

10900382

JUN-15-73 82890. D 900382 LST A PD

23.00

DECLARATION OF
RESERVATIONS, RESTRICTIONS, COVENANTS AND LIENS
OF
NEWPORT, SECTION SIX

163-23-0304

STATE OF TEXAS
COUNTY OF HARRIS

KNOW ALL MEN BY THESE PRESENTS:

At a meeting of the Board of Directors of Diamondhead Corporation, a Delaware Corporation (hereinafter called the "Corporation") held in the office of the corporation in New York, New York on the 24th day of July, 1972, all the Directors of the corporation being present, the following resolution was adopted by unanimous vote:

BE IT RESOLVED:

That the restrictions, covenants and liens hereinafter set out shall be, and the same are, made applicable to NEWPORT, SECTION SIX, a subdivision in Harris County, Texas, according to the map or plat thereof recorded in Volume 205 Page 8, of the Map Records of Harris County, Texas, said map being hereinafter referred to as the "Map". The Map has been duly authenticated with proper certificate showing dedication of the streets, drives, and easements to the use of the present and future residents and to the public, subject to the reservations, restrictions, covenants and liens herein contained, to the same extent as though copied at length in said dedication certificate and the Map is subject only to such minor changes as, in the judgment of DIAMONDHEAD CORPORATION, are necessary for the efficient installation of improvements. That DIAMONDHEAD CORPORATION is the owner of all the lots, tracts, parcels and property in said NEWPORT, SECTION SIX.

RESERVATIONS

That the Map dedicates for public use as such the streets, alleys, parks and easements shown thereon and there was reserved and is hereby expressly reserved in DIAMONDHEAD CORPORATION the following rights, title and easements, which reservations shall be referred to, and made a part of and construed as being adopted in each and every contract, deed or conveyance executed or to be executed by or on behalf of DIAMONDHEAD CORPORATION conveying NEWPORT, SECTION SIX or any part thereof.

WHEN RECORDED RETURN TO
R. C. CONVERSE

FULBRIGHT, CROOKER & JAWORSKI
BANK OF THE SOUTHWEST BUILDING
HOUSTON, TEXAS 77002

(1) The legal and fee simple title in and to each and all of the several streets and drives as shown on the Map is hereby reserved in the Corporation subject to the limited dedications herein expressed.

163-23-0305

(2) The Corporation reserves the exclusive right to construct and operate in, over, upon, along and under said streets and drives a transportation system or systems; and to erect and maintain therein and thereon wires and poles for the purpose of constructing and maintaining a system of electric lights, power, telegraph and telephone line or lines and connections; and to construct, lay, and maintain in, along, and under any and all of said streets, and drives and along easements provided therefor, all pipes and conduits necessary and proper for the construction and maintenance of a system of drainage and a system of sewage and for the supply of water, (retaining also the right to grant or to deny to areas beyond NEWPORT, SECTION SIX connection privileges to said drainage, sewage or water systems) gas, light and power, telegraph and telephone service to said NEWPORT, SECTION SIX and the inhabitants thereof; and for all other purposes incident to the development and use of said property as a community unit.

(3) The Corporation reserves the necessary easements and rights-of-way for the purpose of constructing and maintaining and repairing a system or systems of light, electric power, telegraph and telephone line or lines, gas, sewers or any other utility the Corporation sees fit to install across said lots, tracts and parcels of land situated in NEWPORT, SECTION SIX as shown on the Map; to which and its record reference is here made for all purposes.

(4) The Corporation reserves the right to make minor changes in and additions to the above easements for the purpose of most efficiently and economically installing the improvements.

(5) The above reservations will not prevent entry by any municipal authority or utility company or their successors, or assigns, upon said easements and rights-of-way for the purpose of constructing, maintaining and repairing a system or systems of light, electric power, telephone and telegraph line or lines, gas, sewers or any other utility the Corporation sees fit to have installed across said lots, tracts and parcels situated in NEWPORT, SECTION SIX, and such right upon the part of any such municipal authority or utility company is hereby expressly recognized.

(6) Neither the Corporation nor any municipal authority nor any utility company using the easements and rights-of-way herein referred to shall be liable for any damage done by them or their assigns, their agents, employees or servants, to shrubbery, trees or flowers or any other property of the owner situated on the land burdened by said easements.

(7) That the title conveyed by the Corporation to any lot, tract or parcel of land in NEWPORT, SECTION SIX, by contract, deed or other conveyance shall not in any event be held or construed to include the title to the water, gas, sewer, storm sewer, electric light, electric power, telegraph or telephone lines, poles or conduits or any other utility or appurtenances thereto constructed by the Corporation, its agents or assigns through, along or upon said premises or any part thereof to serve said property or any other portions of NEWPORT, SECTION SIX, or any part of "NEWPORT", as said term is hereinafter defined, and the right to maintain, repair, sell or lease such lines, utilities and appurtenances to any municipality or other governmental agency or to any public service corporation or to any other party is hereby expressly reserved in the Corporation.

RESTRICTIONS

That for the purpose of creating and carrying out a uniform plan for the improvement and sale of NEWPORT, SECTION SIX, the Corporation, being the sole owner of all property located in NEWPORT, SECTION SIX, desires to restrict the use and the development of the property located in NEWPORT, SECTION SIX, in order to insure that it will be and remain a high class, restricted subdivision;

NOW, THEREFORE, the Corporation being the sole owner of the property known as NEWPORT, SECTION SIX, a subdivision in Harris County, Texas, according to the Map hereinabove described, does hereby impose the following restrictions, covenants and liens upon NEWPORT, SECTION SIX, which shall inure to the benefit of the Corporation, its successors and assigns and to each and every purchaser of lands in NEWPORT, SECTION SIX and their heirs, successors and assigns and to the Architectural Committee, for which is hereinafter provided, its successors and assigns, and to Newport Yacht and Country Club, Inc., its successors and assigns, and any one of said beneficiaries shall have the right to enforce such restrictions, covenants and liens using whatever legal method deemed advisable, including without limitation, injunctive relief; and if any one of such restrictions, covenants and liens shall be held to be invalid, or for any reason is not enforced, none of the others shall be affected or impaired thereby, but shall remain in full force and effect. As used herein, the term "NEWPORT" shall refer to and mean NEWPORT, SECTION SIX, and any and all other lots, tracts or parcels of land now owned or hereafter acquired by the Corporation in any of the following surveys in Harris County, Texas, as well as those adjacent or contiguous thereto, to-wit:

Humphrey Jackson Survey	Abstract No. 37
William Wilson Survey	Abstract No. 838
Absolom Reeves Survey	Abstract No. 60

163-23-0307

J. Callyhan Survey Abstract No. 199
Lewis A. Levy Survey Abstract No. 517
Victor Blanco Survey Abstract No. 2
W. R. Baker Survey Abstract No. 144

TERM

(1) These restrictions, covenants and liens shall be effective until March 15, 2023 at which time, unless terminated in the manner set forth in (2) below, these restrictions, covenants and liens shall be automatically extended for successive periods of ten years each until terminated in the manner set forth in (2) below, with the first such ten year period commencing March 16, 2023 and ending on March 15, 2033.

(2) Any one or more of the restrictions, covenants and liens herein contained may be annulled, amended or modified at any time by, but shall be deemed to have been annulled, amended or modified only upon, the recordation of an instrument in writing setting forth such annulment, amendment or modification and executed by the then record owner or owners (as shown by the Official Public Records of Real Property of Harris County, Texas, at the time of the filing of such instrument) of seventy-five (75%) percent of the real property comprising NEWPORT, SECTION SIX (computed upon a square foot basis).

LAND USE

(1) All lots, tracts and parcels of NEWPORT, SECTION SIX shall be used only as set forth and classified herein or on the Map and such designated usage can be changed only by and with the approval of the Architectural Committee, for which is hereinafter provided.

(2) All lots, tracts and parcels of NEWPORT, SECTION SIX unless specifically designated for a different use on the Map (such as by the term "Unrestricted Reserve") or hereinafter, shall be used for residence purposes only. As used herein, the term "residence purposes" shall be held and construed to exclude hospitals, duplex houses and apartment houses, and to exclude commercial and professional uses; and any usage or any lot, tract or parcel of NEWPORT, SECTION SIX is hereby expressly prohibited; except for those lots, tracts and parcels whose use is specifically indicated for purposes other than residence purposes as set forth hereinafter; provided, however, nothing contained herein shall be construed to prevent the Corporation from erecting and maintaining, or authorizing the erection and maintenance of structures and signs for the development and sale of the property situated in NEWPORT, SECTION SIX while the same or any part thereof is owned by the Corporation.

LAND-IMPROVEMENT

163-23-0308

The terms "house" or "residence" as used herein with regard to building setback lines shall include galleries, porches, porte cocheres, steps, projections and every other permanent part of the improvements, except roofs.

All lots, tracts and parcels of NEWPORT, SECTION SIX, save and except those lots, tracts or parcels specifically designated for a different use on the Map such as by the term "Unrestricted Reserve" shall be improved, occupied and used according to the provisions of the following land improvement classifications:

Classification R-S-2-1400 Residential - Single Family -
Two-Story - 1400 square feet.

Those lots, tracts and parcels of NEWPORT, SECTION SIX hereinafter designated with Classification R-S-2-1400 are hereby restricted as to the use and improvement thereof as follows:

(1) Only one single family residence shall be constructed upon each lot, tract or parcel designated with this classification; however, this shall not prohibit the construction of a residence on a portion of two or more lots, tracts or parcels as shown on the Map, provided such tract constitutes a homesite under Paragraph (2) hereinbelow.

(2) Parts of two or more adjoining lots facing the same street in the same block may be designated as one homesite provided the lot frontage shall not be less than the minimum frontage of lots in the same block facing the same street.

(3) Any residence erected on a lot, tract or parcel designated with this classification shall not exceed two stories in height and no second story of any residence shall have a floor level which lies at an elevation of less than five (5) feet, or more than twelve (12) feet above any other floor level within the same residence.

(4) Any residence constructed on any lot, tract or parcel designated with this classification shall contain not less than One Thousand Four Hundred (1,400) square feet of fully enclosed floor area devoted to living purposes; and if such residence is to be two (2) stories in height, the lower story of such residence shall contain not less than One Thousand (1,000) square feet. The floor area as used in this paragraph shall be exclusive of roofed or unroofed porches, terraces, garages, carports, galleries, porte cocheres, and any other permitted out-buildings; and shall further be computed from the faces of the exterior walls enclosing such floor area.

(5) The Architectural Committee hereinafter designated shall have the authority to make additional regulations and requirements as to the height and size of all buildings and structures within this classification, including without limitation, fences, walls, eaves, trellises, copings and other such surfaces, projections and appendages as will visibly affect the appearance of said buildings and structures.

(6) As hereinafter provided, all permits and/or approvals for the construction of improvements upon property designated with this classification shall be issued only after a thorough review of a complete and detailed set of construction plans of the proposed buildings and no construction shall commence upon any lot, tract or parcel designated with this classification unless and until the receipt of written approval by the Architectural Committee shall have been effected. Plans and specifications submitted to the Architectural Committee for approval shall include, without limitation, the following:

(a) Site development plan, including drives, paths, fences, docks, patios and all proposed improvements in connection with such building.

(b) Landscaping plan, to include all trees, bushes, shrubbery, planting and other proposed landscaping.

(c) Complete and detailed construction plans and specification, to include without limitation, all exterior elevations, materials to be used, exterior colors to be used, plot plans and improvement locations.

(7) There shall be constructed upon each lot, tract or parcel in NEWPORT, SECTION SIX, designed with this classification a minimum of one (1) sheltered automobile parking stall of at least eight (8) feet in width and eighteen (18) feet in length. Said required parking stall and any other parking stall or stalls shall be constructed entirely within the building setback lines hereinafter prescribed. All enclosures, shelters, screens and other improvements constructed for the purpose of automobile and other vehicle parking shall be attached to and be a part of the structure of the residence constructed on all lots, tracts or parcels situated in NEWPORT, SECTION SIX.

(8) The following lots, tracts and parcels of NEWPORT, SECTION SIX are hereby designated with Classification R-S-2-1400 and all improvements erected or constructed thereon shall conform strictly to the restrictions of that Classification as well as the other restrictions herein after set forth as applying to all lots, tracts or parcels contained in NEWPORT, SECTION SIX, to-wit:

163-23-0310

BLOCK

LOTS

1	1-23	Both Inclusive
2	1-28	"
3	1-71	"
4	1-33	"
5	1-28	"
6	1-30	"
7	1-25	"
8	1-61	"
9	1-48	"
10	1-21	"
11	1-51	"
12	1-53	"
13	1-47	"
14	1-61	"
15	1-34	"
16	1-14	"

628

APPROVAL TO BUILD

No construction or erection of improvements upon any lot, tract or parcel contained in NEWPORT, SECTION SIX, however classified, shall ever be commenced until the written approval of the Architectural Committee shall have been received. Pursuant thereto, the Architectural Committee shall not be required to give such written authorization,

unless and until three (3) sets of the plans and specifications required under the various land use classifications above set forth shall have been submitted to the Architectural Committee.

BUILDING SETBACK LINES

No building or other improvement erected upon any lot, tract or parcel contained in NEWPORT, SECTION SIX shall ever be so erected or constructed over or across the front, side or rear building setback lines as set forth and described on the Map.

MINIMUM BUILDING ELEVATION

No building or other improvement shall ever be erected or constructed upon any lot, tract or parcel contained in NEWPORT, SECTION SIX which shall have a finished floor level located at an elevation of less than + twenty-five (+25) feet above sea level without the express written notification thereof having been given to the Architectural Committee by the owner of such lot, tract or parcel upon which the building or other improvement is to be erected or constructed, stating that such owner has familiarized himself with the changes of water elevations affecting such property. Further, no building or other improvement shall ever be erected or constructed upon any lot, tract or parcel contained in NEWPORT, SECTION SIX which shall impair, in the opinion of the Architectural Committee, an adjacent lot, tract or parcel owner's view.

SEWAGE DISPOSAL AND WATER SYSTEM; UNDERGROUND ELECTRIC DISTRIBUTION SYSTEM

A. All buildings and other improvements constructed or erected upon any lot, tract or parcel in NEWPORT, SECTION SIX completed prior to the time that a central sewage system and/or central water system is capable of serving such business or improvement, must be connected to and the owners thereof must commence use of such systems within thirty (30) days after such time as each such system shall become capable of serving such improvement or building. All buildings or other improvements constructed or erected upon any lot, tract or parcel situated in NEWPORT, SECTION SIX completed subsequent to such time as a central sewage system and/or a central water system are capable of serving such building or improvements, must be connected to and the owners thereof must commence the use of such systems prior to the occupancy and use of such building or improvement.

B. An underground electric distribution system will be installed in NEWPORT, SECTION SIX which underground service system will embrace all lots listed in Paragraph 8, same being all lots in NEWPORT, SECTION SIX. The owner of each lot in NEWPORT, SECTION SIX shall, at his own cost, furnish,

install, own and maintain (all in accordance with the requirements of local governing authorities and the National Electrical Code) the underground service cable and appurtenances from the point of the electric company's metering on customer structure to the point of attachment at such company's installed transformers or energized secondary junction boxes, such point of attachment to be made available by the electric company at a point designated by such company at the property line of each lot. The electric company furnishing service shall make the necessary connections at said point of attachment and at the meter. In addition, the owner of each lot shall, at his own cost, furnish, install, own and maintain a meter loop (in accordance with the current standards and specifications of the electric company furnishing service) for the location and installation of the meter of such electric company for the residence constructed on such owner's lot. For so long as underground service is maintained in NEWPORT, SECTION SIX, the electric service to each lot therein shall be underground, uniform in character and exclusively of the type known as single phase, 120/240 volt, 3-wire, 60 cycle, alternating current. The electric company has installed or will install the underground electric distribution system in NEWPORT, SECTION SIX at no cost to the Corporation (except for certain conduits, where applicable) upon the Corporation's representation that NEWPORT, SECTION SIX is being developed for single family dwellings of the usual and customary type which dwellings are to be permanently located on the lots where originally constructed and built for sale to bona fide purchasers (such category of dwellings expressly excludes without limitation mobile homes and duplexes). Therefore, should the plans of lot owners in NEWPORT, SECTION SIX change so that dwellings of a different type will be permitted in NEWPORT, SECTION SIX, the electric company shall not be obligated to provide electric service to a lot where a dwelling of a different type is located unless (a) the Corporation has paid to the electric company an amount representing the excess of cost, for the entire NEWPORT, SECTION SIX of the underground distribution system over the cost of equivalent overhead facilities to serve NEWPORT, SECTION SIX or (b) the owner of each lot, or the applicant for service, shall pay to the electric company the sum of (1) \$1.00 per front lot foot, it having been agreed that such amount reasonably represents the excess in cost of the underground distribution system to serve such lot over the cost of equivalent overhead facilities to serve such lot, plus (2) the cost of rearranging and adding any electrical facility serving such lot, which rearrangement and/or addition is determined by the electric company to be necessary.

TEMPORARY STRUCTURES AND OUTBUILDINGS

No structure of a temporary character, basement, tent, shack, trailer, camper, mobile home (even if affixed to realty), garage or any other outbuilding shall ever be used on any lot, tract or parcel contained in NEWPORT, SECTION SIX, at any time as a permanent or temporary residence, dwelling, building or other structure, except under a temporary written permit which may be granted, for specific time period, in the discretion of the Corporation. Further, no such structure of a temporary character, basement, tent, shack, trailer, camper,

163-23-0313

mobile home (even if affixed to realty), garage or other outbuilding shall ever be placed on or erected upon any lot, tract or parcel contained in NEWPORT, SECTION SIX, provided however, that the Architectural Committee may grant permission for such temporary buildings or structures to be so erected for the sole purpose of storing materials during the construction of permanent buildings and other improvements upon any such lot, tract or parcel.

No garage or outbuilding ever erected upon any lot, tract or parcel situated in NEWPORT, SECTION SIX shall ever be used as a residence or living quarter, except by servants engaged on the premises.

CONSTRUCTION PERIODS

All construction, altering or remodeling of any building or other improvement upon any lot, tract or parcel situated in NEWPORT, SECTION SIX shall be pursued diligently from the commencement thereof until the completion thereof.

LOT GRADING AND FILLING

All grading of any lot, tract or parcel in NEWPORT, SECTION SIX shall be approved in advance by the Architectural Committee and no lot, tract or parcel may be filled to a point higher than the highest natural point of elevation upon such lot, tract or parcel.

NUISANCES: APPEARANCE OF LOTS, TRACTS OR PARCELS: AND REMOVAL OF TREES

No noxious, unhealthful, unsanitary or other offensive activities shall ever be carried on or permitted to exist upon any lot, tract or parcel situated in NEWPORT, SECTION SIX nor shall anything be done or permitted to be done upon any such lot, tract or parcel, which may be or become an annoyance or nuisance to the other owners of any lot, tract or parcel situated in NEWPORT, SECTION SIX. No trash, ashes, rubbish, garbage or any other refuse shall ever be thrown, dumped, maintained or otherwise allowed to exist upon any lot, tract or parcel situated in NEWPORT, SECTION SIX except for such reasonable period of time, not to exceed seven (7) days, pending proper removal or disposal thereof and all such wastes prior to proper removal or proper disposal thereof shall be kept in sanitary containers. All incinerators or other equipment for the disposal or storage of such matter shall be kept and maintained in a clean, sanitary condition, and all incinerators and other apparatus used for the disposal of such waste shall be approved by the Architectural Committee before installation and initial use.

All lots, tracts and parcels situated in NEWPORT, SECTION SIX shall at all times be kept and maintained

in a clean, healthful, sightly and wholesome condition.

All service yards, woodpiles and storage piles shall be walled in or kept screened by adequate solid fencing or walls in such manner as to conceal them from view from adjacent lots, tracts or parcels and roadways.

No tree shall ever be removed from any lot, tract or parcel situated in NEWPORT, SECTION SIX without obtaining the prior written consent of the Architectural Committee.

BOAT AND TRAILER STORAGE

No boat, boat trailer, travel trailer, camp trailer, house trailer, mobile home (even if affixed to realty) or other similar property shall ever be stored on any lot, tract or parcel contained in NEWPORT, SECTION SIX without the prior written approval of the Architectural Committee.

RADIO AND TELEVISION ANTENNA

No television or radio antenna or towers shall ever be erected or maintained upon any lot, tract or parcel situated in NEWPORT, SECTION SIX without the express prior written consent of the Architectural Committee.

LAUNDRY

All apparatus maintained for the purpose of drying wash shall be erected only in those areas approved for such use by the Architectural Committee, except that a folding drying rack not more than four (4) feet in height may be placed at the rear of any lot, tract or parcel contained in NEWPORT, SECTION SIX and shall be stored when not actually being used.

PETS AND OTHER ANIMALS

No livestock of any kind shall ever be staked or pastured, and no cattle, hogs, rabbits, poultry or other livestock shall ever be kept or maintained upon any lot, tract or parcel contained in NEWPORT, SECTION SIX except for dogs, cats and other bona fide household pets which do not make objectionable noise or constitute a nuisance, health or safety hazard or inconvenience to any owner of other adjacent lots, tracts or parcels situated in NEWPORT, SECTION SIX. Notwithstanding the foregoing, no raising, breeding, training or dealing in dogs, cats or other animals shall ever be permitted on or from any lot, tract or parcel situated in NEWPORT, SECTION SIX without the express prior written approval of the Architectural Committee.

Horseback riding shall be limited to those equestrian trails which shall have been approved by the Architectural Committee.

and all horses shall be stabled only in those areas designated for such use by the Architectural Committee.

SIGNS

No signs, billboards, posters or advertising devices of any character shall ever be erected upon or allowed to exist upon any lot, tract or parcel contained in NEWPORT, SECTION SIX without the express prior written consent of the Architectural Committee; provided, however, this covenant shall not apply to the Corporation.

OIL, GAS AND OTHER MINERAL DRILLING OR EXPLORATION

No oil, gas or other mineral exploration or development operations, including without limitation, seismographic exploration, drilling, refining, mining, quarrying, tunneling, excavating, tank or pipeline construction and erection or any other similar activity or activities connected with mineral exploration or development shall ever be conducted or carried on upon any lot, tract or parcel in NEWPORT, SECTION SIX; provided, however, nothing in the foregoing shall ever restrict the Corporation, its successors or assigns to carry on any such activities in, on or under any lot, tract or parcel situated in NEWPORT, SECTION

SIX

FENCES AND BOUNDARY PLANTINGS

Except as limited further hereinafter, no wall, coping or fence exceeding six (6) feet in height measured from the adjoining ground surface inside any such wall, coping or fence may ever be erected or maintained upon any lot, tract or parcel situated in NEWPORT, SECTION SIX, except as hereinafter provided; no boundary plantings exceeding eight (8) feet in height, except trees with single trunks, shall ever be planted, permitted or maintained upon or along any side and/or rear boundary line of any lot, tract or parcel situated in NEWPORT, SECTION

SIX

No wall, coping or fence shall ever be constructed upon any lot, tract or parcel contained in NEWPORT, SECTION SIX which shall adjoin a golf course.

No wall, coping, fence or boundary planting shall ever be constructed, planted, maintained or otherwise allowed to exist upon any lot, tract or parcel contained in NEWPORT, SECTION

SIX which shall interfere with the vision of the operators of motor vehicles.

ARCHITECTURAL COMMITTEE

ORGANIZATION

The Architectural Committee shall be initially composed of the

following three people, to-wit:

163-23-0316

William H. Maurer
William M. Hendrich
P. Holcomb Hector

Any vacancy which shall occur shall be filled by the remaining member or members of the Architectural Committee as then constituted, or, if no members remain, by the Corporation. The Architectural Committee may appoint advisory committees from time to time to advise it on matters pertaining to NEWPORT,

SECTION SIX

DUTIES OF ARCHITECTURAL COMMITTEE

The Architectural Committee shall perform and discharge or shall cause to be performed and discharged all those matters which are set forth in this instrument to be performed by the Architectural Committee.

All plans and specifications presented to the Architectural Committee shall be approved or disapproved by the Architectural Committee within forty (40) days from the receipt thereof. Should no action have been taken by the Architectural Committee within such forty (40) days, then and in such event all such plans and specifications presented to the Architectural Committee shall be deemed to have been disapproved, unless the Architectural Committee shall give written notice prior to the expiration of such forty (40) days to the party presenting such plans and specifications that more than forty (40) days are required to review such plans and specifications, whereupon approval or disapproval of such plans and specifications shall be evidenced solely by written notice communicating approval or disapproval to the party presenting such plans and specifications. Upon approval or disapproval of such plans and specifications by the Architectural Committee, two sets of said plans and specifications showing the approval or disapproval of the Architectural Committee thereon, shall be returned to the person submitting them and the other copy thereof shall be retained by the Architectural Committee.

The Architectural Committee shall have the right to disapprove any plans and specifications submitted to it in the event such plans and specifications are not in accordance with all of the provisions of this instrument, if the design or color schemes of the proposed building or other structure are not in harmony with the general surroundings of such lot, tract or parcel, or with the adjacent building or structures, if the plans and specifications are incomplete, or in the event the Architectural Committee deems the plans, specifications or details of the building or structure depicted thereon, to be contrary to the interest, welfare or rights of all or any part of the owners of the lots, tracts or parcels adjacent thereto, all in the sole discretion of the Architectural Committee whose decision shall

be final.

163-23-0317

Notwithstanding anything of the foregoing, neither the Corporation, the Architectural Committee nor any architect or agent thereof or of the Corporation shall ever be in any way responsible for any defects in any plans or specifications submitted, revised or approved in accordance with the foregoing, nor for any structural or other defects in any work done according to such plans and specifications.

The Architectural Committee shall have power to and may allow reasonable variances and adjustments to the restrictions set forth herein in order to overcome practical difficulties and to prevent unnecessary hardships in the application of the restrictions contained herein; provided, however, that such is done in conformity with the intent and purposes hereof; and provided further, that in every instance such variance or adjustment will not be materially detrimental or injurious to other property, improvements or the owners thereof and such variances and adjustments as may be granted hereunder may include without limitation the height, size and building setback restrictions as set forth herein or on the Map.

The Architectural Committee may also determine and allow in the respective classifications of lots, tracts and parcels of NEWPORT, SECTION SIX additional uses which are of the same character and will not materially be detrimental to the owners of the other lots, tracts or parcels adjacent thereto.

In the event there shall be governmental regulations which conflict with or prevent work of construction or improvements in the manner as required by this instrument, such circumstance shall be deemed and constitute a practical difficulty justifying the allowance of variances and adjustments of these restrictions in order to prevent unnecessary hardships; provided, however, that in every instance the variance or adjustment shall not be materially detrimental or injurious to the property or improvements situated in NEWPORT, SECTION SIX.

LIEN TO SECURE THE PAYMENT OF DUES, CHARGES
AND ASSESSMENTS OF NEWPORT YACHT AND COUNTRY
CLUB, INC., OR THE ASSIGNEE OF NEWPORT YACHT
AND COUNTRY CLUB, INC.

LIEN PRESCRIBED

All lots, tracts and parcels situated in NEWPORT, SECTION SIX are hereby subjected to a monthly maintenance charge at a rate to be established from time to time by the Board of Directors of Newport Yacht and Country Club, Inc., a Texas corporation or its successors and assigns, for the purpose of maintaining and operating the streets, roads and common recreational facilities and areas of "NEWPORT".

163-23-0318

Notwithstanding anything in the foregoing, no monthly maintenance charge shall ever be due or owing by the Corporation by virtue of being the owner of any lot, tract or parcel situated in "NEWPORT".

Said monthly maintenance charges hereby imposed, together with all collection expenses and attorneys' fees incurred in connection therewith shall be secured by an express vendor's lien which is hereby expressly created and imposed upon each and every lot, tract and parcel in NEWPORT, SECTION SIX and every conveyance of any or all of the lots, tracts or parcels situated in NEWPORT, SECTION SIX hereafter made shall be made subject to such vendor's lien. Such monthly maintenance charges and other sums shall be paid by each and every lot owner at the time, in the manner and at such place as Newport Yacht and Country Club, Inc., its successors or assigns, shall from time to time designate and said express vendor's liens are hereby transferred and assigned to Newport Yacht and Country Club, Inc.

Said Newport Yacht and Country Club, Inc. or the Corporation, or their successors and assigns, shall have the power and authority to enforce collection of, collect, hold, administer and expend any and all moneys, paid or to be paid pursuant hereto, and to carry out the purposes hereof.

In the event other portions of "NEWPORT" are hereafter developed by the Corporation and a like maintenance charge for similar purposes is placed and imposed upon the lots, tracts and parcels therein, then the maintenance charge collected from said several portions of "NEWPORT", may be pooled, merged and combined into and with the monthly maintenance charges set forth herein and all such moneys may be pooled, merged and combined with the general funds of the Corporation; provided, however, an amount equal to all such moneys so collected shall be expended by Newport Yacht and Country Club, Inc. or the Corporation for the maintenance and operation of the streets, roads and common recreational facilities and areas of "NEWPORT".

The monthly maintenance charge and liens securing the same for which are herein provided shall remain in effect and shall be collectible until the restrictions, covenants and liens set forth herein shall have expired according to the provisions hereinabove set forth.

The vendor's lien prescribed herein as security for the payment of said monthly maintenance charge shall be enforceable by Newport Yacht and Country Club, Inc., its successors and assigns, through appropriate legal proceedings, in the manner prescribed by law. No proceedings for enforcement of such liens shall be commenced except upon the expiration of four (4) months from and after the date the charge or assessment giving rise to such lien becomes due and payable.

Liens of first deeds of trust, purchase money mortgages and mechanics and materialmen's liens placed upon any of said lots,

163-23-0319

tracts or parcels in NEWPORT, SECTION SIX for the purpose of constructing a residence or other buildings or improvements thereon or thereto and recorded in accordance with the laws of the State of Texas, shall be, from the date of such recordation, superior to any and all liens for which are herein provided, the Corporation or Newport Yacht and Country Club, Inc., may if requested, execute instruments to subordinate any and all liens provided for herein to such liens of first deeds of trust, purchase money mortgages and mechanics and materialmens' liens,

The Corporation or Newport Yacht and Country Club, Inc., at its option, by appropriate written instrument recorded in accordance with the laws of the State of Texas, may subordinate any and all liens provided for herein to the liens of the other deeds of trust and/or other encumbrances.

REMEDIES FOR VIOLATIONS

All restrictions, covenants and liens herein contained shall be applicable to and binding upon all of the lots, tracts and parcels in NEWPORT, SECTION SIX and the owners thereof, irrespective of the source of title of such owners, and all breaches thereof, if continued for a period of in excess of thirty (30) days from and after the date that Corporation or any other property owner or owners shall have notified in writing the owner or resident in possession of the lot, tract or parcel upon which or as to which such breach has been committed to refrain from the continuance of such action and to correct such breach, shall warrant the Corporation or other lot, tract or parcel owner, to apply to any court of law or equity having jurisdiction thereof for an injunction or other proper relief, and if such relief be granted by said court, all reasonable expenses in prosecuting such suit, including attorneys' fees, shall be reimbursed by said lot, tract or parcel owner against whom such suit was so prosecuted.

Notwithstanding anything in the foregoing, no violation of the restrictions and covenants set forth herein or foreclosure of the vendor's liens created herein shall in any way defeat or render invalid the lien of any deed of trust or mortgage made in good faith for value as to any lot, tract or parcel or portion thereof situated in NEWPORT, SECTION SIX, but such restriction, covenants and vendor's liens shall be enforceable against and apply to all or any portion thereof acquired by any person through foreclosure or by deed in lieu of foreclosure and all remedies herein set forth shall be available and enforceable for any violation of the restrictions, covenants or vendor's liens herein contained, occurring after the acquisition of said property through foreclosure, or deed in lieu of foreclosure.

ACCEPTANCE OF DECLARATION

Each purchaser and grantee of each lot, tract or parcel subject

163-23-0320

to the restrictions, covenants and liens set forth herein, by acceptance of a deed conveying title thereto, shall accept such title upon and subject to each and all the restrictions, covenants and liens herein contained, as well as the rights and powers of the Corporation, and by such acceptance, shall for themselves, their heirs, personal representatives, successors and assigns, covenant, consent and agree to and with the Corporation, and to and with the owners and subsequent grantees of each and every other lot, tract or parcel situated in NEWPORT, SECTION SIX to keep, observe, comply with and perform said restrictions and covenants and be subject to the liens all as set forth herein.

NON-WAIVER

No delay or omission on the part of the Corporation or the owner or owners of any lot, tract or parcel of land situated in NEWPORT, SECTION SIX in exercising or enforcing any lien, right, power or remedy, herein provided for in the event of any breach of any of the restrictions and covenants herein contained, shall be construed as a waiver thereof or acquiescence therein, and no right of action shall accrue, nor shall any action be brought or maintained by anyone whomsoever against the Corporation for or on account of its failure or neglect to exercise any right, power or remedy herein provided for in the event of such breach, or for imposing herein restrictions and covenants and liens which may be unenforceable.

REMEDIES CUMULATIVE

The various rights and remedies of the Corporation and the owners of the lots, tracts and parcels situated in NEWPORT, SECTION SIX as heretofore set out are and shall be cumulative of and in addition to each other and those provided by law. All of them may be used, relied upon, resorted to and enforced without any way affecting the ability of the Corporation or said property owners to use, rely upon, resort to and enforce the others, or any of them.

NUMBER AND GENDER

All words used herein in the singular number shall extend to and include the plural; all words used in any gender shall extend to and include all genders; all unless the particular context in question shall specifically provide otherwise.

CAPTIONS

The captions of the various paragraphs hereof are for convenience

163-23-0321

only and are not a part hereof, and do not in any way limit or amplify the terms of provisions hereof.

AND WE, P. HOLCOMB HECTOR, as Vice President of DIAMONDHEAD CORPORATION, and JACK A. FURMAN as its Assistant Secretary do hereby certify that the above and foregoing is a true and correct copy of the resolution of the Board of Directors of DIAMONDHEAD CORPORATION passed and adopted at a meeting of said Board of Directors held at New York, New York on the 24th day of July, 1972.

WITNESS our hands at Mountainside, New Jersey, on this 15TH day of March, 1973.

DIAMONDHEAD CORPORATION

By

P. Holcomb Hector
Vice President

ATTEST:

Jack A. Furman
Assistant Secretary

STATE OF NEW JERSEY

COUNTY OF UNION

BEFORE ME, the undersigned authority, on this day personally appeared P. HOLCOMB HECTOR and JACK A. FURMAN, Vice President and Assistant Secretary, respectively, of DIAMONDHEAD CORPORATION, a Delaware corporation, known to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they executed the same for the purposes and consideration therein expressed in the capacity therein stated and as the act and deed of said corporation.

GIVEN under my hand and seal of office this 15th day of March, 1973.

Karen A. Lockman
NOTARY PUBLIC

My commission expires:

NOTARY PUBLIC OF NEW JERSEY
My Commission Expires May 29, 1977

0900382 A
Joinder
P.

JOINDER

163-23-0322

First National City Bank, a National Banking Association, acting herein by and through its hereunto duly authorized officers, represents that its the sole owner and holder of all indebtedness secured by the liens created under and by virtue of that certain Deed of Trust, Mortgage, Assignment and Security Agreement dated June 1, 1972, executed by Diamondhead Corporation to J. W. Bartram as Trustee filed for record in the Official Public Records of Real Property of Harris County, Texas, on June 5, 1972, under File No. D-605087, and recorded under Film Code Reference No. 145-26-0825, as amended by instrument dated June 1, 1972, filed for record in the Official Public Records of Real Property of Harris County, Texas, on June 27, 1972, under File No. D-623160, and recorded under Film Code Reference No. 146-28-0862, both of which instruments cover and describe, among other properties a portion of Newport Section Six, a subdivision in Harris County, Texas according to the map or plat thereof recorded in Volume 205, Page 8, of the Map Records of Harris County, Texas; and the said First National City Bank joins herein for the purpose of ratifying confirming and approving the foregoing Declaration of Reservations, Restrictions, Covenants and Liens of Newport, Section Six, and does hereby fully subordinate said liens in all respects to the said reservations, Restrictions, covenants and liens herein ratified, confirmed and approved.

IN TESTIMONY WHEREOF, First National City Bank has caused these presents to be executed on this 16th day of MAY, 1973.

FIRST NATIONAL CITY BANK

Frederick H. Shapiro
Assistant Cashier

By Charles E. Shambaugh

NEW York
STATE OF TEXAS

COUNTY OF HARRIS NEW York

RECORDERS MEMORANDUM:
The changes made on this instrument were present at the time instrument was filed and recorded.

BEFORE ME, the undersigned authority, on this day personally appeared C. HARRIS E. FORTNEY and FREDERICK H. SHAPIRO as and Assistant Cashier, respectively, of First National City Bank, a National Banking Association, known to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they executed the same for the purposes and consideration therein expressed in the capacity therein stated and as the act and deed of said First National City Bank.

GIVEN under my hand and seal of office this 16 day of MAY, 1973.

My commission expires:

Joseph F. Bourke
NOTARY PUBLIC

JOSEPH F. BOURKE
Notary Public, State of New York
No. 02-668225
Qualified in New York County
Commission Expires March 30, 1974

FILED
COUNTY CLERK
HARRIS COUNTY, TEXAS

1973 JUN 15 PM 3 10

STATE OF TEXAS
COUNTY OF HARRIS

I hereby certify that this instrument was FILED in
the Number Sequence on the date and at the time stamped
herein by me and was duly RECORDED, in the Official
Public Records of said County of Harris County, Texas on

JUN 15 1973



Robert Montgomery
COUNTY CLERK
HARRIS COUNTY, TEXAS

103-23-0323