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91-07302

Carl A. Smith

DECLARATION
OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS
REGISTER OF DEEDS FOR SUMMERFIELD REPLAT, A SUBDIVISION
IN SARPY COUNTY, NEBRASKA

THIS DECLARATION, made on the date hereinafter set forth, is made by SUMMERFIELD, INC., a Nebraska Corporation ("Declarant").

PRELIMINARY STATEMENT

The Declarant is the owner of certain real property located within Sarpy County, Nebraska and described as follows:

Lots 34 through 40 , and Lots 169 through 223, inclusive, in Summerfield Replat, a subdivision, as surveyed, platted and recorded in Sarpy County, Nebraska.

Such lots are herein referred to collectively as the "Lots" and individually as each "Lot".

The Declarant desires to provide for the preservation, protection and enhancement of the values and amenities of such community and for the maintenance of the character, value, desirability, attractiveness and residential integrity of the Lots.

NOW, THEREFORE, the Declarant hereby declares that each and all of the Lots shall be held, sold and conveyed subject to the following restrictions, covenants, conditions and easements, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the Lots. These restrictions, covenants, conditions and easements shall run with such real estate and shall be binding upon all parties having or acquiring any right, title or interest in each Lot, or any part thereof, as is more fully described herein. The Lots, and each Lot is and shall be subject to all and each of the following conditions and other terms:

ARTICLE I.
RESTRICTIONS AND COVENANTS

1. Each Lot shall be used exclusively for residential

purposes except for such Lots or parts thereof as may hereafter or previously have been conveyed or dedicated by Declarant, for use as a school or park.

2. The ground floor finished and enclosed living area of main residential structures, exclusive of porches, breezeways, basements and garages, shall be not less than the following minimum sizes:

- (i) 1,300 square feet for a one-story dwelling;
- (ii) 1,800 square feet for 1 1/2-story or 2-story dwelling; and
- (iii) 1,500 square feet for a split level dwelling. [On split level or split entry dwellings, the ground floor shall be deemed to include all finished living areas except such areas as are constructed on top of other finished living areas.]

For each dwelling there must be erected a private garage for not less than two (2) cars, nor more than (3) cars (each car stall to be a minimum size of ten feet by twenty-one feet).

3. For a period of ten (10) years after the filing of this Declaration, no residence, building, fence, wall, driveway, patio, patio enclosure, rock garden, swimming pool, tennis court, dog house, tree house, antenna, satellite receiving station ("dish"), flag pole, solar heating or cooling device, tool shed, wind mill, wind generating equipment, or other external improvement, above or below the ground (herein all referred to as any "Improvement") shall be constructed, erected, placed or permitted to remain on any Lot, not shall any grading or excavation for any Improvement be commenced, except for Improvements which have been approved by Declarant as follows:

- (i) An owner desiring to erect an Improvement shall deliver two sets of construction plans, landscaping plans and plot plans to Declarant (herein collectively referred to as the "plans"). Such plans shall reflect the type of structure, quality and use of exterior materials, exterior design, exterior color or colors, and location of structure proposed for such Improvement. Concurrent with submission of the plans, Owner shall notify the Declarant of the Owner's mailing address.

(ii) Declarant shall review such plans in relation to the type and exterior of improvements and constructed, or approved for construction, on neighboring Lots and in the surrounding area, and any general scheme or plans formulated by Declarant. In this regard, Declarant intends that the Lots shall form a developed residential community with homes constructed of high quality materials. If Declarant determines that the proposed Improvement will not protect and enhance the integrity and character of all the Lots and neighboring Lots as a quality residential community, Declarant may refuse approval of the proposed Improvement.

(iii) Written notice of any refusal to approve a proposed Improvement shall be mailed to the owner at the address specified by the owner upon submission of the plans. Such notice shall be mailed, if at all, within thirty (30) days after the date of submission of the plans. If notice of refusal is not mailed within such period, the proposed Improvement shall be deemed approved by Declarant.

(iv) The decision to approve or refuse approval of a proposed Improvement shall be exercised by the Declarant to protect the values, character and residential quality of all Lots. However, no Lot owner, or combination of Lot owners, or other person or persons shall have any right to any action by Declarant, or to control, direct or influence the acts of the Declarant with respect to any proposed Improvement. No responsibility, liability or obligations shall be assumed by or imposed upon Declarant by virtue of the authority granted to Declarant in this Section, or as a result of any act or failure to act by Declarant with respect to any proposed Improvement.

4. The exposed front foundation wall as well as any foundation wall facing a street of all main residential structures must be constructed of or faced with brick or simulated brick or stone or stucco. All exposed side and rear concrete or concrete block foundation walls not facing a street must be painted. All driveways must be constructed of concrete, brick, paving stone, asphalt or laid stone. All foundations shall be constructed of concrete, concrete blocks, brick or stone. Fireplace chimneys shall be covered with brick, stone or siding.

5. No advertising signs, billboards, unsightly objects or nuisances shall be erected, placed or permitted to remain on any Lot except one sign per Lot consisting of not more

than six (6) square feet advertising a lot as "For Sale"; nor shall the premises be used in any way for any purpose which may endanger the health or unreasonably disturb the owner or owners of any Lot or any resident thereof. Further, no retail business activities of any kind whatsoever shall be conducted on any Lot. Provided however, the foregoing paragraph shall not apply to the business activities, signs and billboards or the construction and maintenance of buildings, if any, by Declarant, their agents or assigns, during the construction and sale of the Lots.

6. No exposed exterior television, broadcasting or radio antenna of any sort shall be permitted on any Lot.

7. No repair of any boats, automobiles, motorcycles, trucks, campers or similar vehicles requiring a continuous time period in excess of forth-eight (48) hours shall be permitted on any Lot at any time; nor shall vehicles offensive to the neighborhood be visibly stored, parked or abandoned on any Lot. No unused building material, junk or rubbish shall be left exposed on the Lot except during actual building operations, and then only in as neat and inconspicuous a manner as possible.

8. No boat, camper, trailer, auto-drawn or mounted trailer of any kind, mobile home, truck, aircraft, camper truck or similar chattel shall be maintained or stored on any part of a Lot (other than in an enclosed structure) except that during the months of May through September vehicles may be parked in the driveway only. No motor vehicle may be parked or stored outside on any Lot, except vehicles driven on a regular basis by the occupants of the dwelling located on such Lot. No grading or excavating equipment, airplanes, tractors or semi-tractors/trailers shall be stored, parked, kept or maintained in any yards, driveways or streets. However, this restriction shall not apply to trucks, tractors or commercial vehicles which are necessary for the construction of residential dwellings during their period of construction.

9. No outside trash or garbage pile, burner, receptacle or incinerator shall be erected, placed or permitted on any Lot. No garden lawn or maintenance equipment of any kind whatsoever shall be stored or permitted to remain outside of any dwelling or suitable storage facility, except when in actual use. Lots shall be maintained free of trash and debris. No clothes line shall be permitted outside of any dwelling at any time except one

umbrella-type clothes line per residence.

10. Exterior lighting installed on any Lot shall either be indirect or of such a controlled focus and intensity as not to disturb the residents of adjacent Lots. No fence shall be permitted to extend beyond the front line of a main residential structure unless written approval is first obtained from Declarant. No hedges or mass planted shrubs shall be permitted more than ten (10) feet in front of the front building line. All produce or vegetable gardens shall be maintained only in rear yards.

11. A dwelling on which construction has begun shall be completed within one (1) year from the date the foundation was commenced for such dwelling.

12. A public sidewalk shall be constructed of concrete four (4) feet wide by four (4) inches thick in front of each built upon Lot and upon the street side of each built upon corner Lot. The sidewalk shall be placed four (4) feet back of the street curb line and shall be constructed by the owner of the Lot prior to the time of completion of the main structure and before occupancy thereof.

13. No stable or other shelter for any animal, livestock, fowl or poultry shall be erected, altered, placed or permitted to remain on any Lot, except that a dog house constructed for one (1) dog shall be permitted; provided always that the construction plans, specifications and the location of the proposed structure have been first approved by Declarant, or their assigns, if required by this Declaration. Dog runs and dog houses shall only be allowed at the rear of the building, concealed from public view.

14. Any exterior air conditioning condensor unit shall be placed in the rear yard or any side yards so as not to be visible from public view. No grass, weeds or other vegetation will be grown or otherwise permitted to commence or continue, and no dangerous, diseased or otherwise objectionable shrubs or trees will be maintained on any Lot so as to constitute an actual or potential public nuisance, create a hazard or undesirable proliferation, or detract from a neat and trim appearance. Vacant Lots shall not be used for dumping of earth or any waste materials, and no vegetation on vacant Lots shall be allowed to reach a height in excess of eight (8) inches.

15. No structure of a temporary character, trailer,

basement, tent, outbuilding or shack shall be erected upon or used on any Lot at any time, either temporarily or permanently. No structures, dwellings, or modular housing improvements shall be moved from outside Summerfield to any Lot.

16. At the time of initial occupancy of the main dwelling, the then owner shall plant, and there shall thereafter be maintained in a growing state by the then owners, at least two deciduous tree with a minimum trunk diameter of one and one-half inches; such tree to be located in the front yard at least ten feet from the front Lot line.

ARTICLE II EASEMENTS

1. A perpetual license and easement is hereby reserved in favor of and granted to Omaha Public Power District, Northwestern Bell Telephone Company, Peoples Natural Gas Co., the City of Papillion, Nebraska, and Sanitary and Improvement District No. 135 of Sarpy County, Nebraska, their successors and assigns, to erect and operate, maintain, repair and renew buried or underground sewers, water and gas mains and cables, lines or conduits and other electric and telephone utility facilities for the carrying and transmission of electric current for light, heat and power and for all telephone and telegraph and message service and power and for all telephone and telegraph and message service over, through, under and upon an eight foot (8') wide strip of land adjoining the rear lines and a five foot (5') wide strip adjoining the side boundary lines of the Lots; this license being granted for the use and benefit of all present and future owners of these Lots; provided, however, that the side Lot line easement is granted upon the specific condition that if all of such utility companies fail to construct such facilities along any of said side Lot lines within thirty-six (36) months of date hereof, or if any such facilities are constructed but are thereafter removed without replacement within sixty (60) days after their removal, then this sideline easement shall automatically terminate and become void as to such unused or abandoned easementways. No permanent buildings, trees, retaining walls or loose rock walls shall be placed in the easementways but same may be used for gardens, shrubs, landscaping and other purposes that do not then or later interfere with the aforementioned uses of rights granted herein. All such utility service lines from property line to dwelling shall be underground.

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ARTICLE III.
NOTICE OF POTENTIAL TELEPHONE FACILITIES CHARGE

In the event that ninety percent (90%) of all Lots within the Summerfield Replat Subdivision are not improved within five (5) years from the date that Northwestern Bell Telephone Company shall have completed its distribution system and filed notice of such completion ("Five Year Term") then such unimproved Lot shall be subject to a charge of Four Hundred Fifty Dollars (\$450.00).

A Lot shall be considered as unimproved if construction of a permanent structure has not commenced on a Lot. Construction shall be considered as having commenced if a footing inspection has been requested on the Lot in question by officials of the City or other appropriate governmental authority.

Should such charge be implemented by Northwestern Bell Telephone Company and remain unpaid, then such charge may draw interest at the rate of twelve percent (12%) per annum commencing after the expiration of sixty (60) days from the time all of the following events shall have occurred: (1) expiration of the Five Year Term, (2) ninety percent (90%) of the Lots in Summerfield Replat remain unimproved, and (3) each owner of record is to send a written statement for Four Hundred Fifty Dollars (\$450.00) per unimproved Lot owned.

ARTICLE IV
GENERAL PROVISIONS

1. The Declarant or any owner of a Lot named herein shall have the right to enforce by a proceeding at law or in equity, all reservations, restrictions, conditions and covenants now, or hereinafter imposed by the provisions of this Declaration either to prevent or restrain any violation or to recover damages or other dues of such violation. Failure by the Declarant or by any owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

2. The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty (20) years from the date this Declaration is recorded. This Declaration may be amended by Declarant or any person, firm, corporation, partnership, or entity designated in writing by Declarant, in any manner which it may determine in its full

and absolute discretion for a period of four (4) years from the date hereof. Thereafter this Declaration may be amended by an instrument signed by the owners of not less than seventy-five percent (75%) of the lots covered by this Declaration.

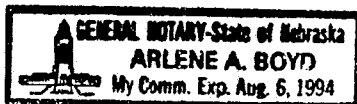
3. Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other provisions hereof which shall remain in full force and effect.

IN WITNESS WHEREOF, the Declarant have caused these presents to be executed this 17th day of December, 1990.

By *Charles G. Smith*

STATE OF NEBRASKA)
) ss.:
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this 17th day of December, 1990, by Charles G. Smith



Arlene A. Boyd
Notary Public

57-2176

NOTICE AND DECLARATION OF ADDITIONAL COVENANT OF SUMMERFIELD,
A SUBDIVISION IN SARPY COUNTY, NEBRASKA

This notice and declaration, made on the date hereinafter set forth, is made by Charles G. Smith and C.S.I., hereinafter referred to as the "Declarants."

PRELIMINARY STATEMENT

1. WHEREAS, the Summerfield subdivision contains 168 lots, and some of these lots have been conveyed by the Declarants to various purchasers prior to the filing of this Notice and Declaration.

2. WHEREAS, Declarant Charles G. Smith is the owner of the following lots in Summerfield:

Lots 1-5, 7, 10, 20-31, 33-52, 54-117, 121-132, 134-148, and 150-168, inclusive, all in Summerfield, a subdivision, as surveyed, platted and recorded in Sarpy County, Nebraska.

3. WHEREAS, Declarant C.S.I. is the owner of the following lots in Summerfield:

Lots 6, 8, 9, 11-13, 15-19, 32, 118-120, 133 and 149, inclusive, all in Summerfield, a subdivision, as surveyed, platted and recorded in Sarpy County, Nebraska.

4. WHEREAS, each Declarant will convey its lots subject to the additional covenant and possible charge set forth in Article I.

NOW THEREFORE, each Declarant hereby declares that all lots which are owned by each Declarant as described herein shall be held, sold, and conveyed subject to this additional

59-2176A

above described lots, or any part thereof.

DEFINITIONS

A. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot which is a part of the properties, including contract sellers, by excluding those having such an interest merely as security for the performance of an obligation.

B. "Lot" shall mean and refer to any plot of land shown upon the recorded subdivision map or plat of Summerfield, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska.

C. "Declarants" shall mean and refer to Charles G. Smith, his successors and assigns, and C.S.I., a Nebraska corporation, its successors and assigns.

ARTICLE I
NOTICE OF POTENTIAL TELEPHONE FACILITIES CHARGE

In the event that ninety percent (90%) of all lots within Summerfield subdivision are not improved within five years from the date that Northwestern Bell Telephone Company shall have completed the installation of its distribution system within said subdivision and filed notice of such completion ("five year term"), then every lot that is unimproved at the end of the five year term shall be subject to a charge of four hundred and fifty dollars (\$450.00) by Northwestern Bell Telephone Company or its successors.

A lot shall be considered as unimproved if construction of a permanent structure has not commenced on that lot. Construction

59-21768

All 168 lots in Summerfield subdivision shall be considered in determining whether ninety percent (90%) of the lots within Summerfield have been improved within the five year term. Only the 168 lots in Summerfield subdivision as mentioned herein shall be considered in determining the date Northwestern Bell Telephone Company shall have completed the installation of its distribution system for the Summerfield subdivision.

Such charge shall be due and owing immediately upon the expiration of the five year term, and if such charge is not paid within sixty days after the sending of written notice by Northwestern Bell Telephone Company or its successors to the owner of an unimproved lot that such charge is due, then such charge will begin drawing interest commencing upon the expiration of the sixty day period at the rate of twelve percent (12%) per annum, or the maximum rate allowed by law if said maximum rate is less than twelve percent (12%) per annum at that time.

59-2176C

In witness whereof, the undersigned, being the Declarants herein, have hereunto set its hand and seal this 15 day of July, 1986.

DECLARANTS:

C.S.I.

CHARLES G. SMITH

By:


[Handwritten signature]

By:

[Handwritten signature]

STATE OF NEBRASKA)
) ss.
COUNTY OF SARPY)


The foregoing instrument was acknowledged before me, this 15 day of July, 1986 by Charles G. Smith, President of C.S.I., a Nebraska corporation.

 GENERAL NOTARY - State of Nebraska
LYNN W. WHISTON
My Comm. Exp. 3/18/88

[Handwritten signature]
Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF SARPY)

The foregoing instrument was acknowledged before me, this 15 day of July, 1986 by Charles G. Smith.

 GENERAL NOTARY - State of Nebraska
LYNN W. WHISTON
My Comm. Exp. 3/18/88

[Handwritten signature]
Notary Public

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