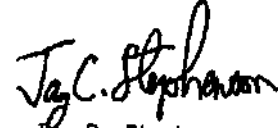


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Jay C. Stephenson
Clerk of Superior Court Cobb Cty. Ga.
Hill Street, Marietta, Ga. 30060

After Recording Return to:
Darla Grinstead McKenzie Morris,
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**DECLARATION OF COVENANTS,
RESTRICTIONS AND EASEMENTS
FOR ROSEMOORE AT HARPER
WOODS
COBB COUNTY, GEORGIA**

THIS INSTRUMENT ESTABLISHES A MANDATORY MEMBERSHIP HOMEOWNERS ASSOCIATION BUT DOES NOT SUBMIT THE COMMUNITY TO THE PROVISIONS OF THE GEORGIA PROPERTY OWNERS' ASSOCIATION ACT, O.C.G.A. § 44-3-220, ET SEQ.

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DECLARATION OF COVENANTS,
RESTRICTIONS AND EASEMENTS
FOR
ROSEMOORE AT HARPER WOODS
COBB COUNTY, GEORGIA

THIS DECLARATION OF COVENANTS AND RESTRICTIONS is made on this _____ day of _____, 2000 by MCCAR DEVELOPMENT CORP., a Georgia corporation (hereinafter referred to as the "Declarant").

WITNESSETH:

WHEREAS, Declarant is the owner of the following real property:

All that tract or parcel of land lying and being in Land Lots 525 and 526 of the 16th District, 2nd Section, Cobb County, Georgia, as shown on the Final Plat for Rosemoore at Harper Woods, Unit One, recorded in Plat Book 192, Page 3, Cobb County, Georgia Records, and the Final Plat for Rosemoore at Harper Woods, Unit Two, recorded in Plat Book ____, Page ____, Cobb County, Georgia records, less and except any portions thereof dedicated to Cobb County, Georgia (the "Property"); and

WHEREAS, Declarant intends to develop a single family residential community on the property described herein and to be known as "Rosemoore at Harper Woods"; and

WHEREAS, in order to protect and enhance the value of the Lots in the community, it is desirable to create an association to administer and enforce the covenants and restrictions imposed by this Declaration on the Lots and the Property, and to collect, hold and disburse the charges and assessments provided for in this Declaration; and

WHEREAS, it is intended that every owner of any of the Lots automatically, and by reason of such ownership and this Declaration, become a member of the Association and be subject to its rules and regulations and the assessments and charges made the Association;

NOW, THEREFORE, Declarant does hereby submit the Property to the provisions of this Declaration.

ARTICLE I.

DEFINITIONS

As used in this Declaration, the following terms shall have the meanings ascribed to them in this Article, such definitions being cumulative of those set forth elsewhere in this Declaration.

"Annual Assessment" shall have the meaning specified in the Article entitled "ASSESSMENTS", and shall constitute the assessments which, pursuant to the provisions of such Article, shall be levied by the Association against the Lots each year for the purpose of raising the funds necessary to pay the "Annual Expenses" (as that term is defined in such Article).

by any and all persons who the Declarant shall authorize to exercise the same, including, without limitation, real estate sales agents and brokers and builders of residences upon the Lots, irrespective of whether such persons are affiliated with the Declarant. Such temporary easement shall exist notwithstanding any provision of this Declaration which might be construed to the contrary, but shall terminate thirty days after the date that the construction of residential buildings on the Lots has been completed and all of the Lots in the community have been conveyed to Owners thereof who shall not have acquired the Lots for the purpose of immediate resale of the same.

(h) Lot Nos. 36 and 37 shall be subject to a perpetual easement in favor of the Association and Harper Woods Homeowners Association, Inc. for the repair and landscaping of the entrance monuments and fencing which are or will be located on said Lot and the repair and replacement of any water pipes and electrical lines which are a part thereof. The Owner of this Lot shall not remove, camouflage, damage or otherwise alter in any way said entrance monuments, fencing and landscaping.

(g) All Lots upon which the Plat depicts a 20' private drive and access easement shall be subject to a perpetual easement in favor of the Association and the owners of all other Lots for the maintenance, management and use (including vehicular and pedestrian ingress and egress) of said private drives and easements. The easement rights to which the aforesaid Lots shall be so subject shall include the right of contractors engaged by the Association to enter upon said Lots from time to time as necessary in order to perform such repair and maintenance work.

ARTICLE III.

ASSOCIATION PROPERTY

Section 1. Common Areas and Association Property. The Declarant shall have the right to transfer and convey to the Association any portion of the Property. All portions of the Property which the Declarant shall so transfer or convey to the Association shall thereafter constitute Common Areas. Said right may be exercised by the Declarant any time, and from time to time, prior to ten years from the date hereof.

The Common Areas shall be conveyed to the Association by limited warranty deed free of debt encumbrance, and subject to the rights and easements set forth in this Article, irrespective of whether the deed of conveyance shall make a specific reference to such rights and easements.

Section 2. Member's Rights in Association Property. Every Owner of any Lot shall have a non-exclusive right and easement of enjoyment and use in and to the Common Areas and such right and easement shall be appurtenant to, and shall pass with, the title to the Lot(s) owned by such Owner. Such right and easement of enjoyment and use are and shall be subject to the easements which are described in this Article and to the right of the Association to promulgate reasonable rules and regulations regarding the use of Common Areas, and the right of the Association, as provided in the Bylaws, to suspend the enjoyment rights of the owner of any Lot during any period in which any assessment which is due to the Association from such owner remains unpaid, and such period as the Board of Directors may consider appropriate for any infraction of its published rules and regulations. In addition, the Board of Directors may permit other persons who are not residents of any Lots to use the Common Areas upon such terms and conditions, and for the payment of such fees, as shall be determined by the Board of Directors.

Section 3. Easements Over Association Property. All Common Areas shall be subject to, and Declarant and the Association do hereby grant, the following easements:

(a) An easement across, in, under, over and through the Common Areas for purposes of the construction, installation, repair, maintenance and use of all utility and drainage facilities; and

(b) An easement in favor of Declarant for the exclusive use of such portions of the Common Areas as may be reasonably desirable, convenient or incidental to the construction and installation of improvements on, and the sale of, any Lots, including, but not limited to, sales and business offices, storage areas, construction yards and signs. Such easements shall be exercisable by any and all persons who the Declarant shall authorize to exercise the same, including, without limitation, real estate sales agents and brokers and builders of residences upon the Lots, irrespective of whether such persons are affiliated with the Declarant. Such easements shall exist notwithstanding any provision of this Declaration which might be construed to the contrary, but shall terminate thirty days after the date that the construction of residential buildings on the Lots has been completed and all of the Lots have been conveyed to Owners thereof who shall not have acquired the Lots for the purpose of immediate resale of the same. Such easements shall and do exist without affecting the obligation of the Owner of any Lot to pay assessments or charges coming due during such period of time as portions of the Common Areas shall be used by authorized persons pursuant to the exercise of the easements herein stated.

Section 4. Damage or Destruction. In the event that any improvements located on any Common Areas shall be damaged or destroyed on account of the occurrence of any casualty, the Board of Directors shall proceed with the filing and settlement of all claims arising under any policy of insurance maintained by the Association with respect to such improvements and shall obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed improvements.

Any such damage or destruction shall be repaired or reconstructed unless it shall be decided, within ninety (90) days after the occurrence of casualty, by a majority of the total vote of all then existing classes of membership of the Association, and by the holders of sixty-seven percent (67%) of the First Mortgages existing in regard to the Lots, not to so repair or reconstruct such damage. In the event that it shall be so decided not to repair or reconstruct some damage or destruction, the proceeds of any insurance as may become payable to the Association as a result of such damage or destruction shall be applied to such purposes as may be determined by the Board of Directors.

Sections. No Transfer or Encumbrance. In no event shall the Association abandon, encumber, sell or transfer, directly or indirectly, any portion of the Common Areas unless such abandonment, encumbrance, sale or transfer shall be first approved in writing by: (a) the owners of no fewer than sixty-seven percent (67%) of the Lots, and (b) the holders of no fewer than sixty-seven (67%) of the First Mortgages existing in regard to the Lots, and (c) if the Class B membership is still in existence, Declarant.

ARTICLE IV. THE ASSOCIATION

Section 1. The Association. Prior to the date this Declaration has been filed for record with the

Association personally obligated to pay the same, or foreclose its lien upon the Lot or Lots of such member, in either of which events such member shall also be liable to the Association for all costs and attorneys' fees which the Association shall incur in connection with the collection of such delinquent amounts.

Section 8. Budget Deficits during Declarant Control Period. Declarant may advance funds to the Association sufficient to satisfy the deficit, if any, in any fiscal year between the actual operating expenses of the Association (exclusive of any allocation for capital reserves) and the annual and special assessments for such fiscal year. Such advances shall be evidenced by promissory notes from the Association in favor of the Declarant and shall be paid back to Declarant if and to the extent that sufficient funds are generated by assessments in future years until such time as Declarant no longer has the authority to appoint the directors and officers of the Association.

Section 9. Failure to Assess. The failure of the Board to fix the assessment amounts or to deliver to each Owner the assessment notice shall not be deemed a waiver, modification or release of any Owner of the obligation to pay assessments. In such event, each Owner shall continue to pay assessments on the same basis as for the last year for which an assessment was made until a new assessment is made, at which time any shortfalls in collections may be assessed retroactively by the Association.

ARTICLE VI.

ARCHITECTURAL CONTROL

Section 1. Architectural Restrictions.

(a) No building shall be constructed on any Lot unless such building contains at least the minimum square footage of floor area required by the county on the Plat.

(b) No building shall be constructed on any Lot unless such building contains a garage which will house at least two (2) normal sized automobiles and which has a garage door which will totally conceal the opening to such garage.

(c) Only one (1) building may be constructed on any Lot.

(d) No building containing more than two (2) stories in addition to a basement which is located at least partially below ground level shall be constructed on any Lot.

(e) No structure other than a fence shall be constructed, placed or installed upon any Lot, in a location which encroaches beyond any front, side or rear building setback line which is depicted on the Plat. No fence shall be constructed or erected upon any Lot in any location other than entirely in the rear of the building which is located on such Lot.

Section 2. No Combination of Lots. Contiguous Lots may not be combined together without the prior written consent of the Board of Directors. In the event that the Board of Directors does approve such a combination, such combination shall thereafter be deemed to be a single Lot of all purposes of this Declaration, except that, notwithstanding the foregoing, the amount of assessments for which such single Lot



contained in this Article shall be construed as prohibiting any construction by the Declarant upon any Lot while such Lot is owned by the Declarant, provided, however, that such construction is in compliance with the requirements specified in this Article. Any new construction performed by the Declarant upon any Lot while such Lot is owned by the Declarant shall be exempt from the provisions of this Article.

Section 5. Architectural Advisory Committee. The Board of Directors shall be authorized to appoint an architectural advisory committee to advise it and assist it in connection with its performance of its responsibilities under of this Article. The functions which may be performed by any such architectural advisory committee shall include reviewing plans and specifications which are submitted to the Board of Directors in connection with proposals to construct or alter improvements upon the Lots and to make recommendations to the Board of Directors with respect to such plans and specifications.

ARTICLE VII.

RESTRICTIONS

In order to provide for the maximum enjoyment of the Lots by all of the residents thereof and to provide protection for the value of the same, the use of the Lots shall be restricted to, and shall be only in accordance with, the following provisions:

Section 1. Residential Use. All of the Lots shall be restricted exclusively to single-family residential use. The term "single-family" shall include one or more related or unrelated adults, as well as the children of any such adults. No Lot shall at any time be used for any commercial, business or professional purpose. Notwithstanding the foregoing, However, nothing set forth in this section shall prohibit: (a) the Declarant from conducting such sales, leasing and promotional activities on any Lot as said Declarant shall determine; or (b) the owner of any Lot from using a portion of a building located on such Lot as an office, provided that such use does not create regular customer, client or employee traffic to and from such Lot and no sign, logo, symbol or nameplate identifying such business is displayed anywhere on such Lot.

Section 2. Prohibited Activities. No noxious or offensive activity shall be conducted on any Lot. Each owner of any Lot, his family, tenants, guests and invitees, shall refrain from any act or use of his property which could reasonably cause embarrassment, discomfort, annoyance or nuisance to any other resident or residents of any other Lot.

Section 3. Nuisances. No nuisance shall be permitted to exist upon any Lot. Without limiting the generality of the foregoing, no exterior speakers, horns, whistles, bells, or other sound devices, except security devices used exclusively for security purposes, shall be located, used or placed on any Lot, or any portion thereof.

Section 4. Trash. No portion of any Lot shall be used as a dumping ground for rubbish, trash or garbage, nor shall any trash or garbage be permitted to accumulate upon any Lot. Garbage containers shall be buried or screened on each Lot so that the same shall not be visible from the street or from any part of any other Lot.

Section 5. Animals. No Lot shall be used for the keeping or breeding of livestock animals or poultry

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portion of the Property at foreclosure, sale under power or by deed in lieu of foreclosure, be liable for any act, omission or matter occurring, or arising from any act, omission or matter occurring, prior to the date such successor succeeded to the interest of the Declarant.

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IN WITNESS WHEREOF, Declarant has caused this Declaration to be executed by its duly authorized officers on the day and year first above written.

Signed, sealed and delivered in the presence of: MCCARDEV:

Unofficial Witness

Cynthia (11)

Notary Public

[AFFIX NOTARIAL SEAL]

Cynthia Erfurt
Notary Public, Fulton County, Georgia
My Commission Expires September 11 2004

DEVELOPMENT CORP.

By:
Title:

[Handwritten Signature]
AUX -- x.

SEM J

[CORPORATE SE

Deed Book 1331 "7 Pg G3IZJO

Jay C. Stephenson

Jay C. Stephenson Clerk of
Superior Court Cobb Cty. Ga.