

BK 1258PG0698

Filed for record
Date 6/9/99
Time 4:35 P.M.
JUDY G. WALKER, Register of Deeds
Union County, Kansas, North Carolina

Prepared by and return to: Thomas J. Caldwell (dcb)
STATE OF NORTH CAROLINA

COUNTY OF UNION

11813

RECORDED
AND
VERIFIED
JT

**DECLARATION OF RESTRICTIVE COVENANTS
FOR SUMMERHILL ESTATES, PHASE 2**

This DECLARATION OF RESTRICTIVE AND PROTECTIVE COVENANTS AND CONDITIONS, made and entered into this the 9 day of June, 1999, by and between SUN VALLEY INVESTORS, owner of SUMMERHILL ESTATES SUBDIVISION, PHASE 2 as shown on plat recorded in Plat Cabinet F, File 6417 of the Union County, North Carolina Registry, (hereinafter "Developer") and, PROSPECTIVE PURCHASERS of all lots in said subdivision.

WITNESSETH:

WHEREAS, the Developer intends to convey each of said lots as the same are shown and delineated on the above-mentioned map, by deeds, deeds of trust, mortgages, and other instruments to various persons, firms, and/or corporations, subject to certain restrictive and protective covenants and conditions which are deemed to make the subdivision more desirable and to be for the benefit of all those who acquire title to any one or more of said lots to the end that the restrictive and protective covenants and conditions herein set out shall inure to the benefit of each person, firm or corporation which may acquire title to any and all of said lots and which shall be binding upon each such person, firm or corporation to whom or to which Developer may hereafter convey any of said lots by deed, mortgage, deed of trust, or other instrument.

NOW, THEREFORE, in consideration of the premises, Developer hereby covenants and agrees with said Prospective Purchasers that each of the aforementioned lots shall be held, sold, encumbered and conveyed subject to the restrictive and protective covenants and conditions hereinafter set forth and said restrictive and protective covenants and conditions shall become a part of each instrument conveying any of said lots as fully and to the same extent as if set forth therein. As a condition of the sale or conveyance, the purchasers agree and covenant to abide by and conform with said restrictive and protective covenants and conditions:

**THE RESTRICTIVE AND PROTECTIVE COVENANTS
AND CONDITIONS ARE AS FOLLOWS:**

1. **Lot.** The word "Lot" as used herein shall mean the separately numbered parcels depicted on the above-mentioned map. Provided, however, that the owner of all of a numbered Lot on said map may combine with such numbered lot, part or portions of another numbered lot or lots and the aggregate shall be considered as one "Lot" for the purposes of these restrictive and protective covenants and conditions. See, also, Paragraph 18.

2. **Land Use and Building Type.** No structure shall be erected, altered, placed or permitted to remain on any Lot other than for use as a single-family residential dwelling, and only one single-family residential dwelling shall be erected or permitted to remain upon any Lot. No outbuilding shall be erected upon any Lot unless same is incidental to the residential use of said Lot. It is provided, however, that Developer, during the development stage, may maintain a dwelling for use as a model home to aid sales in the subdivision. After development has been completed, no such model home may be maintained in the subdivision. Each Lot shall be used for residential purposes, only. Garages and carports may be maintained in the subdivision and may be detached or attached and part of the dwelling. Garages and carports shall be constructed of material and design substantially similar in quality, materials and design of the dwelling.

OSWYNN CALDWELL,
REGISTER, L&E,
REXNUM & SUVAWAY, PA.
ATTORNEY-AT-LAW
MONROE, N.C.

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Only new site-built residential dwellings and new factory-built residential dwellings shall be permitted. Moving or placement of an existing residential dwelling on any Lot in the subdivision shall be prohibited unless specifically approved by Developer in writing, which approval shall be in Developer's sole discretion.

3. **Dwelling Size.** Any dwelling erected upon any Lot shall contain not less than 1100 square feet, outside measurement, of enclosed floor heated area, exclusive of open porches and garages.

4. **Construction Quality.** All dwellings, garages and outbuildings erected upon any Lot shall be constructed of material of good grade, quality and appearance, and all construction shall be performed in a good and workmanlike manner. The exterior construction of any dwelling shall be brick, stone, log, horizontal vinyl siding, horizontal masonry-type siding, or any material specifically approved by the Developer. All homes must be built on masonry foundations or must include masonry underpinnings. The front foundation/underpinning surface must be brick-veneer or stone veneer. The side and rear foundation/underpinning surfaces may be brick-veneer, stone-veneer or parged concrete blocks. All dwellings shall have composition shingle roofing or any roofing specifically approved by the Developer. All driveways and parking areas must have a permanent surface such as gravel, concrete or asphalt.

5. **Storage Buildings.** No storage building may be erected nearer the front lot line of a Lot than the back face of the dwelling located on such Lot. No storage building may be erected within any area reserved within this Declaration or as set forth on the recorded map of the subdivision as an easement area.

6. **Easements.** Easements for the installation and maintenance of utilities and drainage facilities are reserved over the front and rear ten feet of each of the aforesaid Lots. A drainage and utility easement five feet in width is reserved along each sideline of each Lot. Additional drainage easements, utility, and watershed easements are reserved as may be more particularly shown and delineated on the recorded maps of the subdivision. Within said easements so reserved, no structure, planting or other materials shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities or which may interfere with drainage and the flow of water within the easement areas. The owner of each Lot shall maintain that portion of said Lot lying within the easement areas as defined herein and shall maintain such improvements as may be located thereon except those improvements installed and maintained by a public authority or utility company. No lot owner may dedicate, convey or permit an easement or right of way for ingress and egress to land located outside the subdivision boundaries as shown on the recorded plat.

7. **Garbage and Refuse Disposal.** No Lot shall be used or maintained in an unsightly manner or as a dumping ground for rubbish, trash or debris. Rubbish, trash, debris, garbage and other waste shall be kept only in sanitary containers.

8. **Satellite Dishes.** No satellite dish which exceeds thirty inches (30") in diameter may be erected nearer the front lot line of a Lot than the back face of the dwelling located on such Lot.

9. **Nuisances.** No noxious or offensive trade or activity shall be carried on upon any Lot nor shall anything be done thereon which may be or become a nuisance or annoyance to the neighborhood. No truck or commercial vehicle in excess of 26,000 pounds gross vehicle weight (GVW) shall be parked or permitted to remain on any Lot. No wrecked or junked motor vehicle or vehicle without current license plates and registration shall be permitted to remain upon any Lot, unless stored in an enclosed garage. No trailer, motor home, camper or like recreational vehicle or boat shall be permitted to remain upon any Lot unless it is parked to the rear of the home, or stored in a garage. As herein used, "Lot" shall include subdivision street.

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10. **Temporary Structures.** No structure of a temporary character, trailer, basement, tent, shack, barn, or other outbuilding shall be used on any Lot at any time as a residence either temporarily or permanently.
11. **Signs.** No signs of any kind shall be displayed to the public view on any Lot. However, one sign of not more than five square feet advertising the property for sale or rent and signs used by a builder to advertise the property during the construction and sales period are permissible.
12. **Livestock and Poultry.** Except as hereinafter provided, 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 they are not kept, bred, or maintained for commercial purposes. Up to two pleasure horses shall be permitted on Lots that exceed three acres, subject to the requirements of the Union County Land Use Ordinance. A stable may be erected to accommodate horses; however, this building shall not be nearer than 50 feet from any lot lines.
13. **Swimming Pools.** No swimming pool may be erected nearer the front lot line of a Lot than the back face of the dwelling located on such Lot.
14. **Mailboxes.** No brick or other type mailbox or mailbox stand which has not been approved by the North Carolina Department of Transportation (NCDOT) or other agency having jurisdiction over mailboxes located within street rights of way shall be permitted in the subdivision.
15. **Driveway Pipes.** Each driveway must include a NCDOT approved driveway pipe, which will be 15" minimum diameter, or larger as directed by NCDOT.
16. **Fences.** No fence may be erected nearer the front lot line of a Lot than the back face of the dwelling located on such Lot, except that decorative split rail fencing is permitted in the front yard.
17. **Outside Access to Streets.** No right of way or easement or grant of any kind for egress, ingress or regress (whether by verbal permission or in writing, or through inaction, implication or otherwise) shall be granted or allowed by the owner of any lot to create access by or for an adjoining landowner or person or entity not adjoining to the subdivision's streets.
18. **Combination of Lots; Further Subdivision.** More than one lot (as shown on the subdivision map) or part thereof may be combined to form one or more building lots with the express written consent of the Developer and in such event the building line requirements prescribed herein shall apply to such combined lot. Developer reserves the right to re-subdivision any portion or all of the subdivision owned by the Developer. Upon combination or re-subdivision of said lots, the easements reserved herein shall be applicable to the rear, side and front lot lines of such combined or re-subdivided lots.
19. **Changes and Time Period.** These restrictive covenants are subject to being altered, modified, changed or canceled at any time by written document executed by the Developer (if Developer still owns any lot at such time) and by the then-owners of not less than 75% of the total lots shown on the above-referenced plat, and recorded in the office of the Register of Deeds of Union County, North Carolina.

These covenants are to run with the land and shall be binding on all persons and entities acquiring title to any of the aforementioned Lots up to and including the 1st day of November, 2023, at which time said covenants shall be automatically extended for successive periods of five years, unless by written instrument executed by a majority of the then-owners of said Lots, and duly recorded in the office of the Register of Deeds of Union County, North Carolina no later than

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sixty (60) days prior to any anniversary date of any such automatic renewal, it is agrees to change or cancel in whole or in part.

20. **Enforcement.** Enforcement of these restrictions and conditions shall be by proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or condition, either to restrain violation thereof or to recover damages therefor. Injunction shall not issue to compel the removal of or moving of any completed residence for violation of any side setback or front setback restrictions, the sole remedy of any offended person being a suit for damages.

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

IT IS HEREBY DECLARED THAT the above described lots as shown on the above-referenced recorded map shall be and are subject to the above-described restrictive covenants and conditions, and this Declaration and Restrictions SHALL RUN WITH THE LAND and shall be binding on all parties having or acquiring any right, title, or interest in and to the real property or any part or parts thereof subject to this Declaration.

IN TESTIMONY WHEREOF, SUN VALLEY INVESTORS, has executed this Declaration as of the date first above written.

SUN VALLEY INVESTORS, a N. C.
General Partnership

BY: _____
LOVE CONSTRUCTION COMPANY, INC.,
General Partner

By: _____
PRESIDENT

ATTEST:

SECRETARY

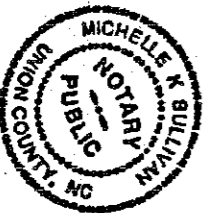
STATE OF NORTH CAROLINA
COUNTY OF UNION

Before me, a Notary Public, personally appeared this day MARTHA G. LOVE who, being duly sworn, says that she is the _____ Secretary and that VANN J. LOVE is the _____ President of LOVE CONSTRUCTION COMPANY, General Partner of SUN VALLEY INVESTORS, a N. C. General Partnership, the corporation described in and which executed the foregoing instrument; that she knows the common seal of said corporation; that the foregoing instrument was executed in its corporate name by the said _____ President and attested to by the said _____ Secretary who affixed the common seal thereto, all by order of the Board of Directors of said corporation and that the said instrument is the act and deed of the said corporation.

Witness my hand and notarial seal this 9 day of June, 1999.

Michelle K Bullivan
Notary Public

My commission expires: 1/20/2003



RUFFIN, CALDWELL,
HEIDER, LEE,
ELMS & HITTAY, P.A.
ATTORNEYS AT LAW
MONROE, N.C.

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STATE OF NORTH CAROLINA
COUNTY OF UNION

The foregoing certificate of Michelle K Sullivan Notary (fee)
Public of Union County, North Carolina, is/are hereby certified to be correct. This instrument was
presented for registration and recorded in this office in Book 1258, page 198.

This 9th day of June, 1999, at 4:35 o'clock P.m.
JUDY G. PRICE

Register of Deeds

By: MARIE M. DUBUIS

GAFFNEY, CALDWELL,
REIDER, LEE,
BEILING & BITTAVTZ, PA.
ATTORNEYS-AT-LAW
HARRIS, N.C.