

COUNTY OF LAKE

2005R003976

LAKE COUNTY OHIO
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FRANK A SUPONCIC
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A handwritten signature in black ink, appearing to read "Frank A. Suponic".



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**DECLARATION OF RESTRICTIVE COVENANTS
FOR SUMMERWOOD SUBDIVISION**

KNOW ALL MEN BY THESE PRESENTS, that:

WHEREAS, the undersigned, THOMAS M. RIEBE AND DOREEN M. RIEBE, CO-TRUSTEES OF THE RIEBE LIVING TRUST, (hereinafter referred to as "Grantor" or "Declarant"), is the owner of the real property described in Exhibit A attached hereto and incorporated herein by reference; and

WHEREAS, Grantor, his successors and assigns, desires to erect upon a maximum of 125 sublots dwellings of the same general size and with harmony of quality of workmanship and materials and of external design, and desires further to provide general standard of location and quality of said dwellings within the entire tract below described; and

WHEREAS, Grantor desires to protect the values of said sublots and dwellings to be constructed thereon to the benefit of prospective owners thereof;

NOW, THERFORE, Declarant, for himself and his successors and assigns, does hereby declare, publish, and impose the restrictive covenants hereinafter set forth to and upon the real property known as the "Summerwood Subdivision" located in the Township of Concord, County of Lake, and State of Ohio, as more fully described in Exhibit "A" attached hereto and made a part hereof.

1. No lot shall be used except for single-family residential purposes. No building shall be erected, altered, placed, or permitted to remain on any lot other than one detached dwelling, not to exceed two stories in height, including a private garage, which garage shall be an attached garage.

2. No building or mailbox or newspaper receptacles shall be erected, placed, or altered on any lot until the construction plans and specifications and a plan showing the location of the structure have been approved by the Architectural Control Committee (the "Committee") (as hereinafter defined) as to quality of workmanship and materials, harmony of external design with existing structures, and as to location with respect to topography and finished grade elevation. Mailboxes and posts shall be of uniform style, size and color for all lots as approved by the Committee. No fence or wall shall be erected, placed, or altered on any lot nearer to any street than the minimum building setback line, unless similarly approved. No wall or fence shall

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be erected on a corner lot.

3. No dwelling shall be built nearer to any street than the minimum building set-back line of forty feet (40'), unless otherwise approved by Grantor, and no portion of the lot between the dwelling and the street shall be used for any purpose other than that of a lawn; however, nothing herein shall be construed as preventing the use of such portion of said lot for walks and drives, the planting of trees or shrubbery, the growing of flowers or ornamental plants for the purpose of beautifying said lot, but neither vegetables nor grains of the ordinary garden or field variety shall be grown upon such portion thereof, and no weeds, underbrush, or other unsightly growth shall be permitted to grow or remain anywhere on said lot, and no unsightly objects shall be allowed to be placed or allowed to remain anywhere thereon. All driveways shall be of a hard surface and located not less than one (1) foot from any lot line or as may otherwise be required by Concord Township.

4. Landscaping shall be implemented and completed not later than one (1) year after the completion of building construction, weather permitting, and subject to delays beyond the control of the owner.

5. No single family residence of one story shall be permitted having less than sixteen hundred (1,600) square feet of floor area, nor shall any single family residence having one and a half stories be permitted having less than one thousand eight hundred (1,800) square feet of floor area, nor shall any single family residence having more than one and a half story be permitted having less than two thousand (2,000) square feet of floor area. Said square footage shall be exclusive of open porches, garages, breezeways, and basements. Grantor reserves the right to permit variances from the minimum areas specified above, provided that such variances are in compliance with all zoning regulations of Concord Township.

6. No building shall be located nearer to any side lot line than the minimum distance of ten feet (10').

7. No structure of a temporary character, trailer, basement, tent, shack, garage, barn, or other outbuildings shall be used on any lot at any time as a residence, either temporarily or permanently.

8. No building shall be constructed unless its front elevation or side elevation facing a street has an exterior finish of brick, stone, natural wood, cement plank, vinyl shakes or other finish approved by Grantor. A minimum of twenty-five percent (25%) stone, brick or stone-like

materials on front elevation or side elevation facing a street shall further be required. All buildings shall be constructed with brick to grade on its front elevation or any elevation facing any street within the subdivision.

9. No flat roofs may be constructed and the minimum allowable roof pitch shall be eight/twelve (8/12). All roof materials to be of a subdued color.

10. Above ground swimming pools, helicopter pads and radio towers are prohibited.

11. No nuisance, gas or oil derrick, billboard, advertising sign (except as to advertise the sale of the lot and building thereon), or other advertising device shall be erected, placed, or allowed to remain on said premises, nor shall the premises be used in any way, for any purpose, which may endanger the health, or unreasonably disturb the quiet enjoyment, of any owner of adjoining land. No spirituous, vinous, or fermented liquors shall be manufactured or sold, either at wholesale or retail, upon said premises. No privy shall be maintained, placed, or allowed to remain on said premises. No business of any kind shall be conducted on any lot, except that Declarant may conduct the business of completing the development and disposing of the lots, and any owner may use a portion of his residence for his office and studio, provided:

- (i) that the activities therein shall not interfere with the quiet enjoyment or comfort of any other Owner;
- (ii) that such use does not result in walk-in traffic to the lot from the general public or from regular business invitees; and
- (iii) that such use does not violate any local zoning ordinance.

12. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any lot or on the common area. However, dogs, cats, and other household pets may be kept on lots subject to such rules as may be adopted by the Association hereinafter established and defined, so long as they are not kept, bred, or maintained for commercial purposes.

13. No heating apparatus, in or for any building upon any lot, shall be operated with other than smoke-free fuel, unless such apparatus be equipped, operated, and maintained with such devices as will prevent excessive smoke.

14. No lot shall be subdivided unless the plat showing such subdivision shall have been submitted to the Grantor, his successors and assigns, and the written consent of said Grantor, his successors and assigns, and Concord Township to subdivide has been obtained. The Grantor,

his successors and assigns, and Concord Township shall be the sole judges as to whether such subdivision shall or shall not be permitted, and in case of the subdivision of said premises, the restriction, rights, reservations, limitations, agreements, covenants, and conditions herein contained, shall apply to each of the lots to which said premises shall be subdivided.

15. The Grantor, its successors and assigns, and Concord Township reserve the sole and exclusive right to establish grades and slopes on any lots conveyed and to fix the grade at which any building shall be hereafter erected or placed thereon so that the same conform to the general plan.

16. No campers, camper trailers of any type, trail bikes, mini-bikes, motorcycles, or other recreational or commercial vehicles, including, but not limited to, trucks, vans, tow trucks, or building equipment shall be placed, parked, maintained, or stored, either temporarily or permanently, on any lot or on any roadway in said subdivision unless the same be stored or kept within an enclosed garage, save and except that necessary trucks and building equipment may be placed, parked, maintained, or stored on any lot and/or adjacent roadway during the period of the construction of a house and/or permitted structure on any lot, or during the period of any necessary repair or maintenance of a house or permitted structure on any lot. Delivery vehicles and moving and storage vehicles shall also be permitted for the servicing of houses and permitted structures on any lot in this subdivision.

17. Grantor, or his successors and assigns, shall have the right to arrange to have garbage pickup by a single hauler on the same day as recycling pickup. If so arranged, all owners shall be required to use the same provider of these services.

18. The Grantor has formed The Summerwood Homeowners' Association (hereinafter referred to as the "Association"), an Ohio non-profit corporation. Until such time as the final plat of Summerwood Subdivision is accepted for dedication by Concord Township, the Association shall have full responsibility to provide full and complete maintenance and repair of the undedicated streets within the subdivision and pay for general liability insurance on said streets and all common areas within the subdivision.

19. The Association shall have full responsibility for complete maintenance of all landscaping throughout all common areas of the Subdivision. The Association shall also have the full responsibility for the complete maintenance of the 200' riparian buffer area between proposed sublots 35 and 36 in Phase 1 and proposed sublots 86 and 125 in proposed Phase 2 of

Summerwood Subdivision or any subplot number adjacent to creek.

20. All common areas within the Subdivision and all open areas blocks deeded to Concord Township are to be utilized for trails and park-like open space for the quiet exclusive enjoyment of the owners, including access to the open space for walking and/or fishing in the lake. Upon transfer of title of the Open Space to Concord Township, the Association shall be permitted to create walking trails of natural materials as well as to construct up to a maximum of two (2) pavilions within the open areas of Summerwood Subdivision (all phases combined). However, ownership by the Township is to ensure the preservation of said open space through the creation of a conservation easement, if necessary.

21. Every record owner of a fee simple title to any lot shall, as a condition of ownership, be a member of the Association. As a member, each owner agrees to abide by the Articles of Incorporation, Code of Regulations, and Resolutions of said Association. Upon the sale of each subplot by Grantor, the purchaser shall pay an assessment of \$200.00 to the Association through escrow to initially fund the obligations of the Association. Grantor shall not be required to pay such assessment for unsold sublots remaining in Grantor's name.

22. Any lot sold by Grantor to a non-builder owner shall require the Grantor's approval of such owner's builder prior to the commencement of any construction

23. The Association shall have two classes of voting members, as follows:
Class A. Class A members shall be all owners, with the exception of the Grantor, and shall be entitled to one vote for each lot owned. When more than one person holds an ownership interest in a given lot, all such persons shall be members, and the vote for such lot shall be exercised as they may determine among themselves. In no event shall more than one vote be cast with respect to any lot owned by Class A members.

Class B. The Class B member shall be Grantor, who shall be entitled to exercise ten votes for each lot owned by Grantor. The Class B membership shall cease and be converted to Class A membership as soon as the total votes standing in the Class A membership equal or exceed the total votes outstanding in the Class B membership.

24. Grantor hereby covenants, for each lot within the development, and each owner is hereby deemed to covenant by acceptance of the Deed for such owner's lot, whether or not it shall be so expressed in the Deed, to pay to the Association: (1) general assessments; and (2) special assessments. Such assessments shall be made equally against each subplot owned by a

Class A member. The amount and frequency of such assessments shall be determined by majority vote of the Association and shall be an amount necessary to promote the health, safety, and welfare of the residents of the development.

25. General and special assessments, together with interest, costs, and reasonable attorneys fees, occasioned by an owner's delinquency in payment of any assessments as hereinabove provided, shall be a charge on the land and a continuing lien on each lot upon which such assessments are made. Each such assessment, together with such interest, costs, and attorney's fees, shall also be a personal obligation of the owner of the lot at the time the assessment falls due, but such personal obligation shall not pass to a successor in title to the lot, unless expressly assumed by such successor.

26. Any assessment not paid within thirty (30) [changed to be consistent with by-laws] days after the due date shall be deemed in default and shall bear interest from the due date at the rate of twelve percent (12%) per annum. The Association may bring an action at law against the owner personally obligated to pay the same, or may foreclose, the lien against the lot.

27. The assessment lien provided for herein shall be subordinate to the lien of any first mortgage on a lot, but shall not be subordinate to any other mortgage lien unless the written consent of the Association to such further subordination is recorded in the Lake County Recorder's Office. A sale or transfer of any lot shall not affect the assessment lien against the lot, provided, however, the sale or transfer of any lot pursuant to foreclosure, or any proceeding in lieu thereof at which the assessment lien is duly recognized as a claim against the sale proceeds, shall extinguish the assessment lien as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve a lot from liability for any assessments thereafter becoming due or from the lien for such assessment.

28. Declarant hereby establishes an Architectural Control Committee consisting of three members, two of whom shall be approved builders appointed by the Declarant, and the remaining member being the Declarant or his representative. The Committee may unanimously designate a representative to act for it. Declarant shall have the sole power to appoint the other Committee members as long as Grantor retains ownership to any subplot in the Subdivision. At such time as all of the sublots have been sold by the Grantor, Declarant shall no longer retain a position on the Committee, and the vacancy thereby created, along with any other future vacancies, shall be selected by a majority of the homeowners.

29. The Architectural Control Committee's approval or disapproval as required in these covenants shall be in writing. In the event the Committee or its designated representative fails to approve or disapprove within thirty (30) days after plans and specifications have been submitted to it, or in any event, if no suit to enjoin the construction has commenced prior to the completion thereof, approval will not be required and the related covenants shall be deemed to have been fully complied with.

30. The restrictions imposed by this Declaration upon any lots shall not be held to prevent the use of adjacent lands owned by the Grantor, his successors or assigns, for such other purposes or in such other manner as will not, in Grantor's judgment, adversely affect the lots conveyed to a material degree. Such use of such other land shall not be held as relieving the lot owners from the restrictions imposed upon the lots conveyed.

31. A failure of the Grantor, his successors and assigns, to enforce any of the restrictions, rights, reservations, limitations, agreements, covenants, and conditions contained in this Declaration of Restrictions shall in no event be construed, taken, or held to be a waiver thereof or acquiescence in or consent to any further or seceding breach or violation thereof, and the Grantor, his successors and assigns, shall at any and all times, have the right to enforce the same.

32. Until such time as 100% of the sublots within the Summerwood Subdivision have been sold, the Grantor, his successors and assigns, reserves the right to waive, change, or cancel any and all of the restrictions contained in this Declaration, if, in his judgment, the development or lack of development warrants the same or if, in his judgment, the ends and purposes of said Subdivision would be better served.

These covenants are to run with the land and shall be binding upon and be for the benefit of the Grantor and all parties and all persons claiming under him for a period of thirty (30) years from the date these restrictions and covenants are recorded, after which time said restrictions and covenant 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.

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

34. Invalidation of anyone of these covenants by judgment or a court order shall in no way affect any of the other provisions, which shall remain in full force and effect.

IN WITNESS WHEREOF, the Grantor has hereunto fixed his hand this 15th day of December, 2004.

DECLARANTS:



Thomas M. Riebe, Trustee

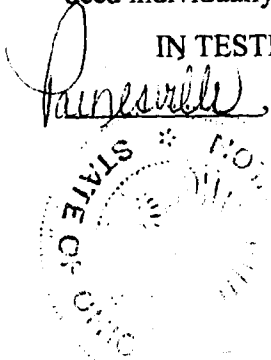


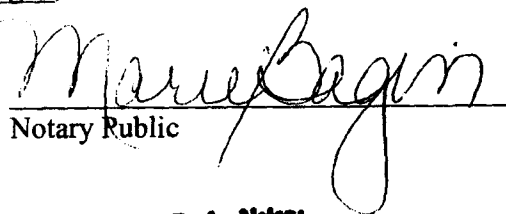
Doreen M. Riebe, Trustee

STATE OF OHIO)
COUNTY OF LAKE) ss

BEFORE ME, a Notary Public in and for said county and state, personally appeared the above-named Thomas M. Riebe and Doreen M. Riebe, Co-Trustees of The Riebe Living Trust, who acknowledged that he did sign the foregoing instrument and that the same is his free act and deed individually and as such Trustee.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Parisville, Ohio this 15th day of Dec, 2004.





Notary Public

Marie Begh, Notary
State of Ohio
My Commission Expires: 7/05/05

Prepared by Declarant