, Map 2 on plans recorded in the Union County Public Registry at Map Book at Pages and Cabinet J, file 613

IN WITNESS WHEREOF, the Declarant has hereunto set his hand and seal the day first written above.

DAN MOSER COMPANY, INC.

By: William P. Berry  
President

NORTH CAROLINA, ~~Wake~~ <sup>Union</sup> ~~County~~ <sup>County</sup>.

I, a Notary Public of the County and State aforesaid, certify that William Berry personally came before me this day and acknowledged that he is President of Dan Moser Moser Company, Inc. a North Carolina corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by him as its President.

Witness my hand and official stamp or seal, this 15<sup>th</sup> day of October, 2006.

My commission expires: 12/31/09

Tara D. Nails Notary Public

★ OFFICIAL SEAL ★  
NOTARY PUBLIC, NORTH CAROLINA  
COUNTY OF UNION

TARA D. NAULS  
MY COMM. EXE DEC. 13, 2009

5143  
0764

FILED  
UNION COUNTY, NC  
CRYSTAL CRUMP  
REGISTER OF DEEDS

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FILED Jun 05, 2009  
AT 11:05 am  
BOOK 05143  
START PAGE 0764  
END PAGE 0767  
INSTRUMENT # 18408  
EXCISE TAX (None)  
TAV

Drawn by and Mail to: Law Office of Chris Karamstein, P.C.  
6500 Highway 49 South, Suite #200  
Harrisburg, NC 28075

STATE OF NORTH CAROLINA  
COUNTY OF UNION

AMENDMENT TO THE DECLARATION  
OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
PRESTWICK SUBDIVISION

THIS AMENDMENT TO THE DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS FOR PRESTWICK SUBDIVISION is made this  
day of                      2009, by the Prestwick Homeowners Association,  
Inc., a North Carolina non-profit corporation, as previously defined by the Declaration of  
Covenants, Conditions and Restrictions for Prestwick Subdivision referenced below,  
along with any amendments and supplements thereto;

WITNESSETH:

WHEREAS, Dan Moser Co, Inc., a North Carolina corporation, as Declarant, has  
heretofore imposed covenants, conditions and restrictions upon the certain residential  
subdivision known as "Prestwick", maps of which appear of record in the Union County,  
North Carolina, Public Registry, and which property is more particularly described in the  
Declaration of Covenants, Conditions and Restrictions recorded in Book 3980 at Page  
368 in the Union County, North Carolina, Public Registry, as amended and supplemented  
("Existing Declaration");

WHEREAS, the Existing Declaration expressly provides that it may be amended  
by an instrument signed by the Owners of not less than seventy-five percent (75%) of the  
Owners of the Lots within the development and said consent was obtained; and

WHEREAS, the Prestwick Homeowners Association, Inc. desires to insure the  
aesthetics of the subdivision and to prevent any future impairment thereof and to

preserve, protect and enhance the values and amenities of all properties within Prestwick, and to that effect deems it desirable to amend the Existing Declaration, as referenced above so as to fulfill the objectives stated herein;

NOW THEREFORE, the Prestwick Homeowners Association, Inc. by this Amendment to the Declaration of Covenants, Conditions and Restrictions for Prestwick, do hereby declare that all of the aforesaid property of Prestwick, and such additions thereto as may hereafter be made, pursuant to Article II, Section 2 of the Declaration of Covenants, Conditions, and Restrictions recorded in Book 3980 at Page 368 in the Office of the Register of Deeds for Union County, North Carolina, as amended and supplemented, is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, conditions, restrictions, easements, charges, and liens set forth in this Amendment to the Declaration, which shall run with the real property and be binding on all parties owning any right, title, or interest in said real property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Lot Owner thereof, and the Prestwick Homeowners Association Inc., and the undersigned Owners of Lots do hereby amend the existing Declaration of Covenants, Conditions and Restrictions, as amended and supplemented, as follows:

By deleting Article VII, Section 4 and Section 14(d) in their entirety and replacing them with the following:

**ARTICLE VII  
USE RESTRICTIONS**

**Section 4. Size of Structure.** No residential structure shall be erected or placed having a total finished heated area of less than 1,600 square feet. Only a single family dwelling and its ancillary buildings may be erected on a Lot. No building, as aforementioned, may be erected until construction of the dwelling has begun. Any dwelling or ancillary building shall be set back according to the set back lines as shown on the recorded Plat, located in Plat Cabinet J, File 004, of the Union County Public Registry. Any ancillary building or storage building must be constructed from material matching the house on the Lot and shall not exceed 150 square feet.

**Section 14.**

(d) Fences or walls, including invisible fencing. Any fencing shall not exceed a height of six (6) feet. All fencing must comply with the Architectural Guidelines adopted by the Board of Directors and must be approved by the Association or Architectural Control Committee prior to commencement of construction on any portion of any property located within the Prestwick Subdivision. No structures (including fencing) may be placed on a berm. The use of chain link fencing and/or chicken wire is strictly prohibited.

5143  
0766

Prestwick Homeowners Association, Inc.  
a North Carolina non-profit corporation

By: Anthony Stark

Name: Anthony Stark

Title: PRESIDENT

STATE OF NORTH CAROLINA

COUNTY OF UNION

I, WILLIAM J. SLATER, a Notary Public of the  
aforesaid County and State, do hereby certify that Anthony Stark  
President of Prestwick Homeowners Association, Inc., a North Carolina non-profit  
corporation, personally appeared before me this day and acknowledged the execution of  
the foregoing instrument.

Notary Public

My Commission Expires: JUNE 13, 2010

WILLIAM J SLATER  
NOTARY PUBLIC  
Mecklenburg County, North Carolina  
RealMv Commission Expires June 13, 2010

By: [Signature]  
Name: George R. Hyman  
Title: SECRETARY

STATE OF NORTH CAROLINA  
COUNTY OF Mecklenburg

I, Reid L. Whitehurst, a Notary Public of the  
aforesaid County and State, do hereby certify that George R. Hyman  
Secretary of Preswick Homeowners Association, Inc., a North Carolina non-profit  
corporation, personally appeared before me this day and acknowledged the execution of  
the foregoing instrument.

[Signature]  
Notary Public  
My Commission Expires: 7-29-2012

**REID L. WHITEHURST, II**  
NOTARY PUBLIC  
Mecklenburg County, North Carolina  
My Commission Expires July 29, 2012