

Recorded JUN 28 1976 at 9:00 a.m.
Request of Kessler & Jordan
KATIE L. DIXON, Recorder
Salt Lake County, Utah
\$ 12.00 By Patricia K. Brown, Deputy
Patricia K. Brown

REF. 7200 1735 to 300 sheet
8415

2828662

DECLARATION OF
PROTECTIVE COVENANTS FOR
QUAIL VALLEY NO. 5 SUBDIVISION

THIS DECLARATION is made this _____ day of _____,
1976 by Quail Valley, Inc., a Utah corporation.

I. PURPOSE OF COVENANTS

1.1 It is the intention of Quail Valley, Inc. expressly by its execution of this instrument, that the property within Quail Valley No. 5 Subdivision situated in Sandy City, Salt Lake County, State of Utah, the plat with relation to which is recorded in the office of the Salt Lake County Recorder (hereinafter referred to as the Subdivision), be developed and maintained as a highly desirable residential area. It is the purpose of these covenants that the present natural beauty, view and surroundings of the subdivision shall always be protected insofar as is possible in connection with the uses and structures permitted by this instrument. Quail Valley, Inc. hereby declares that the property and every part thereof is held and shall be held, conveyed, devised, leased, rented, encumbered, used, occupied, and improved or otherwise affected in any manner subject to the provisions of this Declaration, each and all of which provisions are hereby declared to be in furtherance of the general plan and scheme of ownership referred to herein and are further declared to be for the benefit of each owner thereof. All provisions hereof shall be deemed to run with the land and all structures as erected or as equitable servitudes, as the case may be, and shall constitute benefits and burdens to the declarant, its successors and assigns, and all parties hereafter owning any interest in the property.

II. DEFINITIONS

2.1 DECLARANT: "Declarant" means Quail Valley, Inc. together with its successors and assigns.

BOOK 4247 PAGE 431

2.2 PROPERTY: "Property" means that certain real property located in Salt Lake County, Utah described in Exhibit "A" attached hereto.

2.3 BUILDING: "Building" means any house and garage constructed on the property.

2.4 LOT: "Lot" means any parcel of property shown as a separately numbered lot on the recorded plat of the subdivision.

2.5 SUBDIVISION: "Subdivision" shall mean Quail Valley No. 5 according to the plat thereof recorded in the records of Salt Lake County.

2.6 PLAT; "Plat" shall mean the plat of the Subdivision as recorded in the office of the County Recorder of Salt Lake County, Utah.

III. ARCHITECTURAL COMMITTEE

3.1 Architectural Committee. The Architectural Committee shall consist of Robert R. Busch, Andrew J. Walton and Wallace V. Jacobson. At such time as seventy-five percent (75%) of the lots of the Subdivision have been sold and conveyed by Declarant, then the record owners of a majority of the lots which have been sold and conveyed shall have the power to change the membership of the Committee. Members of the Committee shall receive no compensation for their services. The Committee shall have authority to employ the services of an architect as consultant and to charge a sum not exceeding \$25.00 for each set of plans and specifications submitted to it for approval to defray the fees of such consultant.

3.2 Approval by Architectural Committee. No building of any kind, including but not limited to dwelling houses, barns, stables, swimming pools and garages nor any fences, shall ever be erected, altered or permitted to remain on any lands within the Subdivision, unless the architectural plans and specifications, a site plan and a grading plan showing the location and orientation thereof are approved by the Architectural Committee prior to the commencement of such work. The complete architectural plans and specifications must be submitted and must be in accordance with this Declaration. In the event the Architectural Committee fails to take any action within thirty (30) days after complete architectural plans for such work have been sub-

BOOK 4247 PAGE 432

mitted to it, then all such plans shall be deemed to be approved. No alteration of any stream or clearing, removal of shrubs or trees or landscaping on any lot within the subdivision shall be done unless the same has been approved in advance, in writing by the Architectural Committee. In order to obtain such approval, the owner must submit for consideration of the Architectural Committee such details and information with relation to the contemplated action as the Architectural Committee shall reasonably request.

3.3 Variances. Where circumstances, such as topography, hardship, location of property lines, location of trees, brush, streams, or other matters require, the Architectural Committee may, by an affirmative vote of a majority of its members, allow reasonable variances as to any of the covenants and restrictions contained in this instrument, on such terms and conditions as it shall see fit to require.

3.4 General Requirements. The Architectural Committee shall exercise its best judgment to see that all improvements, construction, landscaping, and alterations on the lands within the subdivision conform and harmonize with the natural surroundings and with existing structures as to external design, materials, color, setting, height, topography, grade and finished group elevation. In order to insure that all buildings or structures shall meet these requirements, the Architectural Committee shall have the power to establish minimum figures for the cost per square foot of floor area of any dwelling to be erected on any lot in the Subdivision, and to specify such minimum cost in contracts or deeds to said lots in the Subdivision. Such minimum cost per square foot may be altered, revised or adjusted from time to time as the Committee shall deem necessary. The Committee shall exercise its best efforts to protect the natural view of each lot insofar as such protection is consistent with the overall development of the Subdivision.

3.5 Architectural Plans. The Architectural Committee shall disapprove any plans submitted to it which are not sufficient for it to exercise the judgment required of it by these covenants.

3.6 The Architectural Committee shall not be liable in damages to any persons submitting any architectural plans for approval or to any owner or owners of land within the subdivision, by reason of any action, failure to act, approval, disapproval, or failure to approve or disapprove, with regard to such architectural plans. Any person acquiring the title to any property in the subdivision or any person submitting plans to the Architectural Committee for approval, by doing so shall be deemed to have agreed and covenanted that he or it will not bring any action or suit to recover damages against the architectural committee, its members as individuals, or its advisors, employees or agents.

3.7 Written Records. The Architectural Committee shall keep and safeguard complete written records of all applications for approval submitted to it.

IV. GENERAL RESTRICTIONS ON ALL PROPERTY.

4.1 Zoning Regulations. No lands within the Subdivision shall ever occupied or used by or for any building or purpose or in any manner which is contrary to the zoning regulations applicable thereto validly in force from time to time.

4.2 No mining, drilling, or quarrying. No mining, drilling, quarrying, tunneling, excavating, or drilling for any substances within the earth, including oil, gas, minerals, gravel, sand, rock and earth shall be permitted on the surface of the property.

4.3 No Business Uses. The lands within the property shall be used exclusively for single family residential living purposes, such purposes to be confined to approved residential buildings within the property. No lands within the property shall ever be occupied or used for any commercial or business purpose, provided, however, that nothing in this paragraph 4.3 shall be deemed to prevent:

(a) Declarant or its authorized agent from using any lot or house owned by Declarant as a sales office, sales model, property management office, or

(b) Any owner or his duly authorized agent from renting or leasing said owner's residential building from time to time. Such rentals shall only be permitted for not less than a thirty (30) day period. The owner of property being rented will remain responsible and subject to all of the provisions of this Declaration; or

(c) Any artist, artisan, or craftsman from pursuing his artistic calling upon private area if such artist, artisan or craftsman also uses such private area for residential purposes, is self-employed and has no employees working on such private area, and does not advertise or offer any product or work of art for sale to the public upon or from such private area.

4.4 Restriction on Signs. With the exception of a sign no larger than three (3) square feet for the owner to advertise his home for sale, no signs or advertising devices including, but without limitation, commercial, political, informational or directional signs or devices shall be erected or maintained on any lot or house, except signs approved in writing by Declarant as to size, materials, color and location:

- (a) As necessary to identify ownership of the lot or house and its address;
- (b) As necessary to give directions;
- (c) To advise of rules and regulations;
- (d) To caution or warn of danger; and
- (e) As may be required by law.

4.5 No Resubdivision. No lot shall be resubdivided, and only one single family residence shall be constructed or allowed to remain per lot.

4.6 Service Yards. All clothes lines, equipment, service yards, or storage piles on any lot shall be kept screened by approved planting or fencing so as to conceal them from view of neighboring lots, houses, streets, access roads and areas surrounding the lot. Fencing shall only be allowed within the area designated by the Declarant. This area shall be roughly defined by the back wall of the garage, the common property line and the imaginary line at the rear of the house. In all cases, the Declarant's decision shall be final.

4.7 Maintenance of Property. All lots and houses and improvements on any lot shall be kept and maintained by the owner thereof in clean, safe, attractive and sightly condition and in good repair.

4.8 No Noxious or Offensive Activity. No noxious or offensive activity shall be carried on upon any lot or house nor shall anything be done or placed upon any lot or house which is or may become a nuisance or cause embarrassment, disturbance or annoyance to others.

4.9 No Hazardous Activities. No activities shall be conducted on any lot or house which are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms shall be discharged upon any lot or house and no open fires shall be lighted or permitted on any lot or house except in a contained barbecue unit while attended and in use for cooking purposes or within safe and well-designed interior fireplaces.

4.10 No Unsightliness. No unsightliness shall be permitted on any lot or house, including, but not limiting the generality of the foregoing:

(a) Any unsightly structures, facilities, equipment, tools, boats, vehicles other than automobiles, objects and conditions shall be enclosed within approved building or appropriately screened from view, except equipment and tools when in actual use for maintenance or repairs.

(b) No lumber, grass, shrub or tree clippings, plant waste, metals, bulk materials, or scrap shall be kept, stored or allowed to accumulate on any of the property, except in service yards meeting the requirements of Section 4.6.

(c) Refuse, garbage, and trash shall be placed and kept at all times in a covered container, and such container shall be kept within an enclosed structure or appropriately screened from view;

(d) Hanging, drying or airing of clothing or household fabrics shall not be permitted within buildings or on lots if visible from buildings or areas surrounding the lot.

(e) Utility meters or other utility facilities and gas water or other tanks and sewage disposal systems or devices shall be kept and maintained within an enclosed structure within the property.

(f) No television antenna shall be permitted on the exterior buildings or any portion of the lot or house not improved within a building.

4.11 No Annoying Lights, Sounds or Odors. No light shall be emitted from any lot or house which is unreasonably bright or causes unreasonable glare; no sound shall be emitted from any lot or house which is unreasonably loud or annoying including but without limiting the foregoing, speakers, horns, whistles, bells or other sound devices used exclusively to protect any of the buildings, and no odors shall be emitted from any lot which is noxious or offensive to others, including but without limiting the foregoing yards and fenced areas as approved by Declarant.

4.12 Rules and Regulations. No owner shall violate the rules and regulations for the use of lots or houses as adopted from time to time by the Declarant. No such rules or regulations shall be established which violate the intention or provision of this Declaration or which shall unreasonably restrict the use of any lot or house by the owner thereof.

4.13 Location of Structures and Service Yards. Houses, garages, driveways, service yard, and other structures may be located only in the permitted areas as per Sandy City Zoning Regulations.

4.14 Maintenance of Property. The owners of lots or houses within the subdivision shall maintain the area within the property lines as required by these covenants. The open spaces shall be at all times maintained by the individual owner according to all of the rules and regulations of the Quail Valley No. 5 Subdivision Restrictive Covenants.

4.15 Living Area. The residence structure which may be constructed on a lot in the property shall have a minimum living floor area, exclusive of garages, balconies, porches and patios as follows:

- (a) Two story houses, minimum 1,000 square feet on first floor.
- (b) Split levels, minimum 1,000 square feet on first floor.
- (c) One story houses, minimum 1,300 square feet on first floor.

4.16 A-Frame Structures. A-frames and modifications of A-frames shall not be allowed.

4.17 Height Limits. No residence structure and no other structure or above-ground improvement on a lot shall rise more than 35 feet, measured in either case from the average grade level adjoining the structure.

V. RESTRICTIONS ON LOTS.

5.1 Maintenance of Animals. A reasonable number of generally recognized house or yard pets only shall be allowed to be maintained on any lot, provided the same are not kept, bred or maintained for any commercial purpose.

BOOK 4247 PAGE 437

5.2 Number and Location of Buildings. No buildings or structures shall be placed, erected, altered or permitted to remain on any lot other than a single family dwelling house and a garage.

5.3 Used or Temporary Structures. No temporary structures, house trailers, mobile home, camper, or non permanent out-building shall ever be placed, or erected on any lot.

VI. ENFORCEMENT

6.1 Enforcement and Remedies. The obligations, provisions, covenants, restrictions and conditions contained in this Declaration or any Supplemental or Amended Declaration with respect to the Architectural Committee or houses shall be enforceable by Declarant or by any owner of a house subject to this Declaration by a proceeding for a prohibitive or mandatory injunction. The obligations, provisions, covenants, restrictions and conditions contained in this Declaration or any Supplemental or Amended Declaration with respect to a person or entity or property of a person or entity other than the Declarant shall be enforceable by Declarant by a proceeding for a prohibitive or mandatory injunction or by a suit or action to recover damages or to recover any amount due or unpaid. If court proceedings are instituted in connection with the rights of enforcement and remedies provided in this Declaration, the prevailing party shall be entitled to recover its costs and expenses in connection therewith, including reasonable attorneys' fees.

6.2 Protection of Encumbrances. No violations or breach of any provision, restriction, covenant, or condition contained in this Declaration or any Supplemental or amended declaration and no action to enforce the same shall defeat, render invalid, or impair the lien of any mortgage or deed of trust taken in good faith and for value and perfected by recording prior to the time of recording of an instrument giving notice of such violation or breach, of the title of interest of the holder thereof or the title acquired by any purchaser upon foreclosure of any such mortgages or deed of trust. Any such purchaser shall, however, take subject to this Declaration or any supplemental or amended declaration except only that violations or

BOOK 4247 PAGE 438

breaches which occur prior to such foreclosure shall not be deemed breaches or violations hereof with respect to such purchaser, his heirs, personal representatives, successors and assigns.

6.3 Limited Liability. Neither Declarant, nor any member, agent, or employee of Declarant shall be liable to any party for any action or for failure to act with respect to any matter of the action taken or failure to act was in good faith and without malice.

VII. GENERAL PROVISIONS

7.1 Duration of Declaration. Any provision, covenant, condition or restriction contained in this Declaration or any Supplemental or Amended Declaration which is subject to the common law rule sometimes referred to as the rule against perpetuities, shall continue and remain in full force and effect for the period of fifty years or until this Declaration is terminated as hereinafter provided, whichever first occurs. All other provisions, covenants, conditions and restrictions contained in this Declaration or in any Supplemental or Amended Declaration shall continue to remain in full force and effect until January 1, 2025 A.D., provided, however, that unless at least one year prior to said time of expiration there is recorded an instrument directing the termination of this Declaration, executed by the owners of not less than fifty-one percent (51%) of the lots and houses subject to this Declaration, said other provisions, covenants, conditions and restrictions shall continue automatically for an additional ten years and thereafter for successive periods of ten (10) years, unless, at least one year prior to the expiration of any such extended period of duration, this Declaration is terminated by a recorded instrument directing termination signed by the owners of not less than fifty-one percent (51%) of the lots and houses then subject to this Declaration as aforesaid.

7.2 Amendment or Revocation. At any time while any provision, covenant, condition or restriction contained in this Declaration or any Supplemental or Amended Declaration is in force and effect, it may be amended or repealed by the recording of a written instrument

BOOK 4247 PAGE 439

specifying the amendment or repeal, executed by the owners of not less than fifty-one percent (51%) of the lots or houses then subject to this declaration. No amendment or repeal shall be effective with respect to the holder or successor or assign of the holder of a mortgage or deed of trust recorded prior to recording of the instrument specifying the amendment or repeal unless such holder executes said instrument.

7.3 Severability. Invalidity or unenforceability of any provision of this Declaration or any Supplemental or Amended Declaration in whole or in part shall not affect the validity or enforceability of any other provision of this Declaration.

7.4 Captions. The captions and headings in this instrument are for convenience only and shall not be considered in construing any provision, restriction, covenant or condition contained in this Declaration.

7.5 Waiver. Failure to enforce any provision, restriction, covenant or condition in this Declaration or in any Supplemental or Amended Declaration shall not operate as a waiver of any such provision, restriction, covenant or condition or of any other provision, restriction, covenant or condition.

EXECUTED the day and year first above written.

WILLOW CREEK DEVELOPMENT CORP.

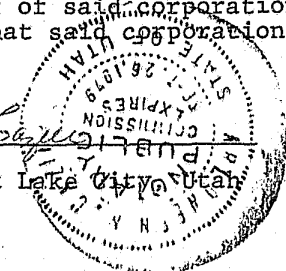
By *Andrew J. Walton*
ANDREW J. WALTON - PRESIDENT

STATE OF UTAH)
: ss.
COUNTY OF SALT LAKE)

On the 18th day of June, 1976 personally appeared before me Andrew J. Walton who being duly sworn, did say that he is the President of Willow Creek Development, a Utah corporation, and that the written and foregoing Declaration of Protective Covenants for Quail Valley No. 5 Subdivision was signed in behalf of said corporation and said Robert R. Busch duly acknowledged to me that said corporation executed the same and the seal affixed.

Arleene M. L...
Notary Public
Residing in Salt Lake City, Utah

My Commission Expires:
9/26/79



BOOK 4287 PAGE 440

Beginning at a point on the Quarter section line North 0° 12' 17" East 177.17 feet from the South quarter corner of Section 34, Township 3 South, Range 1 East, Salt Lake Base and Meridian and running thence West 184.13 feet; thence South 47° 00' West 136.96 feet; thence South 33° 00' East 101.20 feet to a point of a 416.00 foot radius curve to the left, the radius point of which is South 33° 00' East 416.00 feet; thence Southwesterly along the arc of said curve 43.56 feet to a point of tangency; thence South 51° 00' West 27.00 feet; thence South 39° 00' East 169.39 feet; thence South 8° 00' East 274.84 feet; thence South 19° 00' East 71.12 feet; thence South 51° 30' West 139.75 feet to a point on a curve to the left, the radius point of which is North 51° 30' East 780.00 feet; thence Southeasterly along the arc of said curve 13.61 feet; thence South 50° 30' West 222.58 feet; thence North 30° 00' West 153.23 feet; thence North 15° 30' West 195.00 feet; thence West 102.88 feet; thence North 7° 00' West 127.14 feet to a point on a curve to the right, the radius point of which is North 7° 00' West 543.56 feet; thence Southwesterly along the arc of said curve 66.41 feet; thence North 56.00 feet; thence West 77.50 feet; thence North 69.21 feet; thence North 50° 00' West 224.88 feet; thence North 0° 08' 50" East 1689.73 feet; thence South 89° 41' East 422.81 feet; thence South 0° 08' 30" West 331.64 feet; thence South 89° 41' East 530.81 feet to the said quarter section line; thence South 0° 12' 17" West along said quarter section line 1144.26 feet to the point of beginning.

Contains 38.710 Acres.