

PK 1058 PG 519
Filed for Record
Date 2/16/98 O.M.
Time 10:40 o'clock
LUDY G. PRICE, Register of Deeds
Union County, Monroe North Carolina

36-2

STATE OF NORTH CAROLINA
COUNTY OF UNION
DECLARATION OF RESTRICTIONS

THIS DECLARATION OF RESTRICTIONS, is made this 15th day of February, 1998, by and between ROBERT C. RHEIN INTERESTS, INC., a North Carolina corporation (hereinafter "Developer"), and any and all persons, firms, or corporations subsequently acquiring any of the property hereinafter described.

STATEMENT OF PURPOSE

Developer is developing a certain residential subdivision containing 12 lots (hereinafter "Lots") known as SOMERSET as the same is shown on plat thereof recorded in Plat Cabinet E at File No. 950 in the Union County, North Carolina, Public Registry (hereinafter "Development"). Developer desires to restrict the use and occupancy of the Lots in accordance with a general plan of development as hereinafter set forth for the protection of the Lots and the future owners thereof.

NOW, THEREFORE, in consideration of the premises, Developer, for itself, its successors and assigns, hereby agrees with any and all persons, firms, or corporations acquiring any Lots in the Development that the same shall be, and are hereby, subject to the following restrictions, conditions, and covenants relating to the use and occupancy thereof:

1. LAND USE AND BUILDING TYPE. All lots in the tract shall be known and described as residential lots. No structure shall be erected, altered, placed or permitted to remain on any residential building plot other than one detached single family dwelling, not to exceed two and one-half (2 1/2) stories in height, and a private garage for not less than two (2) cars and not more than three (3) cars in a "front load" garage or not more than four (4) cars on a "side load" garage and other outbuildings incidental to residential use of the plot. This section shall not prevent the use of model homes and construction trailers during the construction of residences within the subdivision.

2. BUILDING SETBACKS. No building shall be erected on any residential lot nearer to any street line than the building setback lines shown on the recorded map, and with respect to a corner lot no residence or other building shall be located nearer to the side street line than the building setback lines shown on the recorded map. Provided, however, Developer reserves the right to revise any recorded map and change any building setback line shown on the original map provided that any minimum setback line shown on a revised map shall not be less than applicable zoning ordinances. With respect to corner lots the front lot line shall be deemed the street line having the shorter frontage, and any residence erected on such corner lot shall face the front lot line, unless otherwise approved by the Architectural Control Committee as provided in Article X of the Declaration of Covenants, Conditions and Restrictions for Somerset. No building, garage, carport, or other accessory building and structure incidental to the residential use of the lots shall be located nearer to a side lot line than

permitted by applicable Union County zoning ordinances. For purposes of determining compliance or noncompliance with the foregoing building line requirements, decks, porches, terraces and wing-walls shall be considered as part of the structure and will not be allowed to encroach into side or rear yard setbacks, except upon approval by the Architectural Control Committee. However, this provision shall not be construed to authorize or permit encroachment of any structure upon any easement shown on the recorded plat or reserved herein or upon any other Lot.

3. FENCES. Prior to construction or installation of any fence on a Lot, such fence must be approved by the Architectural Control Committee as provided for in Article X in the Declaration of Covenants, Conditions and Restrictions for Somerset. No fence or wall shall be erected on any building plot closer to any street right-of-way than the building setback lines shown upon the recorded map. Chain link fencing is not permitted, except that 2"x 4" mesh may be used with split rail fencing to contain children and animals within the yard with approval of the Architectural Control Committee. The fencing restrictions in this paragraph and paragraph 2 hereof shall not be applicable to model homes owned by builders, Developer or Developer's assigns.

4. LOT AREA AND WIDTH. No residential structure shall be erected or placed on any building plot, which plot has an area of less than the square footage or a width of less than the width permitted by applicable Union County zoning ordinances.

5. TEMPORARY STRUCTURES AND OFFSTREET PARKING. No residence of a temporary nature shall be erected or allowed to remain on any lot, and no trailer, basement, shack, tent, garage, barn or any other building of a similar nature shall be used as a residence on any lot, either temporarily or permanently. Mobile house trailers, on or off wheels, recreational vehicles ("RVs"), motor homes, vehicles or enclosed bodies of the type which may be placed on or attached to a vehicle, known generally as "campers", commercial vehicles of any kind operated by a member of the household occupying the dwelling on the lot and any boats and boat trailers shall not be parked on the street within the front or side street setback lines or anywhere on the Lot where it or they would be visible from any traveled road or another Lot.

No vehicle of any type which is abandoned or inoperative shall be stored or kept on any lot within this subdivision in such manner as to be seen from any other lot or any street within this subdivision, and no automobiles or other mechanical equipment may be dismantled or allowed to accumulate on any said lot. Vehicles shall not be parked on the sidewalk or within the dedicated street right-of-way, nor shall vehicles be parked or stored on any part of the lot not improved for that purpose, i.e. garage, driveway, carport or parking pad. This paragraph does not preclude occasional overflow parking within the street right-of-way for guests or other reasonable purposes provided that no inconvenience is imposed on the owners of other lots within this subdivision.

6. NUISANCES. No noxious or offensive trade or activity shall be carried on upon any lot nor shall any thing be done thereon which may be or become an annoyance or nuisance to the neighborhood. No animals, livestock, or poultry of any kind shall be kept or maintained on any lot or in any dwelling except that dogs, cats or other household pets may be kept or maintained provided that they are not kept or maintained for commercial purposes. The number of household pets generally considered to be outdoor pets such as dogs and cats shall not exceed three in number except for newborn offspring of such household pets which are under nine (9) months in age. No dog run or pen may be constructed or maintained on any Lot unless such dog run or pen has been approved in writing by the Architectural Control Committee. Notwithstanding the foregoing, Pitbulls are expressly prohibited, and the Association shall have the right to prohibit, or require the removal, of any dog or animal, which after consideration of factors such as size, breed and disposition of the animal, interference by the animal with the peaceful enjoyment by other Owners of their Lots and the security measures taken by the Owner with respect to such animal, the Association, in its sole discretion, deems to be undesirable, a nuisance or a safety hazard.

No potentially hazardous or toxic materials or substances shall be used or stored on any Lot other than normal household, lawn and garden products which shall be used by Owner in a manner not to permit spills or runoff of such materials onto the Lot, adjacent lots or property, drainage swales and lakes. No dumping of grass clippings, leaves or other debris, petroleum products, fertilizers or other potentially hazardous or toxic substances shall be allowed on any Lot, drainage ditch or swale, stream, pond or lake except the normal application of fertilizer to grass and landscaping with special care being taken to minimize runoff into any lake. No activity shall be allowed which violates local, state or federal laws or regulations; provided, the Board shall have no obligation to take enforcement action in the event of a violation.

7. DWELLING SIZE AND ATTACHED GARAGE. The minimal heated square footage of a dwelling may not be less than the square foot requirements set forth on Exhibit A attached hereto. Each dwelling shall have an attached two (2), three (3) or four (4) car garage. Developer has the right to vary the minimum square foot requirement by 15%.

8. OUTBUILDINGS AND POOLS. No outbuildings of any kind shall be placed on any lot without the prior written approval of the Architectural Control Committee as provided in Article X of the Declaration of Covenants, Conditions and Restrictions for Somerset. No above-ground pool structures shall be erected on any lot.

9. EASEMENTS. Easements for installation, maintenance and repair of utilities and cable television (CATV) and drainage facilities are reserved as shown on the recorded map and over the rear ten (10) feet and each side five (5) feet of every lot. Within the easements, no structure, planting or other material shall be placed or permitted to remain which may interfere with the installation and maintenance of the

utilities, or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each lot and all improvements in it shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or utility company is responsible. The Developer reserves the right to create and impose additional easements or rights of way over unsold lot or lots for street, drainage, and utility installation purposes by the recording of appropriate instruments and such shall not be construed to invalidate any of these covenants.

10. SIGNS. Unless approved by the Architectural Control Committee, no sign of any kind shall be displayed to the public view on any Lot except one professional sign of not more than five (5) square feet advertising the property for sale or rent or signs used by a builder approved by Robert C. Rhein Interests, Inc., or its designated assigns, to advertise the property during the construction and sales period.

11. UNINTENTIONAL VIOLATIONS. In the event of the unintentional violation of any of the building line restrictions set forth herein, Robert C. Rhein Interests, Inc., or its designated assigns, reserves the right, by and with the mutual written consent of the owner or owners for the time being of such lot, to change the building line restriction set forth in the instrument provided, however, that such change shall not be in violation of any provisions of the zoning provisions of the County of Union.

12. ANTENNAS, SATELLITE DISHES OR DISCS. No radio or television transmission or reception towers, antennas, dishes or discs shall be allowed on a lot, unless approved by the Architectural Control Committee pursuant to Article X of the Declaration of Covenants, Conditions and Restrictions for Somerset.

13. MAINTENANCE OF LOT. 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. No clothesline may be erected or maintained on any lot. No lot shall be used in whole or in part for storage of rubbish of any character whatsoever and no trash, rubbish, stored materials, wrecked or inoperable vehicles or similar unsightly items shall be allowed to remain on any lot outside an enclosed structure; provided however, that the foregoing shall not be construed to prohibit temporary deposits of trash, rubbish and other debris for collections by governmental or other similar garbage and trash removal units.

(a) Property within Rear Setback Line of Lots. The property located in the minimum rear setback of recorded single-family lots as provided by applicable zoning ordinances may not be "machine cleared," i.e. using a machine or bulldozer to clear the property located within the rear setback at any time, unless approved in writing in advance by Declarant. The intent and purpose of this restriction is to require the "hand clearing" of a lot and trees on the lot, thereby encouraging the preservation of trees on lots. This provision

shall not be construed to affect Common Area or clearing done by Declarant or utility companies.

14. DECLARANT OF COVENANTS, CONDITIONS AND RESTRICTIONS AND ARCHITECTURAL CONTROL COMMITTEE. The lots are a part of the residential subdivision known as Somerset and are subject to the terms, provisions, conditions and assessments set forth in the Declaration of Covenants, Conditions and Restrictions for Somerset recorded in Book 1053 at page 467 in the Union County Public Registry. Article X of the Declaration of Covenants, Conditions and Restrictions provides for an Architectural Control Committee to review and approve any alteration or modifications to existing dwellings and construction of new structures or improvements unless constructed by Approved Builders. In addition, in Article X, the Declaration and Architectural Control Committee are given the authority to develop, publish and promulgate architectural standards and guidelines referred to as the Architectural Design Guide.

The following two (2) provisions shall be included in the Architectural Design Guide and are set forth herein as a part of this Declaration of Restrictions:

(a) Exterior Color and Elevations. Exterior color schemes may not be duplicated and exterior elevations may not be duplicated on any street, unless the duplicate color scheme or elevation is separated by at least two (2) lots on the same side of the street or by at least one (1) lot on the opposite side of the street, i.e. the lot directly across the street cannot be the same color or elevation; provided that Declarant shall have the right, but not the obligation, to waive this requirement, in its sole discretion, on a lot-by-lot basis after receipt of a written request from an approved builder; and

(b) Mailboxes. No mailbox or mailbox support may be used on a lot other than the single-type mailbox and support in the color approved by the Declarant and fabricated to a design shown on Exhibit B attached hereto or such other design as approved by Declarant.

15. ENFORCEMENT. Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant and to either restrain violation or to recover damages.

16. SEVERABILITY. Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

17. TERM & AMENDMENT. These covenants are to run with the land and shall be binding upon all parties and all persons claiming under them for a period of 25 years from the date these covenants are recorded; after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an

instrument signed by a majority of the then owners of the lots has been recorded, agreeing to change said covenants in whole or in part. These covenants may be amended during the first twenty-five year period by an instrument signed by the Owners of not less than eighty (80%) of the lots. These covenants may be amended for clarification purposes and/or to be consistent with the Declaration of Covenants, Conditions and Restrictions for Somerset during the first five-year period by the Developer.

IN WITNESS WHEREOF, the undersigned has caused these presents to be executed in its name and its corporate seal to be hereunto affixed as of the day and year first above written.

ROBERT C. RHEIN INTERESTS, INC.,

ATTEST:

Michelle M. Steyer
Asst. Secretary

By: [Signature]
Vice President

(CORPORATE SEAL)

STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

This 13th day of February, 1998, personally came before me [Signature], Michelle M. Steyer, who being by me duly sworn, says that he is Vice President of ROBERT C. RHEIN INTERESTS, INC., a North Carolina corporation; that the seal affixed to the foregoing instrument in writing is the corporate seal of said Robert C. Rhein Interests, Inc.; and that said writing was signed and sealed by him on behalf of said corporation by authority duly given. And the said Vice Pres. acknowledged the said writing to be the act and deed of said corporation.

[Signature]
Notary Public

My commission expires:
1-28-01

153.r&s 2/11/98

EXHIBIT A

MINIMUM DWELLING SQ.FT. RESTRICTION

SOMERSET MAP 3 (PLAT CABINET E FILE 950)

DWELLING
MINIMUM
SQ.FT.

1,700

2/13/98