

ENT 19869 BK 2417 PG 450
NINA B REID UTAH COUNTY RECORDER DEF BA
1987 MAY 20 3:49 PM FEE 23.50
RECORDED FOR GARDNER & ASSOCIATES

WHEN RECORDED MAIL TO:

Above Space for Recorder's Use Only

MAINTENANCE AND OPEN SPACE PRESERVATION AGREEMENT

THIS AGREEMENT is among the undersigned developer and owners association, herein referred to as the "Developer" and the "Association", respectively, and Utah County, herein referred to as the "County".

WHEREAS the Developer owns certain real property in the unincorporated area of Utah County, which real property is more particularly described on Exhibit A attached hereto and by this reference made a part hereof; and

WHEREAS the Developer is desirous of establishing on said real property a condominium project (herein referred to as the "development") in conformity with the ordinances of Utah County, and also intends to provide for the benefit of subsequent owners certain common areas and streets to be maintained and operated by the Association; and

WHEREAS it is necessary and proper in connection with said development that an agreement be entered into between the Developer and the Association and Utah County for the purpose of guaranteeing the integrity, proper management and upkeep of the development and the furnishing of necessary services to subsequent owners, and for the further purpose of assuring that existing taxpayers are not burdened with the expenses of providing new residents with capital improvements and needed or desired services not common to the entire county or provided on a county-wide basis; now, therefore

IN CONSIDERATION of the necessary approvals, consents and authorizations to be given by Utah County for the purpose of allowing the Developer and Association to establish and operate said development, and for the purpose of complying with the ordinances of Utah County in such cases made and provided, the Developer and Association covenant and agree with the County, as follows:

1. The County shall have no obligation to construct or provide capital improvements or extended services for said

development which are not common to the entire county and which are not provided on a county-wide basis. The County shall have the right, however, to enter upon the premises of the development for inspection and for enforcement of all applicable laws, ordinances, rules, regulations, agreements and covenants relating to the development, the operation of the development, the construction of improvements and their maintenance within the development, and the furnishings of all necessary services for the development.

2. The Developer agrees to construct and provide at its expense the following improvements for said development:

(a) Common areas as required by Utah County Ordinances.

(b) All roadways, with necessary appurtenances, to equal or exceed Utah County standards.

(c) A culinary water system supplying water to each condominium unit to equal or exceed Utah State and Utah County Standards.

(d) Fire protection facilities to equal or exceed Utah State and Utah County Standards.

(e) Domestic sewer disposal facilities to equal or exceed Utah County Standards.

Developer agrees that all construction in the development shall conform to the plans of said development and the documentation submitted to and approved by Utah County, and also to the requirements of all applicable laws, ordinances, rules and regulations promulgated by governmental authorities having jurisdiction.

Upon approval of the development by the County, and prior to the conveyance, sale or disposition by the developer of any condominium unit or interest in land within the development, the Developer shall either complete all required improvements for the development or else furnish a corporate surety bond or other security satisfactory to Utah County, in an amount equal to the cost of constructing the same as estimated by the County, to assure the proper construction and completion of such improvements. Improvements shall be commenced within 180 days after approval of the development, and shall be completed within two years unless an extension is granted as provided by the ordinances of Utah County.

3. Developer agrees that water sufficient to meet the requirements of the North Fork Special Service District, a special service district created under the laws of the State of Utah, shall be available to each condominium unit, and that no charge for the same shall be made by the Developer to either the owner or occupant of said condominium unit or the Association. It is understood, however, that the Association may, if appropriate, make a reasonable operation and maintenance charge for the use of such culinary water, either by assessment or a service fee.

4. Developer represents and declares that it will make no user fee or charge to the owner or occupant of any condominium unit or to the Association for any service, facility, business or enterprise which owners or occupants of the development need to subscribe to or patronize in order to have full use and enjoyment of their property or the common areas or facilities within the development. It is understood, however, that that Association may make a reasonable charge, by assessment or otherwise, for the use of services and facilities provided for occupants of the development, or which may be necessary for the operation and maintenance thereof.

5. Prior to the conveyance, sale or other disposition of any condominium unit within the development, and before the right to possession of any condominium unit is transferred to any person, the Developer shall convey to and/or transfer control of all water rights necessary to meet the requirements of paragraph 3 to the North Fork Special Service District, without charge or the assumption of any obligation for the cost of construction of improvements thereon or thereto. All designated open spaces required by the County ordinances shall be subject to a covenant and restriction running with the land prohibiting any future dwellings thereon and all other buildings except those approved by Utah County as provided by ordinance.

6. The Association has been duly incorporated as a non-profit corporation under the laws of the State of Utah in accordance with the documentation heretofore submitted to and approved by Utah County for such purpose, and said Association is fully organized.

7. The Association shall furnish and provide at its expense maintenance and services as follows:

- (a) All necessary maintenance for the common areas.
- (b) All necessary maintenance and improvements for roadways and their appurtenances to meet Utah County requirements.

8. For the purpose of providing funds for the operation and maintenance of the development and the furnishing of necessary services to the occupants thereof, the Developer and the Association shall require an annual assessment to be made on each condominium unit, and may also provide for special assessments for capital improvements which the Association may desire to make. The annual assessments, together with interest, costs and reasonable attorney's fees, shall be a charge and a lien upon the condominium unit against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the owner of such condominium unit at the time when the assessment fell due. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents of the development, and for the improvement and maintenance of the common areas and facilities, and for the furnishing of all required services thereto. The annual assessments shall commence as to all condominium units no later than the first day of the month following the conveyance of the first condominium unit sold by Developer to an individual owner. It is understood that condominium units owned by the Developers shall not be exempt from assessment. If assessments are not paid, the Association shall bring an action at law against the owner personally obligated to pay the same, or shall foreclose the lien against the condominium unit assessed. No owner of any condominium unit may waive or otherwise escape liability for the assessment by non use of the common area or facilities or the abandonment of his condominium unit.

9. The Developer and the Association agree to establish and record in the office of the Utah County Recorder, concurrently herewith, a condominium declaration (herein called the "Declaration") covering the development which shall have first been submitted to and approved by Utah County. Said Declaration shall run with the land and be binding upon all parties and persons residing on the land or claiming any ownership or interest in the premises under or through the Developer, and the same shall not be modified or changed thereafter without the approval of Utah County; provided, however, that no such approval shall be required to create additional units and/or limited common areas and facilities within the development in accordance with Article XXXI of the Declaration entitled "Convertible Land." All of the covenants and provisions of this agreement, and such provisions as the zoning ordinances of Utah County require to be set forth in such Declaration, shall be made a part of the Declaration, together with such other provisions as the Developer and Association deem necessary for their purposes.

10. At the request of Utah County, ^{ENT19869 BK 2417 PG 454} ~~the Association~~ agrees to enforce all protective covenants, conditions, restrictions and management policies set forth in the Declaration recorded in the office of the Utah County Recorder. Upon failure of the Association to enforce said covenants, conditions and restrictions and management policies, the County may cause suit to be brought against the Association for the purpose of requiring it to enforce the same, or may itself bring and prosecute a suit in the name of the Association for the purpose of enforcing said covenants, conditions, restrictions and management policies.

11. Wherever in this agreement Utah County is referred to, it is understood that the reference is to the appropriate board, commission, department or person to whom authority shall have been delegated by law or ordinance or appropriate action of the board of county commissioners; and where no such delegation has been or can lawfully be made, the reference is to the board of county commissioners.

12. Upon the execution of this Agreement by the parties hereto, the following agreements and each of them shall be entirely superseded by this Agreement:

(a) That certain Maintenance Agreement dated June 7, 1983, executed by C. Robert Redford and Utah County, and recorded August 10, 1983, as Entry No. 23973, in Book 2069, at Page 736 of the Official Records of said County;

(b) That certain Maintenance Agreement dated March 12, 1985, executed by and between C. Robert Redford and Utah County, and recorded March 20, 1985, as Entry No. 7336, in Book 2204, at Page 212, of the Official Records of said County;

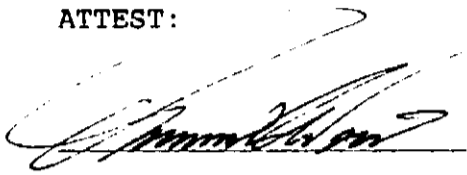
(c) That certain Maintenance Agreement dated July 10, 1985, executed by and between C. Robert Redford and Utah County, and recorded August 1, 1985, as Entry No. 21713, in Book 2235, at Page 494 of the Official Records of said County; and

(d) That certain Maintenance and Open Space Preservation Agreement dated May 27, 1986, executed by Crosby/Galvin/Morgan Investments, as the developer, Mandan Cottages Owners Association, as the association, and Utah County, and recorded June 25, 1986, as Entry No. 20007, in Book 2316, at Page 93 of the official records of said County.

IN WITNESS WHEREOF, the parties to this agreement have caused the same to be executed by their proper officers

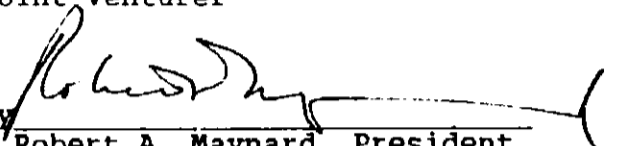
thereunto duly authorized this 28th day of April, 1987.

ATTEST:



SUNDANCE COTTAGES, a Utah joint venture,

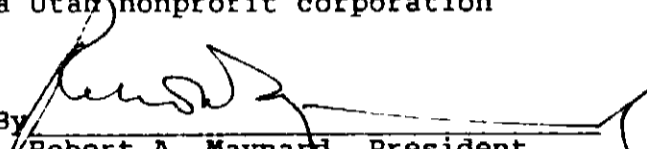
By Sundance Development Corporation, a Utah corporation, Joint Venturer

By 
Robert A. Maynard, President

ATTEST:

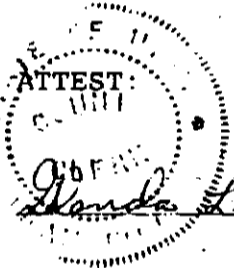


SUNDANCE COTTAGES OWNERS ASSOCIATION., a Utah nonprofit corporation

By 
Robert A. Maynard, President

(the Association)

UTAH COUNTY



STATE OF UTAH)
 : ss.
COUNTY OF WPAH)

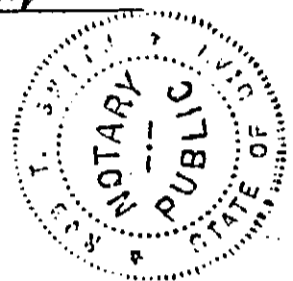

Chairman of the Board of County Commissioners

On the 28 day of April, 1987, personally appeared before me Robert A. Maynard, who being by me duly sworn, did say that he is the President of SUNDANCE DEVELOPMENT CORPORATION, a corporation, which corporation is a joint venturer in SUNDANCE COTTAGES, the joint venture which executed the foregoing instrument, and that the foregoing instrument was signed on behalf of said corporation by authority of its Bylaws or a resolution of its Board of Directors, and said Robert A. Maynard acknowledged to me that said corporation executed the

same as such a joint venturer and that said joint venture executed the same.

[Signature]
NOTARY PUBLIC
Residing at: [Signature]

My Commission Expires:
Oct 4, 1987

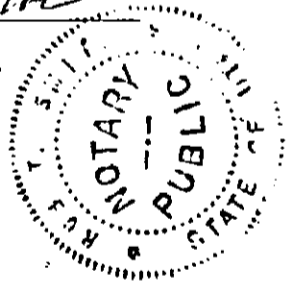


STATE OF UTAH)
: ss.
COUNTY OF UTAH)

On the 28 day of April, 1987, personally appeared before me Robert A. Maynard, who being by me duly sworn, did say that he is the President of SUNDANCE COTTAGES OWNERS ASSOCIATION, a Utah nonprofit corporation, and that the foregoing instrument was signed on behalf of said corporation by authority of its Bylaws or a resolution of its Board of Directors, and said Robert A. Maynard acknowledged to me that said corporation executed the same.

[Signature]
NOTARY PUBLIC
Residing at: [Signature]

My Commission Expires:
Oct 4, 1987



STATE OF UTAH)
: ss.
COUNTY OF UTAH)

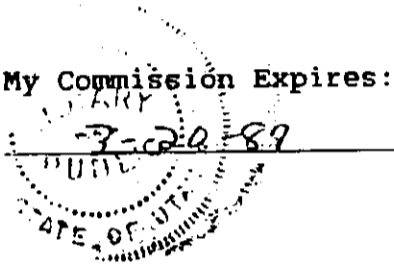
On the 4 day of MAY, 1987, personally appeared before me BRENT C. MORRIS, who being by me duly sworn, did say that he is the Chairman of the Board of County Commissioners of Utah County, a body politic of the State of Utah, and that he is authorized to sign the same on

ENT19869 BK 2417 PG 457

behalf of Utah County, and acknowledged to me that Utah County executed the same.

Glenda L. Ferguson
NOTARY PUBLIC
Residing at: OREG, UTAH

My Commission Expires:



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Legal Description of the Property

Beginning at the corner common to Sections 10, 11, 14 and 15, Township 5 South, Range 3 East, Salt Lake Base and Meridian; thence South $0^{\circ}07'50''$ East 168.25 feet; thence North $49^{\circ}01'00''$ East 497.93 feet; thence North $0^{\circ}50'00''$ East 259.71 feet; thence along the arc of a 211.27 foot radius curve to the right 89.51 feet, the chord of which bears North $66^{\circ}55'14''$ East 88.85 feet; thence along the arc of a 87.70 foot radius curve to the left 66.28 feet, the chord of which bears North $57^{\circ}24'22''$ East 64.72 feet; thence NORTH 92.23 feet; thence North $42^{\circ}57'18''$ West 329.41 feet to the southeast corner of the KENNETH FRANCK property described as lot "A" and lot "B" on Administratrix's Deed 6437; thence along the south line of said FRANCK property South $89^{\circ}52'10''$ West 293.71 feet to the east line of TIMPHAVEN HOMES Plat "2"; thence South $0^{\circ}07'50''$ East along said plat line 820.35 feet to the Point of Beginning. Containing 7.738 Acres. Basis of Bearings: The Section line between the Southwest corner of Section 11 and the West Quarter Corner of Section 11, Township 5 South, Range 3 East, Salt Lake Base and Meridian being North $0^{\circ}07'50''$ West;

TOGETHER WITH (1) a perpetual, nonexclusive easement over, along and across the property described in the immediately succeeding paragraph (the "Servient Tenement") for pedestrian and vehicular ingress to and egress from the property described in the immediately preceding paragraph (the "Dominant Tenement"); and (2) a perpetual, nonexclusive easement in, through, along and across the Servient Tenement to install, use, keep, maintain, repair and replace, as required, utility lines, pipes and conduits of all types for the benefit of and appurtenant to the Dominant Tenement:

Beginning at a point on the easterly fee title boundary of Sundance Cottages, Utah condominium project, said point being NORTH 487.69 feet and EAST 516.31 feet from the Southwest corner of Section 11, Township 5 South, Range 3 East, Salt Lake Base and Meridian; thence along the arc of a 87.70 foot radius curve to the left 12.43 feet, the chord of which bears North $31^{\circ}41'31''$ East 12.42 feet; thence North $27^{\circ}37'50''$ East 167.29 feet; thence along the arc of a 98.81 foot radius curve to the right 18.28 feet

EXHIBIT "A"

ENT19869 BK 2417 PG 459

to the southwesterly right-of-way of the Alpine Loop highway, the chord of which bears North 32°55'47" East 18.25 feet; thence along the arc of a 578.72 foot radius curve to the right 30.30 feet along said right-of-way, the chord of which bears North 42°33'01" West 30.30 feet; thence along the arc of a 128.81 foot radius curve to the left 28.68 feet, the chord of which bears South 34°00'35" West 28.62 feet; thence South 27°37'50" West 124.06 feet to the Easterly fee title boundary of said Cottages; thence SOUTH 62.79 feet along said easterly boundary to the point of beginning. Containing 0.121 Acres.