

BK012783PG00914

WAKE COUNTY, NC 661
LAURA M RIDDICK
REGISTER OF DEEDS
PRESENTED & RECORDED ON
10/05/2007 AT 16:08:11

BOOK:012783 PAGE:00914 -- 00922

Drawn by & HOLD FOR: MOORE & ALPHIN, PLLC (Box 155)

STATE OF NORTH CAROLINA
COUNTY OF WAKE

**RESTRICTIVE COVENANTS
FOR
WATERFORD ESTATES**

RHEIN INTERESTS, LLC, a North Carolina limited liability company (hereinafter "Declarant"), hereby declares that the real property described on **Exhibit A** attached hereto and made a part hereof (hereinafter the "Subdivision") is and shall hereafter be held, transferred, sold and conveyed subject to the following restrictive covenants, which shall be appurtenant to and run with the land, by whomsoever owned, to wit:

DEFINITIONS. Capitalized terms used herein shall have the meaning set forth herein or, if not so defined, shall have the meaning of such term as set forth in the Declaration of Covenants, Conditions, Restrictions, Easements, Charges and Liens for Waterford Estates Subdivision, recorded in the Wake County Registry, as from time to time amended (the "Declaration").

1. LAND USE AND BUILDING TYPE. All Lots shall be used for residential purposes. No structure shall be erected, altered, placed or permitted to remain on any Lot other than one detached, single-family dwelling, not to exceed three (3) stories in height (exclusive of a walk-out basement), a private garage for not less than one (1) nor more than four (4) cars, and other out-buildings incidental to residential use of the Lot. Nothing herein shall be deemed to prohibit conversion of a Lot to a street, right-of-way or Common Area.

2. DWELLING SIZE. The minimum heated square footage of a dwelling may not be less than 2,500 square feet for a one-story dwelling and 1,200 square feet on the first floor of a two-story, two and one-half story or three-story dwelling.

3. BUILDING SETBACKS; HOUSE LOCATION. No dwelling shall be erected or maintained on any Lot outside of the building envelope shown on the recorded plat of the Subdivision or as otherwise required or permitted by the zoning ordinance of the City of Cary (the "Zoning Ordinance"). For purposes of these building setback requirements, decks, porches,

patios, stoops, eaves, overhangs, bay windows, chimneys, carports and other similar projections shall be deemed to be part of the dwelling only to the extent that the same are deemed to be part of the dwelling under the Zoning Ordinance as it exists as of the date of issuance of a certificate of occupancy for such dwelling. Any dwelling erected on a Lot other than a corner lot shall face the street on which the Lot abuts. On corner lots, a dwelling shall face the street with the designated front setback or may be erected so as to face the intersection of the two streets on which the Lot abuts.

4. FENCES & WALLS. Any fence or wall installed within the Subdivision must meet all requirements of the Zoning Ordinance and must be in compliance with the Zoning Ordinance and the Architectural Design Guidelines adopted by the Waterford Estates Community Association, Inc. (the "Association"), and be approved pursuant to Article X of the Declaration. Nothing in this paragraph shall be deemed to apply to or regulate retaining walls made necessary by the slope or grade of any Lot or Lots nor to any fence or wall installed by the Declarant or, with the approval of the Declarant, by an Approved Builder (as defined in the Declaration).

5. TEMPORARY STRUCTURES. No structure 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. Temporary structures may be placed or erected on a Lot by the Declarant and, with the approval of the Declarant, by an Approved Builder, for purposes of developing the Subdivision and construction and sale of houses therein.

6. PARKING; DRIVEWAYS AND PARKING PADS; ABANDONED VEHICLES. Vehicles may be parked or stored only on portions of a Lot improved for that purpose, i.e., garage, driveway or other approved pad or structure. No unenclosed parking shall be constructed or maintained on any Lot except a paved driveway or other pad or structure approved pursuant to Article X of the Declaration. Any driveway or other vehicular paving constructed on a Lot shall have a concrete surface, unless another surface is approved pursuant to Article X of the Declaration. Unless otherwise approved pursuant to Article X of the Declaration, driveways on a Lot shall connect to the street from which the front building setback is measured. The foregoing requirements shall not apply to any temporary driveway or parking pad installed by the Declarant or, with the approval of the Declarant, by an Approved Builder.

No mobile house trailer (whether on or off wheels), trailer of any type, vehicle, or enclosed body of the type which may be placed on or attached to a vehicle (known generally as "campers"), tractor trailer body or cab, or commercial vehicle of any kind shall be parked on any street or any Lot within the Subdivision; however, such a trailer, camper, tractor trailer and/or commercial vehicle may be kept on a Lot if it is parked in an enclosed garage complying with the Zoning Ordinance and pursuant to Article X of the Declaration. The foregoing prohibition regarding commercial vehicles shall not apply to a pickup truck (3/4 ton or less) which does not contain any equipment racks and is not otherwise unreasonably encumbered with equipment and materials or considered to be a visual nuisance (as determined by the Association), even if such truck has a business name painted or otherwise placed on its body. The foregoing requirements shall not apply to the Declarant or, with the approval of the Declarant, Approved Builders for

purposes of developing the subdivision and construction and sales of houses therein. No boat, recreational vehicle ("RV") or associated trailer shall be parked on any street within the Subdivision; however, such a boat, RV and/or trailer may be kept on a Lot if it is parked in an enclosed garage complying with the Zoning Ordinance and pursuant to Article X of the Declaration.

No vehicle of any type which is abandoned, inoperative, unregistered or otherwise considered to be a visual nuisance (as determined by the Association), shall be stored or kept on any Lot unless kept within an enclosed structure such that it cannot be seen from any other Lot, any street within the Subdivision or the Common Area, and no automobiles, other vehicles or mechanical equipment may be dismantled or allowed to accumulate on any Lot.

7. ANIMALS. 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 bred, kept or maintained for commercial purposes. No more than three (3) pets over the age of 6 months shall be permitted on a Lot unless approved in writing by the Board. In no instance shall a pet become a nuisance to or infringe upon the property rights of other Owners. Dog runs, cages and similar outdoor containment structures other than approved dog houses are not permitted. Any animal considered to be a nuisance, danger or threat, as determined by the Board, in its discretion, may be ordered by the Board to be removed from the Subdivision. Pit bulls, rottweilers and other breeds generally considered to be vicious are expressly prohibited.

8. NUISANCES; BUSINESS ACTIVITY. 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 an annoyance or nuisance to adjacent Lots or to the neighborhood, as determined by the Association. No business trade or activity may be conducted on any Lot unless permitted by the Board of Adjustments of the City of Cary, and no business shall be conducted on any Lot in any manner that business employees or persons who do not regularly live in the dwelling are regularly on the Lot. No basketball goal shall be permitted on any Lot unless specifically approved pursuant to Article X of the Declaration.

9. SIGNS. No sign of any kind shall be displayed to the public view on any Lot except signs used to advertise Lots for sale during the construction and sales period, one manufactured sign of not more than six (6) square feet advertising the property for sale or rent, and signs of not more than six (6) square feet expressing support of or opposition to political candidates or other issues which will appear on the ballot of a primary, general or special election, provided that such political signs shall not be placed on a Lot earlier than sixty (60) days before such election and shall be removed within two (2) days after such election. Furthermore, no more than one such sign may be present on a Lot at any time. Notwithstanding the foregoing, small (not larger than one (1) square foot) home security signs near the entrance to a residence are permitted.

10. ANTENNAS; SATELLITE DISHES OR DISCS. No radio or television transmission or reception towers or antennas shall be erected on a Lot. A satellite antenna receiver or disc will be permitted on a Lot if: (i) the receiver or disc is not larger than thirty

inches (30") in diameter; (ii) the receiver or disc is not located nearer to the street than the front of the house; (iii) the receiver or disc is located and screened in such a way that it cannot be seen from any street within the Subdivision; and (iv) the receiver or disc is approved pursuant to Article X of the Declaration.

11. SWIMMING POOLS. No above-ground swimming pools shall be permitted in the Subdivision, except that one small wading pool shall be permitted in the back yard of a Lot during summer season, provided that such pool does not constitute a nuisance to any adjacent Lot as determined by the Association.

12. MAILBOXES. It is the intent of the Declarant that there will be a standard mailbox and post design for the Subdivision, which design will be set forth in the Architectural Design Guidelines. No mailbox or post shall be permitted on any Lot except that set forth in said Guidelines, and no mailbox or post may be modified in any manner inconsistent with the Guidelines. Lot Owners shall be responsible for the upkeep and maintenance of their mailbox.

13. MAINTENANCE OF LOT; CONSTRUCTION. Each owner shall keep his Lot in an orderly condition and shall keep the improvements thereon in an acceptable state of repair or maintenance, as determined by the Association. In the event that any residence or structure on any Lot is destroyed or partially destroyed by fire, Act of God, or as a result of any other act or occurrence, the owner of such Lot shall repair the damage and reconstruct the improvement within twelve (12) months after such damage or destruction; provided, however, that if the structure damaged is not part of or attached to the residence constructed on such Lot, the owner may, at his option, either completely remove the damaged structure and landscape area on which the structure stood or repair or reconstruct the structure. Furthermore, any such reconstruction, once commenced, shall be carried on continuously until completion.

All construction, landscaping or other work which has been commenced on any Lot shall be continued with reasonable diligence to completion and no partially completed house or other improvement shall be permitted to exist on any Lot, except during such reasonable time period as is necessary for completion, as determined by the Association. The owner of each Lot shall at all times keep contiguous public streets and sidewalks free from any dirt, mud, garbage, trash or other debris resulting from any such construction on his Lot.

14. CLOTHESLINES. No exterior clothesline may be erected or maintained on any Lot.

15. GARBAGE; UNSIGHTLY STORAGE. All trash and rubbish shall be kept in appropriate garbage containers stored in such a manner as not to be visible from any street. No trash, rubbish, stored materials, wrecked or inoperable vehicles, or similar unsightly or offensive items shall be allowed to remain on any Lot; provided, however, that the foregoing shall not be construed to prohibit temporary deposits of trash, rubbish, and other debris for collection by governmental or other similar garbage and trash removal units. In the event of curbside trash and/or garbage pickup, trash and/or garbage containers may be moved to the street on the night before the scheduled pickup, but all garbage containers must be returned to approved enclosure the night of the scheduled pickup. Stored materials, such as lumber and building materials, must

be within an enclosed structure so as not to be visible from any street or any other Lot within the Subdivision. Firewood, storage containers, mechanical equipment and similar items shall be located or screened so as not to be visible from any street within the Subdivision.

16. SEPTIC TANKS; WELLS. No septic tank shall be installed, used or maintained on any Lot. No well shall be installed, used or maintained on any Lot for human domestic water consumption, nor shall any well be connected in any manner whatsoever to the water mains, laterals and piping serving the dwelling, which mains furnish domestic water from sources beyond the boundaries of the Lot. Wells may be installed on the Common Area for the exclusive use of the Association.

17. REMOVAL OF TREES. Except in the case of an emergency situation that does not permit any delay, no living tree larger than 6" in diameter at a point measured 6" above the ground shall be removed from any Lot without approval as provided in Article X of the Declaration. The foregoing provision shall apply only to Lots which have been occupied pursuant to a certificate of occupancy issued by the City of Cary. Furthermore, trees located between the rear property line and the rear building setback line may not be removed by powered machinery of any type and must be removed only by manually operated equipment, e.g., axes and cross saws. Street trees required by code, ordinance or guidelines may not be removed without the prior approval of the ACC and the applicable governmental entity.

18. EXTERIOR MAINTENANCE. The owner of each Lot shall be responsible for maintaining the grounds and improvements on his Lot, including, but not limited to, structures, plantings, landscaped/natural areas, lawns, fences, walls, sidewalks and mailboxes, at all times in a neat and attractive manner, as determined by the Association.

19. EASEMENTS. Easements for the installation, maintenance and repair of sanitary sewer and storm water drainage facilities and other utilities are reserved as shown on the recorded plats. Within such easements, no structure, planting, or other material shall be placed or permitted to remain which interfere with the installation and maintenance of the utilities, or which may change the direction of flow or otherwise impede or retard the flow of water through the drainage channels within such easements. Improvements located within the easement area are subject to removal by the person or entity to whose benefit the easement runs. Any easements located on a Lot shall be maintained continuously by the owner of such Lot, except for any such improvements for which a public authority or utility company is responsible. Declarant reserves the right to create and impose additional easements or rights-of-way over any unsold Lot or Lots by the recording of appropriate instruments in the Wake County Registry, and such instruments shall not be construed to invalidate any of these covenants.

Declarant reserves an easement in and right at any time in the future to grant a ten-foot (10') right-of-way over, under and along the front and rear line of each Lot for the installation and maintenance of poles, lines, conduits, pipes and other equipment necessary to or useful for furnishing electric power, gas, telephone service, cablevision or other utilities, including irrigation, water, sanitary sewage service and storm drainage facilities. Declarant also reserves an easement in and right at any time in the future to grant a five-foot (5') right-of-way over, under and along the side lines of each Lot for the aforementioned purposes.

Easements are also reserved for the benefit of the Declarant, the Association, and the City of Cary (the "City"), and their respective successors and assigns, over, across and under those portions of the Lots shown and designated on the map referred to in **Exhibit A** as "PUBLIC DRAINAGE EASEMENT", "DE" or any similar designation, for the purpose of installing, operating and maintaining storm water drainage facilities thereon. No building, structure, fill, embankment, fence, driveway, planting, swing or other obstruction shall be permitted in such area, other than those installed by the Declarant, the Association or the City, unless approved as provided in Article X of the Declaration and, if required, by the City.

The Declarant, the Association and their successors and assigns shall at all times have the right of access upon such easements for the purpose of landscaping, planting, mowing, maintaining, repairing or replacing the easement area and the improvements thereon or for removing any object placed in the easement area in violation of the provisions of this Paragraph 19.

20. SUBDIVISION OF LOTS. No Lot shall be subdivided by sale or otherwise so as to reduce the total Lot area shown on the recorded map or plat.

21. UNINTENTIONAL VIOLATIONS. Declarant, or the persons or firms to whom the architectural review and approval authority has been delegated pursuant to Article X of the Declaration, may, but shall not be obligated to, waive any violation of the designated and approved building setback lines on any Lot, provided that no waiver may be granted for a violation in excess of twenty-five percent 25% of the applicable requirements. No such waiver shall be effective unless the Lot and all structures thereon are in full compliance with the applicable provisions of the Zoning Ordinance or a variance has been obtained for such violation. Approved waivers shall be effective upon recording of same in the Wake County Registry.

22. STREET LIGHTING. Declarant reserves the right to subject the Subdivision to a contract with the appropriate utility company for installation and operation of street lighting, which contract requires a continuing monthly payment to the utility company by each residential customer.

23. ENFORCEMENT. Enforcement of these Covenants shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant herein and enforcement shall be to either restrain violation and/or to recover damages resulting therefrom. These covenants may also be enforced by the Association, pursuant to the Declaration and the Bylaws of the Association.

24. SEVERABILITY. Invalidation of any one or more 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.

25. TERM. These covenants shall run and bind the land and all owners thereof for a period of twenty-five (25) years from the date they are recorded, after which time, they shall be

automatically extended for successive periods of ten (10) years unless altered or amended as set forth below. These covenants may be amended during the first five year period by the Declarant, without the approval or joinder of any other person. These covenants may also be amended during the first twenty-five (25) year period by an instrument signed by the then-owners of not less than eighty percent (80%) of the Lots, and thereafter an instrument signed by then-owners of not less than seventy-five percent (75%) of the Lots.

26. WATERFORD ESTATES COMMUNITY ASSOCIATION, INC. The owners of Lots within the Subdivision are Members of the Association and are subject to and bound by the Declaration, which provides additional restrictions on such Lots.

27. DECLARANT. Nothing contained in these Covenants shall be construed to permit interference with the development of the Lots by Declarant so long as said development follows the general plan of development previously approved by the City of Cary. The restrictions contained herein shall not be deemed to apply to any sales office, construction trailer, model home, or other temporary improvement installed by or with the approval of Declarant.

IN WITNESS WHEREOF, Declarant has caused this instrument to be executed as of the date set forth in the notary acknowledgment below.

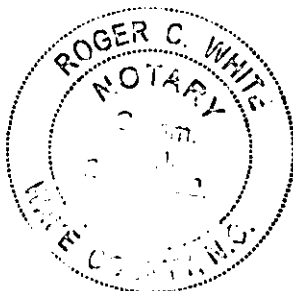
DECLARANT: **RHEIN INTERESTS, LLC**
a North Carolina limited liability company

By: Richard M. Westmoreland, Jr.
Richard M. Westmoreland, Jr., Vice President

STATE OF NORTH CAROLINA - WAKE COUNTY

I, the undersigned, a Notary Public of said County and State, certify that Richard M. Westmoreland, Jr., personally appeared before me this day and acknowledged that he is Vice President of **RHEIN INTERESTS, LLC**, a North Carolina limited liability company, and that he, as Vice President, being authorized to do so, executed the foregoing on behalf of the Company.

Witness my hand and official stamp and seal, this the 18th day of September, 2007.



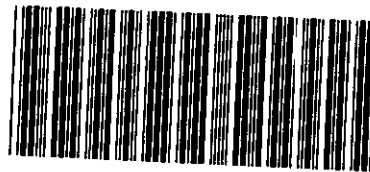
Roger C. White
Notary Public Roger C. White
My commission expires: 7-11-2009

BK012783PG00921

EXHIBIT A

Lying and being in the Town of Cary, White Oak Township, Wake County, North Carolina, and being more particularly described as follows:

All of Lots 1-23 (inclusive) and 41-47 (inclusive) and all those areas designated Common Open Space as shown on a map entitled "Waterford Estates, Phase 1, Lots 1-23 and 41-47, Subdivision Plat" prepared by Michael E. Dickerson, Professional Land Surveyor, dated September 11, 2007, and recorded in Book of Maps 2007, Pages 2292 & 2293, Wake County Registry



BOOK:012783 PAGE:00914 - 00922

**Yellow probate sheet is a vital part of your recorded document.
Please retain with original document and submit for rerecording.**



**Wake County Register of Deeds
Laura M. Riddick
Register of Deeds**

This Customer Group
_____ # of Time Stamps Needed

This Document
_____ **9** _____ New Time Stamp
_____ # of Pages