

DECLARATION OF COVENANTS, CONDITIONS, AND  
RESTRICTIONS  
For Lone Peak Canyon Subdivision



ENT 72528:2019 PG 1 of 40  
JEFFERY SMITH  
UTAH COUNTY RECORDER  
2019 Aug 01 9:40 am FEE 164.00 BY CS  
RECORDED FOR LONE PEAK CANYON DEVELOP

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This DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR Lone Peak Canyon Subdivision ("**Declaration**") is made and executed this 31<sup>st</sup> day of July, 2019 by Lone Peak Canyon Development, Limited Liability Company, a Utah limited liability company ("**Declarant**").

### RECITALS

- A. Capitalized terms in this Declaration are defined in Article 1.
- B. The real property situated in Utah County, Utah, described in Exhibit "A", attached to and incorporated in this Declaration by reference (the "**Property**"), is hereby submitted, together with all Residences, buildings, and improvements previously, now, or hereafter constructed on the Property, and all easements and rights appurtenant thereto, to develop the Property for single family residential use that shall be known as the Lone Peak Canyon Subdivision (the "**Project**").
- C. Declarant is the owner of the Property subject to this Declaration.
- D. Declarant intends that the Owners, Occupants, Mortgagees, and all other persons hereafter acquiring any interest in the Property shall at all times enjoy the benefits of, and shall hold their interest subject to this Declaration, which is recorded in furtherance of creating a residential community in which the Property's natural beauty shall be substantially preserved to enhance the desirability of living in the Subdivision and to increase and preserve the attractiveness, quality and value of the Improvements therein.
- E. Declarant hereby desires to establish for the mutual benefit of all future Owners and Occupants of the Project, certain covenants, conditions, restrictions, easements, rights, privileges, assessments and liens as set forth herein (collectively the "**Restrictive Covenants**"), which shall run with and be a burden upon the Property.
- F. By filing this Declaration, Declarant does not intend to create a community association, homeowners association, or any non-profit entity of any kind that would create a membership interest for the Lot Owners.

### DECLARATION

**NOW, THEREFORE**, Declarant hereby declares that the Property, which may sometimes be referred to herein as "Lone Peak Canyon Subdivision," is and shall henceforth be owned, held, conveyed, encumbered, leased, improved, used, occupied, and enjoyed subject to the following Restrictive Covenants. The Restrictive Covenants are in furtherance of, and the same shall constitute a general plan for the ownership, improvement, sale, use, and occupancy of Lone Peak Canyon Subdivision and are also

in furtherance of and designed to accomplish the desires, intentions, and purposes set forth in the recitals above. This Declaration shall run with the Property and shall inure to the benefit of and be binding upon every part thereof and every interest therein. Further, this Declaration shall inure to the benefit of, be binding upon, and be enforceable by Declarant and its successors in interest and each "Owner," as defined below.

## ARTICLE I. DEFINITIONS

Unless the context otherwise specifies or requires, the following words and phrases when used in the Declaration shall have the meanings hereinafter specified.

1.1. **Beneficiary** shall mean a mortgagee under a mortgage, a beneficiary under a deed of trust, or a seller under a title-retaining contract, as the case may be.

1.2. **City** shall mean the City of Draper, Utah.

1.3. **Declarant** shall mean and refer to Lone Peak Canyon Development, Limited Liability Company, a Utah limited liability company, or its successor in interest, as the context requires.

1.4. **Declaration** shall mean and refer to this Declaration of Covenants, Conditions, and Restrictions for Lone Peak Canyon Subdivision as it may be amended from time to time as recorded.

1.5. **Deed of Trust** shall mean and refer to a mortgage, a deed of trust, or a title-retaining contract, as the case may be, granted by the Owner of a Lot to secure the payment of a debt.

1.6. **Design Review Committee** or **DRC** shall mean and refer to the committee organized for the purpose of approving plans and specifications for all improvements to be constructed upon any and all Lots listed in the Lone Peak Canyon Subdivision. DRC will act as the enforcement committee of compliance of the Restrictive Covenants.

1.7. **Dwelling** shall mean and refer to the detached single-family residence constructed upon a Lot.

1.8. **Exterior Materials** shall mean and refer to the materials visible on the outside of a Dwelling and other structure. Acceptable Exterior Materials include stone, rock, stucco, backer-board, cement board siding, finished lumber, brick, or other similar materials, but shall not mean cinder block or concrete block or aluminum siding. See Article II ARCHITECTURAL STANDARDS.

1.9. **Lone Peak Canyon Subdivision** shall mean and refer to the Property described on Exhibit "A" and which is included within and is subject to the Subdivision Plat of Lone Peak Canyon Subdivision.

1.10. **Improvement** shall mean and refer to every structure and all appurtenances thereto of every type and kind, including but not limited to, buildings, patios, tennis courts, swimming pools, garages, mailboxes, aerials, antennas, roads, driveways, parking areas, fences, screening walls, retaining walls, stairs, decks, landscaping, hedges, windbreaks, planting, planted trees and shrubs, poles, signs, exterior air condition, water softener fixtures or equipment, pumps, wells, tanks, reservoirs, pipes, lines, meters, towers, septic tanks, and other facilities used in connection with water, sewer, gas, electric, telephone, regular or cable television, or other utilities.

1.11. **Legal Requirements** shall mean and refer to all laws, statutes, codes, acts, ordinances, orders, judgments, decrees, injunctions, rules, regulations, restrictions, permits, licenses, authorizations, directions and requirements of and agreements with all governments, departments, commissions, boards, courts, authorities, agencies, officials and officers, which now or at any time hereafter may be applicable to the Project or any Lot.

1.12. **Lot** shall mean and refer to each of the individual lots within the Project, as shown on the Plat.

1.13. **Mortgage** shall mean and refer to a mortgage, deed of trust, or trust deed or the act of encumbering any Lot or any property by a mortgage, trust deed, or deed of trust.

1.14. **Mortgagee** shall mean and refer to any person or entity named as a mortgagee of a mortgage or beneficiary under or holder of a deed of trust.

1.15. **Notice and Hearing** shall mean ten (10) days written notice given and a public hearing conducted under the direction of the Design Review Committee (**DRC**) at which the person to whom the notice is directed shall have the opportunity to be heard in person or by counsel at his expense.

1.16. **Occupant** shall mean and refer to any Person, other than an Owner, visiting, living, dwelling, or staying in a Residence. This includes, but is not limited to, all lessees, tenants, and the family members, agents, and representatives visiting, living, dwelling, or staying in a Residence.

1.17. **Owner** or **Lot Owner** shall mean and refer to (1) the record owner, whether one or more Persons, including Declarant, of a fee simple title to any Lot which is a part

of the Property, or (2) the purchaser of a fee simple interest in a Lot under an executory contract of sale. In the event that the holder of fee simple interest in a Lot or the parties acquiring title under a contract of sale shall be more than one Person, such Persons shall be required to act in unison with respect to the applicable Lot in all matters related to this Declaration and the enforcement of the provisions hereof.

1.18. **Period of Declarant Control** shall mean and refer to the first to occur of (i) the date Declarant shall no longer be an Owner of any Lot in the Project, or (ii) the date which shall be seven (7) years from the date this Declaration is recorded.

1.19. **Person** shall mean and refer to a natural individual, corporation, business entity, estate, partnership, trustee, association, joint venture, government, governmental subdivision, or agency or other legal entity with the legal right to hold title to real property:

1.20. **Plat** shall mean and refer to the official subdivision plat of Lone Peak Canyon Subdivision filed and recorded in the official records of the Utah County Recorder's Office.

1.21. **Project** as hereinbefore defined shall at any point in time mean, refer to the Lone Peak Canyon Subdivision.

1.22. **Property** as hereinbefore defined shall include together with the Residences, buildings, improvements, and permanent fixtures located thereon, and all easements and rights appurtenant thereto.

1.23. **Record, Recorded, and Recordation** shall mean, with respect to any document, the recordation of such document in the office of the Recorder of Utah County, State of Utah.

1.24. **Recreational, Oversized or Commercial Vehicle** shall mean and refer to any recreational, commercial or oversized vehicle, motor home, commercial vehicle, tractor, golf cart, mobile home or trailer (either with or without wheels), camper, camper trailer, boat or other watercraft, boat trailer, horse trailer, or any other recreational, oversized or commercial transportation device of any kind.

1.25. **Residence** shall mean and refer to a structure which is designed and intended for use and occupancy as a single-family residence, together with all improvements located on or with respect to the Lot concerned which are used in connection with such residence.

1.26. **Restrictions** shall mean the covenants, conditions, assessments, easements, liens, and restrictions set forth in this Declaration.

1.27. **Subdivision** shall mean and refer to a parcel of land, which has been shown on a final and recorded Subdivision Plat consisting of seventy-two (72) Lots.

1.28. **Subdivision Plat** shall mean and refer to the official plat which creates legal Lots which has been approved as required by law and Recorded.

1.29. **Supplemental Declaration** shall mean and refer to a written instrument recorded in the records of the Utah County Recorder, which refers to this Declaration and which amends, modifies, or supplements this Declaration in accordance with its terms.

## ARTICLE II. ARCHITECTURAL STANDARDS

2.1. **Architectural Standards for Dwellings.** All Dwellings constructed within the Project shall be of new materials. Suitable exterior materials include only wood, manufactured/cultured stone, natural stone, brick, hardy board (or similar), and stucco. All construction shall be of good quality workmanship and materials. At least fifty percent (50%) of the exterior finish of each Dwelling shall consist of stone, rock, brick, hardy board (or similar), or stucco, provided that no more than fifty percent (50%) of the exterior finish of each Dwelling shall consist of stucco mix and/or new wood (hardly board or similar). For example, an exterior may consist of a 50%/50% mix of stucco and stone, 50%/50% mix of brick and stucco, 50%/50% mix of wood and stone, a 50%/50% mix of brick and wood, or a mix of 50% rock/stone/brick with 50% of stucco or wood. Dwellings with only a combination of stucco and wood (including hardy board or similar) is prohibited. Natural stone, cultured stone, and brick must be included in the exterior mix.

Only those exterior materials which will blend harmoniously with the natural environment, with special emphasis on earth toned colors, shall be permitted for Dwellings. The exposed foundation of a Dwelling may be colored to match stucco elsewhere on the Dwelling, if applicable. Stucco is not permitted for eaves and gable ends. The main exterior color of each Dwelling must be at a minimum of several shades lighter or darker than existing homes on adjacent Lots. The typical roof pitch shall be at least 6/12. The DRC may grant a variance of the roof pitch. A minimum width of six (6) inches shall be required on the fascia. All stacks and chimneys of fireplaces from which the gaseous products of combustion (other than natural gas) are vented shall be fixed with a spark arrester.

Roofs of Dwellings must be constructed of either asphalt shingles, asphalt laminated shingles, wood shake shingles, or concrete (a.k.a. tile) shingles. Shingles must be architectural grade and have a minimum 25-year warranty. Proposed colors, styles, and request for variance must be submitted in writing to the DRC for approval prior to installation.

No aluminum, vinyl or similar siding materials will be permitted on Dwellings, with the following exception: aluminum and vinyl materials will only be allowed at soffit and fascia area. Log Dwellings are prohibited.

Exhibit "B", attached hereto and incorporated herein by this reference, contains illustrations of the types of exterior elevations and finishes that would comply with the standards set forth in this Section 2.1.

2.2. **Minimum Dwelling Size.** No Dwelling shall be permitted where the floor area of the Dwelling, exclusive of attached garages and open porches, is less than the following measurements: (a) for a single-story Dwelling, 2,600 feet, not including basement area; (b) for two-story Dwelling, 2,000 square feet on the main floor and 1,600 square feet on the second floor, not including basement area.

Lots 1 through 9 (as shown on the Plat) may reduce the size of the Dwelling as much as twenty percent (20%) below the floor area standards set forth above. The DRC may vary those minimum requirements if, for example, a rambler-type home substantially exceeds the main level (minimum square foot) allowances, in which case the second level (minimum square foot) allowance may be reduced.

2.3. **Attached Garages.** Each Dwelling must have at least three (3) vehicle garage doors; each being a minimum of nine-feet wide; attached to the Dwelling; However, in lieu of three separate garage doors, a combination of one eighteen-foot-wide door and one nine-foot-wide door shall be permitted if the garage will accommodate three vehicles side-by-side. Two deep garages with only two single garage doors will not be counted as a three-car garage.

2.4. **Detached Garages.** Detached garages shall not exceed two stories in height, nor have less than a 6/12 roof pitch, nor exceed City's height restrictions. Exterior materials shall comply with the standards for Dwellings set forth in Section 2.1 above. Detached garages shall be first approved by the DRC before submission to City for approval. No detached garage shall exceed the height of the related Dwelling unless otherwise restricted by the City. Tuff sheds (portable), accessory buildings and tool/garden sheds are strictly prohibited unless the exterior matches the exterior finish of the Dwelling, and Owner first receives permission from the DRC first and then the City.

2.5. **Exterior Lighting and Outlets.** All Dwellings are required to have at least one no-volt electric outdoor post lamp retrofitted with a 20-amp electrical outlet (weather type) at the base of the light post. The post lamp will require an activating light sensor with a minimum of 100 equivalent (LED) watts of lighting by either single bulb or by multiple bulbs. Exterior garage lighting must also be sensor-activated with a minimum of two LED bulbs. Burned-out light bulbs must be promptly replaced. All security lighting must always be maintained in good working order. At least two exterior outlets (weather type) shall be located at the front and at each end of the Dwelling.



These outlets must be on separate amperage breakers and may be placed within the soffit.

2.6. **Utility Connections.** Owners are solely responsible for paying for all utility connection and related fees for their Lots. Further, Declarant recommends, but does not require, the installation of a minimum 200 AMP service entry power meter. Owners are not allowed to "reduce" the water meter in size.

2.7. **Swimming Pools.** Swimming pools must be constructed, fenced, and maintained in accordance with all state and municipal requirements.

2.8. **Room Rentals / Home Office.** Rooms within a Dwelling or within a detached garage may NOT be used as rentals. Rooms within a Dwelling or within a detached garage may NOT be used as for an office if customers or employees will regularly visit or work from within that space. Home business day care is NOT allowed.

2.9. **Roof-Mounted Air Conditioners.** Roof-mounted air conditioners are strictly prohibited for any Dwelling or detached garage.

### ARTICLE III. DECLARANT DESIGN REVIEW COMMITTEE

3.1. **Design Review Committee.** ("DRC") During the period of Declarant Control, the Project will be governed by a Design Review Committee consisting of members appointed by Declarant.

3.2. **Approval Required of Improvements.** Except for Improvements to be constructed by Declarant, no Improvement, including, by way of illustration and not of limitation, a building, shed, patio, fence, wall or other structure shall be commenced, erected, altered or added to until the "Plans and Specifications" for the Improvement showing the nature, kind, shape, height, materials, exterior color scheme and location of such structure, and the grading plan and finished grade elevations of the Lot upon which the Improvement shall be constructed have been submitted to and approved by the Design Review Committee. Such approval shall be in writing and a copy of such approval shall be maintained by the Design Review Committee. All subsequent additions to or changes or alterations in any building, fence, or other Improvement, including exterior color scheme and all subsequent additions to or changes or alterations in any grading or landscaping plans shall be subject to the prior approval of the Design Review Committee.

3.3. **Approval.** The DRC shall approve Plans and Specifications submitted for its approval only if it deems that the construction, alterations, or additions or Improvements contemplated thereby in the locations indicated, will not be detrimental to the surrounding area or Lots as a whole, and that the appearance of any proposed Improvement affected thereby will be in harmony with the surrounding Improvements.

The DRC shall have the right to refuse to approve any Plans or Specifications, or grading or landscaping plans which, in the opinion of the members of DRC, in the exercise of their reasonable judgment, are not consistent with the requirements of this Declaration or the general character of the Project. Such determination may be made for aesthetic or other reasons, and in the review and approval or disapproval of Plans and Specification, the DRC shall have the right to take into consideration the suitability of the proposed building or other Improvement and of the materials of which it is to be built, to the Lot upon which it proposes to erect the same, the harmony thereof with the surroundings, the topography of the land and the effect of the building or other Improvements as planned on the outlook from the adjacent or neighboring Lots. The DRC may also issue rules or guidelines regarding anything relevant to its function, including but not limited to minimum standards and procedures for the submission of Plans and Specifications for approval. The DRC may require a review fee not to exceed Two-Hundred Dollars (\$200.00) to accompany each application for approval and a reasonable fee for any appeal waiver to the Design Review Committee. The DRC may require such detail in Plans and Specifications submitted for its review and such other information, as it deems proper. Until receipt by the DRC of all required Plans and Specifications and other information, the DRC may postpone review of anything submitted for approval. All Improvements must comply with the zoning codes, ordinances and architectural design guidelines of the City. (All plans submitted to the City must bear the DRC's stamp of approval to verify to the City the plans have been reviewed and approved by the DRC.)

3.4 **Waiver of Consent.** The approval or consent of the DRC to any Plans or Specifications for any work done or proposed, or in connection with any other matter requiring the approval or, consent of the DRC, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any Plans or Specifications or other matter whatever subsequently or additionally submitted for approval or consent by the same or a different person.

3.5 **Non-liability of DRC Members.** Neither Declarant, the DRC nor any member thereof, shall be liable to any Owner or to any other person for any loss, damage or injury arising out of or in any way connected with the performance of the DRC's duties under this Declaration unless due to the willful misconduct or bad faith of the DRC or its members. Neither the DRC nor any member thereof shall be responsible for reviewing, nor shall its approval of any Plans and Specifications be deemed approved from the standpoint of structural safety, engineering soundness, or conformance with building or other codes, or any requirements of the City.

#### **ARTICLE IV. GENERAL BUILDING REQUIREMENTS**

4.1. **Use of Property.** Each Lot shall be used solely for single family residential purposes.

4.2. **Exterior Materials.** All Dwellings must conform in design, including but not limited to Exterior Materials, with the standards provided by the Declarant.

4.3. **Roofs.** All roofs shall be constructed with a roof pitch of 6/12 or greater; provided, however, that roofs over non-living areas such as porches may be constructed with a roof pitch of 4/12.

4.4. **Roof Overhangs.** Gutters shall be required on all draining roof areas, and a minimum 8-inch overhang with boxed soffit shall be required.

4.5. **Height.** No building shall exceed thirty-five (35) feet in height as measured from the average finish grade to the mid-slope of the main structure's roof line.

4.6. **Porches and Covered Entries.** Front porches and/or covered entries shall face a public street. Front porches/covered entries shall measure a minimum of sixty (60) square feet.

4.7. **Construction Time Requirement.** In addition to Declarant approval, no construction by a Lot Owner shall commence until such time as the City has issued all necessary permits. Once commenced, all construction work shall be prosecuted diligently and continuously from the time of commencement until completed.

4.8. **New Construction.** All Dwelling units shall be of new construction. No other building (including but not limited to playhouses, and storage sheds) may be moved onto a Lot without the prior approval of the Declarant.

~~4.9. **Storage of Building Materials.** No Lot Owner shall allow building materials to be stored on any Lot except temporarily during construction of an Improvement or its alteration, renovation or remodeling, and then only when a building permit is in force. The provisions of this section shall not be applicable to Declarant or any party contracted with Declarant for the original sale of the Lots in the Project and the construction of the original residences.~~

4.10. **Landscaping and Fencing.** See Article VII of these Restrictive Covenants.

4.11. **Occupancy During Construction.** No Improvement shall be occupied in the course of original construction until the appropriate governmental authorities have issued all required certificates of occupancy.

4.12. **Temporary Structures.** No trailer, mobile home, tent, shack or other temporary building or structure shall be placed upon any Lot, except that temporary

structures or construction trailers used for the storage of tools and equipment and/or for office space for architects, sales personnel, builders and foremen during actual construction and sales may be maintained. Nothing herein shall be construed to prohibit the parking of travel trailers owned by an Owner on the Lot of such Owner; provided, however, that such travel trailer shall not be used for sleeping or other occupancy on a consistent basis on such Lot. The provisions of this section shall not be applicable to Declarant or any party contracted with Declarant for the original sale of the Lots in the Project and the construction of the original residences.

4.13. **Construction Activities**. This Declaration shall not be construed so as to unreasonably interfere with, or prevent normal construction of Improvements by any Owner, provided that when completed such Improvements shall in all ways conform to this Declaration. Specifically, no such construction activities shall be deemed to constitute a nuisance or a violation of this Declaration by reason of noise; dust; presence of vehicles or construction machinery, posting of signs, or similar activities, provided that such construction is pursued to completion with reasonable diligence and is in compliance with applicable federal, state and local laws and ordinances and any rules and regulations adopted pursuant thereto, and conforms to usual construction practices in the area. In the event of any dispute, a temporary waiver of the applicable provision, including but not limited to any provision prohibiting temporary structures, may be granted by Declarant, provided that such waiver shall be only for the reasonable period of such initial construction. Such waiver may, but need not, be recorded or in recordable form.

4.14. **Driveways**. Driveways for Dwellings shall be large enough to accommodate at least two (2) parked automobiles (16-foot minimum width). Hard surface driveways (concrete, brick, pavers, etc.) are required and shall be properly maintained. No gravel driveways are permitted.

4.15. **Outbuildings**. All outbuildings shall be architecturally compatible with the Dwelling and other Improvements located on the same Lot. An outbuilding shall comply with applicable zoning ordinances of the City and in no event shall the outbuilding be located closer than five (5) feet from the rear corner of the Dwelling located the furthest from the street upon which the Lot is located. Outbuildings shall be an Improvement and, therefore, subject to approval of the Declarant or DRC as set forth above.

## **ARTICLE V. ANIMALS**

5.1. **Animals and Pets**. The keeping of animals other than those ordinarily kept as family pets within the Subdivision is forbidden. Livestock, poultry, **pit bull and pit bull mix dog breeds are strictly prohibited**. Such pets shall have such care and restraint so as not to be obnoxious or offensive on account of noise, odor, or unsanitary conditions. No savage or dangerous animals shall be kept. No animals, livestock or poultry of any kind shall be bred in, on or about the Subdivision. Up to three domestic pets per Dwelling are allowed; provided, however, all pets must be properly licensed

and registered (if required) with the appropriate governmental agencies and follow all applicable local ordinances. Pets in the Subdivision at large must be behind a fence, in a cage or on a leash and under the control of a responsible person. Pets may not create a nuisance. The following acts of an animal may constitute a nuisance:

- 1) it causes damage to the property of anyone other than its owner;
- 2) it causes unreasonable fouling of the air by odors;
- 3) it causes unsanitary conditions;
- 4) it defecates on any property of anyone other than its owner and the feces are not immediately cleaned up by the responsible party;
- 5) it barks, whines or howls, or makes other disturbing noises in an excessive, continuous or untimely fashion;
- 6) it molests or harasses passersby by lunging at them or chasing passing vehicles;
- 7) it attacks people or other domestic animals;
- 8) it otherwise acts so as to bother, annoy or disturb other reasonable residents or interferes with their right to the peaceful and quiet enjoyment of their property; or
- 9) by virtue of the number of pets maintained, they are offensive or dangerous to the health, welfare or safety of other residents.

#### **ARTICLE VI: UTILITIES.**

6.1. **Underground Utilities Required.** Each Lot shall be and is hereby made subject to all easements that now or in the future may be used for gas, electric, telephone/data, cable television, water, sewer, and other lines present or in the future, as are necessary to provide utility services to said Lot, adjoining Lots, and the Improvements thereon, including, without limitation, all easements shown on the Subdivision Plat. Each Owner hereby agrees to execute such further grant or other documentation as may be required by any utility or other company or public governmental or quasi-governmental entity for such purposes. Subsequent to the date of execution of the Declaration, any necessary electrical, telephone, gas, water, sewer, cable television, and other utility conduits, lines and pipes on any Lot shall be placed underground, except for transformers, meters and other equipment typically located on the surface of the ground within the easement. No transformer, or electric, gas, water or other meter or device of any type, or any other utility apparatus shall be located on any pole.

6.2. **Irrigation Easement.** In addition to the utility easements granted in Section 6.1, each Lot shall be and is hereby made subject to all irrigation easements that now or in the future may be used for irrigation purposes, including without limitation, all easements shown on the Subdivision Plat, together with rights of access for the installation, maintenance, repair and replacement of any irrigation ditch improvements within said easement.

6.3. **Rules and Regulations.** Each Owner agrees to abide by all applicable rules and regulations of all utility and other companies and public, governmental and quasi-governmental entities, which supply any of the services, mentioned in Section 5.1 above.

6.4. **Traverse Ridge Special Service District.** The Project is located with the Traverse Ridge Special Service District ("TRSSD"). The TRSSD was created by the City to pay for certain maintenance costs within the District such as snow removal and delivery of culinary water. Declarant hereby informs the Owner of each Lot that each Lot is subject to assessments by the TRSSD, and the Owner of each Lot will be solely responsible for paying all TRSSD assessments against each such Lot.

## ARTICLE VII. USE RESTRICTIONS AND REQUIREMENTS

7.1. **Rooftop Equipment.** Equipment such as satellite dishes, evaporative coolers and the like may only be mounted on that portion of a roof which is not visible from the street. All such equipment must be installed in a manner so as to not be unsightly and must include appropriate screening. In no event shall satellite dishes exceed 24" in diameter.

7.2. **Transmitters.** No electronic or radio transmitter of any kind, other than garage door openers or customary home electronic devices, shall be located or operated in or on any Improvement or on any Lot. No flying of drones or any other flying devices within the Subdivision for reason of invasion personal privacy and out of respect for other Owner's property rights.

7.3. **Owner Residence and Lot Maintenance.** Each Owner shall be responsible to maintain, repair and replace the Lot and all Improvements located thereupon in a clean, safe and sanitary condition with periodic painting or other maintenance as required to exterior surfaces. No Improvement upon any Lot shall be permitted to fall into disrepair. Materials which are customarily left unfinished such as cedar shake shingle roofs and cedar fences, are permitted so long as such Improvements have not become unsightly. Owners are also obligated to maintain the following:

(a) **Storm Drains.** Each Owner shall be responsible to maintain and service any storm drain facility located on the Owner's Lot. Owners shall also be

responsible to repair or replace any damaged or malfunctioning portion of the storm drain facilities located on the Owner's Lot.

**7.4. Reconstruction of Buildings.** Any Improvement which has been destroyed in whole or in part by fire, hail, windstorm or any other cause or act of God, shall be rebuilt or restored with reasonable promptness, and in any event within twelve (12) months. Further, all debris shall be removed and Lot restored to a sightly condition within thirty (30) days. In the event that an Owner elects not to rebuild an Improvement which has been destroyed or otherwise rendered uninhabitable, then the Owner shall remove the remaining portion of such Improvements within six (6) months of the date of such damage and cause the Lot to be graded and in a safe condition.

**7.5. Nuisances.** No resident shall create, maintain or permit a nuisance in, on or about the Project. For purposes of this Section a "nuisance" includes any behavior which annoys, disturbs or interferes with other residents and interferes with their right to the quiet and peaceful enjoyment of their property. No rubbish or debris of any kind shall be placed or permitted to accumulate upon any Lot, and no odors shall be permitted to arise there from so as to render any such Lot or any portion thereof, in the opinion of the Declarant, unsanitary, unsightly, offensive or detrimental to any other Lots or Improvements or to its occupants. No noise or other nuisance shall be permitted to exist or operate upon any Lot to be, in the opinion of the Declarant offensive or detrimental to any other Lot or its occupants. Without limiting the generality of any of the foregoing provisions, no exterior speakers, horns, whistles, bells or other sound devices (other than security devices used exclusively for security purposes) shall be located, used or placed on any Lot without the prior written approval of the Declarant. A nuisance includes but is not limited to the following, which is determined in the opinion of the Declarant:

- 1) The development of any unclean, unhealthy, unsightly, or unkempt condition on, in or about a Lot;
- 2) The storage of any item, property or thing that will cause any Lot to appear to be in an unclean or untidy condition or that will be noxious to the senses;
- 3) The accumulation of rubbish, unsightly debris, garbage, equipment, machinery, or other things or materials so as to constitute an eyesore;
- 4) The storage of any substance, thing or material upon any Lot that will emit any foul, unpleasant or noxious odors, or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the other residents at the Project;
- 5) The creation or maintenance of any noxious or offensive condition or activity in or about any Lot;

- 6) Actions or activities tending to cause embarrassment, discomfort, annoyance, distress or a disturbance to any other residents or their guests, particularly if the police or sheriff must be called to restore order (this also includes all and any illegal activities).
- 7) Maintaining any plants, animals, devices, or items, instruments, equipment, machinery, fixtures, or things of any sort whose activities or existence in any way is illegal, noxious, dangerous, unsightly, unpleasant, or of a nature that diminishes or destroys the enjoyment of an Owner's Lot by its residents, guests, or invitees;
- 8) Too much noise in, on or about any Lot especially after 10:00 p.m. and before 7:00 a.m.; this includes construction and maintenance.
- 9) Too much traffic in, on or about any Lot especially after 10:00 p.m. and before 7:00 a.m.;
- 10) All prohibited animal activity referenced in Article V.
- 11) Home businesses are allowed as long as they do not require outside employees or increase traffic flow or have exterior indication of a business. All businesses must be registered with the City and be licensed.
- 12) No room or rooms and space in residential dwellings including garages can be rented or leased out including rooms above garages or detached garages.

7.6. **Recreational Vehicles.** Except for purposes of loading or unloading passengers or supplies (for a period of time not to exceed twenty-four (24) hours), all Recreational, Commercial or Oversized Vehicles, including but not limited to boats, trailers, motorhomes, large trucks, and the like must be parked in the side yard of a Lot behind the front corner of the Dwelling and behind an acceptable fence so as not to be visible from the street or any other Lot. No motor vehicle of any kind shall be repaired, constructed, or reconstructed upon any Lot, street, or other area (unless done within the Residence's garage and not seen from the street), except for emergency repairs to vehicles, and then only to allow the vehicle to get to a proper repair facility.

7.7. **Lighting.** All exterior lighting and interior lights reflecting outside shall not be placed in any manner which shall cause glare or excessive light spillage on any neighboring Lot(s). Reasonable holiday lighting and decorations may only be displayed during the period starting November 1 of each year to January 15 of the next year.



7.8. **Signs.** No sign of any kind shall be displayed to the public view on any Lot; provided however, signs may be displayed on or from a Dwelling advertising the residence for sale or lease. All signs must be professionally painted, lettered and constructed. Signs, displays, balloons, or banners can be erected on a Lot for up to one week, provided they are removed within 24 hours of the event. No signs, balloons, posters, banners, displays or other advertising devices of any character shall be permitted, or attached to the entrance areas of the subdivision. No banners announcing a Lot is for sale will be allowed, regardless of size.

7.9. **Use of Lots and Residences.** All Lots are intended to be improved with Residences and are restricted to such use. No Lot and no Dwelling on any lot shall be used for any purpose other than for a residential Dwelling: No Lot or Residence shall be used, occupied, or altered in violation of law, so as to jeopardize the support of any other Residence, so as to create a nuisance or interfere with the rights of any Owner, or in any other way which would result in an increase in the cost of any insurance to any Owner.

Timeshare and time-sharing of Lots is prohibited. Under no circumstances shall any residential Lot be owned or used as a "time period unit" as defined by Utah Code §57-8-3(36).

7.10. **Hazardous Activities.** No activities shall be conducted on any Lot and no Improvements shall be constructed on any Lot, 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. No open fires shall be lighted or permitted on any Lot, except as permitted by City ordinance, or except in a contained barbecue unit while attended and in use for cooking purposes, or within a safe and properly designed interior fireplace or exterior commercially constructed fire pit permitted by City ordinance. **Fireworks are prohibited in the area of Draper City that includes the Subdivision.**

7.11. **Offensive or Unlawful Activities.** No noxious or offensive activities shall be carried on upon any Lot or Common Area, nor shall anything be done or placed on any Lot which interferes with or jeopardizes the quiet enjoyment of other Lots, Residences, or which is a source of annoyance to residents. No unlawful use shall be made of a Lot or any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed. No use shall be made of any Residence which shall cause the improvements within the Project or any part thereof to be uninsurable against loss by fire or other perils included in insurance contracts, or cause such insurance to be canceled or suspected, or cause any company issuing such insurance to refuse renewal thereof.

7.12. **Erosion and Dust Control.** In addition to all other measures taken to prevent or eliminate nuisances and conditions that are unsightly and detrimental to any other property or its occupants, in the cases of animals, vehicles, etc., adequate measures (including proper range and grazing techniques, seeding and maintaining natural vegetation such as dry grasses, wild flowers, etc.), shall be taken to maintain appropriate ground cover to prevent and control erosion and dust.

7.13. **Parking.** Overnight parking is prohibited on the streets, unless otherwise designated by the Declarant and allowed by applicable law. Each Residence has a garage to be used for the parking of vehicles. Vehicles shall not be parked at any location within the Subdivision which would impair vehicular or pedestrian access, or snow removal. No unlicensed or inoperable vehicles may be stored on any Lot. Any vehicle improperly parked is subject to towing at the owner's expense. During winter months, City requires all vehicles to be off the street at certain times to facilitate timely and safe snow plowing.

7.14. **No Patio / Deck Storage.** No observable outdoor storage of any kind shall be permitted on backyard patios/decks, except for patio furniture and portable barbecue grills in good condition, and other items if so approved by the Declarant. All approved items shall conform with standards set by the Declarant.

7.15. **Window Coverings.** Every Owner of a Residence shall be obligated to ensure that window coverings are installed within the Residence within one month of purchasing or taking possession of a Residence. Furthermore, the Declarant may adopt and implement reasonable Rules pertaining to the type, color, material, etc. of window coverings. Under no circumstances shall any cardboard, blankets, paint, or tinfoil be used as window coverings in the Project.

7.16. **Aerials, Antennas, and Satellite Dishes.** Aerials, antennas, and satellite dishes larger than one meter in diameter are prohibited. One antenna or satellite dish smaller than one meter in diameter may be installed within the Lot. The Declarant may create policies to create a hierarchy of preferred installation locations to protect the aesthetics of the Project. The hierarchy of preferred installation locations may not interfere with reception.

7.17. **Utility Service.** All lines, wires, or other devices for the communication or transmission of electric current of power, including telephone, television, and radio signals, shall be contained in conduits or cables installed and maintained underground or concealed in, under, or on buildings or other structures approved by the Declarant.

7.18. **Subdivision of Lots.** No Lot shall be further subdivided or separated into smaller Lots or parcels by any Owner.

7.19. **Clothes Drying Facilities.** Outside clotheslines or other outside facilities for drying or airing clothes shall not be erected, placed, or maintained on any Property except as allowed by Declarant.

7.20. **Front Porches.** Front porches are required to be maintained in a clean and tidy fashion. Owners may have outdoor furniture made of wood or metal on the front porch. Any outdoor furniture kept on the front porch shall be well maintained and in good condition. The Declarant may require worn furniture or furniture that detracts from the theme of the community to be removed from the front porch. Front porches shall not be used for storage. Examples of items prohibited from being kept on front porches include, without limitation, bicycles, toys, barbecues, trash receptacles, ash trays, old furniture and anything else which appears unkempt, dirty, or detracts from the appearance of the Project.

7.21. **Off Road Vehicles.** No off-road motor vehicles, including but not limited to snow mobiles, three wheelers or four wheelers may be driven on the roads, streets, footpaths, or walkways within the Project.

7.22. **Mailbox Banks.** There will be no individual mailboxes in the Subdivision. USPS mailbox banks with individual mailbox lockers will be installed by the Declarant. Each Lot will be assigned one individual mailbox locker with key access. Location, size, style and quantity will be determined by the USPS. The location of each mailbox bank shall be deemed common area of the Subdivision for the benefit of the Lots.

## ARTICLE VIII. LANDSCAPING AND DRAINAGE

~~8.1~~ **Completion of Landscaping.** ~~The front yard of each Lot shall be fully landscaped no later than one (1) year following the completion of construction of any Dwelling on any Lot. The rear yard of each Lot is to be graded and or fenced within one (1) year following the completion of construction of any Dwelling on any Lot and fully landscaped not later than two (2) years following the completion of construction of any Dwelling on any Lot. Thereafter, each Owner shall maintain the landscaping on its Lot in a reasonably neat and good condition, and all dead trees, shrubs, plants or grass shall be promptly removed or replaced. Landscaping and all grading and drainage shall be initially designed in such a way to control water run-off so that any Lot within the Subdivision will not be adversely affected by another.~~

8.2 **Front Yard Landscaping.** The front yard of a lot is defined as the area of the Lot beginning at the road pavement on any adjacent public street or roadway to a distance at least to the rear most part of the Dwelling from such public street or roadway. If the Lot is on a corner of two or more public streets or roadways then the side yard adjacent to the public street or roadway, all the way to the rear property line, shall be included in the area to be landscaped. All areas defined herein shall be planted or sodded or otherwise maintained in a natural and native material or setting. All such

areas shall be irrigated as necessary and cut or maintained to reflect a weed-free and attractive appearance.

**8.3 Trees and Park strip.** A minimum number of trees (as determined below) shall be planted on each Lot within the time outlined in Section 8.1. Trees shall be deciduous tree with a minimum diameter of three-inch caliper (the diameter of the tree ten inches-above the top of root-ball), and eight foot minimum height. The types of trees suggested for the Project area are listed on the City's web page. Poplars, Russian Olives, Chinese Elms, Chinese Elm, Weeping Willows, Box Elder and any other tree the City does not list on its web page are strictly prohibited. Owners are required to show on their home site plan that is submitted to the DRC for approval, a tree layout plan between the curb/gutter and sidewalk, which area is known as the park strip. Further, Owners are required to show a note on their home site plan indicating the placement of sod and irrigation (sprinkling) within the park strip. Declarant will install the sidewalk shortly after the curb and gutter and road is installed. However, it will be Owner's responsibility to cut the curb and gutter at the location Owner chooses to place the driveway within the Lot.

In addition to the purchase price of the Lot, each Owner will be required to deposit with Declarant \$300 dollars per tree as required by City (all tree deposits will be held in escrow by the Declarant). Depending upon the size and location of each Lot, City requires between two and five trees to be planted in each Lot's park strip (a notification of the required number of trees per Lot will be disclosed within the purchase contract for each Lot). Declarant will keep on record a list of the accounted number of trees required by the City for each Lot. Declarant shall refund the deposit upon the Owner installing the required number of trees. Maintenance of the trees and grass within the park strip of each Lot is the Owner's responsibility.

**8.4 Road Rights of Way.** Each Owner will maintain the area from the edge of road pavement to the front Lot line as needed to supplement City maintenance to ensure weed control, grass and vegetation height, uniform appearance, etc. Owners shall maintain the respective areas in front of their Lots free of trash, debris, etc. Any and all damage done to the road, sidewalks and curb and gutter due to construction within Lots is the sole responsibility of each respective Owner, and repairs shall be undertaken promptly and made in conformance with City standards.

**8.5 Drainage.** No material change may be made in the ground level, slope, pitch or drainage patterns of any Lot as fixed by the original finish grading except after first obtaining the prior written approval of the Declarant. Grading shall be maintained at all times so as to conduct irrigation and surface waters away from buildings and so as to protect foundations and footings from excess moisture. Any drainage flows directed to adjacent Lots should not exceed historic flows. Owners shall not impede or retain water flow in any of the natural drainage gulches.

8.6 **Fencing.** Lots must be finish graded before the installation of fences. Each Lot that borders the City's open space (as depicted on the Plat) must install wrought-iron fencing on that border, in the style and fashion as currently installed within the neighboring Hidden Canyon Estates Phase 1 Subdivision. Similar wrought iron fencing is preferred for the borders between each Lot. In lieu thereof, however, earth tone stone cultured block fencing is permitted. Side yard gates made of composite wood is permitted. Vinyl fences, and regardless of color, are strictly prohibited. Chain link factory-coated galvanized fence in either in black or green color is allowed within the interior of a Lot for purposes of a tennis court, swimming pool, or pet enclosure; however, chain link fencing cannot be used as perimeter fencing of any Lot. Height of fencing may not exceed City's requirements; provided, however, that a written exception may be given for tennis courts, upon request and approval of the DRC.

8.7 **Private Drainage Easements and Storm Drain Systems.** The Project contains Drainage Easements as depicted on the Subdivision Plat. The Drainage Easements may contain infrastructure designed to collect and divert excess runoff and storm water that may occur in the Project from time to time ("**Storm Drain System**"). As depicted on the Subdivision Plat, there may be multiple Storm Drain Systems within the Project that operate independently from one another. It is intended that these Storm Drain Systems be constructed in a manner consistent with the specifications dictated by the City, although deviations may occur if required by the City, the topography of the land, or at the discretion of the Declarant.

1) **Easement.** Each Owner of a Lot benefitted by a Storm Drain System shall have a right and easement over, across, above, and under the Drainage Easement appurtenant to their Lot for the inspection, maintenance, repair, and replacement of the Storm Drain System that serves their Lot. Similarly, the City shall also have a right and easement across and under the Drainage Easement for the inspection, maintenance and repair of the Storm Drain System.

2) **No Building Permitted.** Owners shall be prohibited from constructing any shed, fence, concrete pad, or other permanent or semi-permanent structure within the designated area of the Drainage Easements.

3) **Maintenance Duty of Lot Owners.** Each Lot Owner benefitted and served by a Storm Drain System shall have a duty to maintain the portion of the Storm Drain System that crosses such Owner's Lot. This maintenance duty shall include the obligation to routinely clean and clear all drain connections into the Storm Drain System including the Lot Owner's yard drain and roof drain connections, if any. Owners shall take precautions to prevent debris from entering their Storm Drain System.

4) **Costs of Repair and Replacement.** The costs to repair or replace a Storm Drain System shall be borne by those parties benefitted thereby in

proportion to the benefit received. Notwithstanding the foregoing, if the need for repair or replacement of a Storm Drain System results from an Owner's abuse, neglect, failure to maintain, or negligent or intentional acts, then the cost of repair or replacement shall be borne exclusively by the responsible Owner.

5) **Notice of Repair.** If the need arises for repair or replacement of a Storm Drain System, the Owner conducting such repair or replacement shall follow the following notice procedures prior to performing any repair:

(a) **Non-Emergency Repair.** An Owner discovering the need for repair to the Storm Drain System shall notify the other Owners benefited thereby and shall submit to them the estimated cost of the repair prior to performing any repairs or incurring any costs. The notified Owners shall have thirty (30) days to conduct their own investigation into the need for the repair and the estimated costs. If an Owner does not dispute the need for repair or the estimated repair costs, then such Owner shall contribute his/her proportional obligation of the cost to repair within thirty (30) days of receiving the notice. If an Owner disputes the need for repair or the estimated costs, then it shall follow the Dispute Resolution procedures outlined in subsection 6 below. After the expiration of thirty (30) days from notifying the other benefitted Owners, an Owner may endeavor to repair the Storm Drain System and seek reimbursement from the other benefitted Owners as provided herein.

(b) **Emergency Repair.** If the need for repair or replacement of a Storm Drain System is necessary to prevent imminent harm to an Owner's property, then such owner may act to repair the Storm Drain System without being subject to the thirty (30) day notification and response period required above. If it is determined that an Owner's actions in making the emergency repair were in good faith and the costs incurred were economically sound, then the other benefitted Owners of a repaired Storm Drain System shall be obligated to reimburse the repairing Owner for his/her repair costs incurred according to each benefitted Owner's proportional obligation.

(c) **Failure to Dispute.** If an Owner receives notice regarding the need to repair a Storm Drain System and fails to contest the contents of the repair notice according to the Dispute Resolution procedures in subsection 6 below within thirty (30) days of receiving the repair notice, then such Owner shall have waived his right to dispute the contents of the repair notice and shall be obligated to the other Owner(s) for his/her proportion of the repair costs.

(d) **Failure to Notify.** If an Owner incurs costs to repair a Storm Drain System and fails to notify the other Owners prior to incurring such costs as required above, then such Owner shall not be entitled to recover the costs of repair or replacement from the other benefitted Owners.

6) **Dispute Resolution.** If any dispute arises in connection with the maintenance, repair, and replacement of the Storm Drain System, the following procedures shall apply:

(a) Owners shall meet in good faith and attempt to resolve such dispute amicably. In doing so, the Owner initiating a claim or dispute with another Owner(s) shall first notify the Owner(s) in writing stating plainly and concisely: (i) the nature of the claim, (ii) the basis of the claim, (iii) the proposed remedy, and that the adverse party shall have thirty (30) days to resolve the claim.

(b) In the event that the dispute is not resolved within thirty (30) days following the notice required in subsection (a) above, the dispute shall be submitted to mediation. Mediation is a process in which the parties meet with an impartial person who helps to resolve the dispute informally and confidentially. The parties will jointly appoint an acceptable mediator and share equally in the cost of such mediation. The parties in the dispute must agree before any mediation settlement is binding. If mediation fails, then the disputing parties may proceed with any other legal remedy available, including the commencement of a legal action.

7) **Enforcement.** The restrictions, covenants, and obligations in this Section 8.7 are for the benefit of each Lot Owner in the Project and they shall inure to and pass with each and every Lot and shall run with the land and shall apply to and bind the respective successors in interest of Declarant. Each Owner by acceptance of a deed in the Project, whether or not it shall be so expressed in such deed, is deemed to have accepted all of such restrictions, covenants and obligations and agrees to contribute its proportional share of the costs to repair or replace a Storm Drain System. Each Owner hereby agrees that such Storm Drain System costs shall be a charge on the land and shall be a continuing lien upon the Lot of any Owner who has failed to contribute its proportional share of repair or replacement costs. The Owners within the Project shall be entitled to pursue a lien against a delinquent Owner who fails to pay its proportional share of repair or replacement costs to the fullest extent permitted by law. Each Owner's share of the repair or replacement costs shall also be the personal obligation of the person who was the Owner of such property at the time when the repair or replacement occurred. Subject to the Dispute Resolution section set forth above, each Owner shall have the right to pursue a legal action to personally recover from another delinquent Lot Owner to the fullest extent permitted by law.

## 8.8 Garbage Receptacles

1) No garbage containers or receptacles will be stored in the front yard of a Residence. All garbage containers or receptacles must be stored behind a fence or gate in the back yard or in a garage of the Residence.

2) All garbage containers or receptacles can be placed on the street after 5:00 p.m. the day before the scheduled pick-up day for disposal. All garbage containers or receptacles are to be removed from the street by 6:00 p.m. the day of scheduled pick-up.

## ARTICLE IX. ENFORCEMENT AND NON-WAIVER

9.1 Right of Enforcement. At an Owner's own expense, Declarant shall have the right to enforce by proceedings at law or in equity, each provision of this Declaration against the Lot which is subject to the Declaration owned by such owner, including the right to prevent any violation of such, and the right to recover damages and other sums for such violation(s). Such rights shall apply regardless of when the Lot became subject to the Declaration and regardless of the Owners thereof. Such right of enforcement shall include both damages for and injunctive relief against the breach of any such provision.

9.2 Violation a Nuisance. Every act or omission whereby any provision of this Declaration is violated in whole or in part, is hereby declared to be a nuisance and may be enjoined or abated by any Owner, at such Owner's own expense, or by Declarant at the expense of the Owner of the Lot which is violation of the provisions of this Declaration, whether or not the relief sought is for negative or affirmative action. However, only Declarant and the duly authorized agent may enforce by self-help any of the provisions of this Declaration and then only if such self-help is preceded by reasonable notice to the Owner in violation.

9.3 Violation of Law. Any violation of any federal, state or local law, resolution or regulation pertaining to the ownership, occupancy or use of any property subject hereto is declared to be a violation of this Declaration and subject to all of the enforcement provisions set forth herein.

9.4 Enforcement. Declarant may bring any action at law or equity in any court available to it under the statutes of the State of Utah for enforcement of any provision of this Declaration. Declarant shall collect an enforcement fee upon the purchase of each Lot, and the **first day of each year** thereafter Declarant shall collect an enforcement fee of \$100.00 for each Lot. All such fees shall be held by Declarant for the cost of legal counsel if enforcement of the Restrictive Covenants becomes necessary.



9.5 **Remedies Cumulative.** Each remedy provided by this Declaration is cumulative and not exclusive.

9.6. **No waiver.** The failure to enforce any provision of this Declaration at any time shall not constitute a waiver of the right thereafter to enforce any such provision or any other provision hereof.

## **ARTICLE X: SPECIAL DECLARANT RIGHTS**

10.1. **Improvements.** Declarant hereby reserves the right, without obligation, to construct:

1) Any improvements shown on the Plat; and

2) Any other buildings, structures, or improvements that Declarant desires to construct on the Parcel, or any other real estate owned by Declarant, regardless of whether the same ever become part of the Project.

10.2. **Other Special Declarant Rights.** Special Declarant Rights are those rights reserved for the benefit of the Declarant in this Declaration and shall include, among others, and regardless of anything in the Declaration to the contrary, the following rights which shall remain in effect for the maximum period allowed by law:

1) the right to maintain sales offices, model Residences, and signs advertising the Project or any Residence at any location in the Project.

10.3. **Exercising Special Declarant Rights.** Declarant may exercise the Special Declarant Rights at any time prior to the later to occur of the date on which the Period of Declarant Control expires or the date when the Declarant relinquishes such rights in writing. Declarant may exercise its Special Declarant Rights in any order, and no assurance is given as to the order in which Declarant will exercise them. If Declarant exercises any Special Declarant Right with respect to any portion of the Property, Declarant may, but is not obligated to, exercise that Special Declarant Right with respect to any other portion of the Property. Notwithstanding anything to the contrary contained in this Declaration, Declarant may exercise any Special Declarant Right described in this Article and any other right reserved to the Declarant in this Declaration, without the consent of any of the Owners.

10.4. **Interference with Special Declarant Rights.** No Owner may take any action or adopt any Rules that interferes with or diminishes any Special Declarant right contained in this Declaration without Declarant's prior written consent. Any action taken in violation of this Article shall be null and void and have no force or effect.

10.5. **Transfer of Special Declarant Rights.** The Declarant may transfer, convey, or assign its rights created or reserved under this Declaration to any Person. Such transfer, conveyance, or assignment shall be effective upon recording in the office of the Utah County Recorder. At the time Declarant has sold all Lots, a vote of all Owners shall be taken to "vote" for the Person(s) to hold and enforce the rights created or reserved to Declarant under this Declaration. A vote of 67% of all Lots shall be required to enact such replacement.

10.6. **Changes by Declarant.** Nothing contained in this Declaration shall be deemed to affect or limit in any way whatsoever the right of the Declarant, its successors or assigns, to sell or to change the location, design, method of construction, grade, elevation, or any other part or feature of a Lot and Residence prior to the contracting for the conveyance of the Residence to a purchaser.

10.7. **Voting.** During the Period of Declarant Control, any matter voted upon by the Owners shall not become effective unless the matter is approved in writing by the Declarant.

10.8. **Easements Reserved to Declarant.**

1) Declarant hereby reserves to itself, its successors and assigns, non-exclusive easements and rights of way over those strips or parcels of land designated or to be designated on the Plat as "Public Utility Easement," or "PUE" or otherwise designated as an easement area over any road on the Project, and over those strips of land running along the front, rear, side and other Lot lines of each Lot shown on the Plat. This reserved easement is in addition to the rights in the PUE areas conferred on providers of public utility services by Utah law.

2) Declarant hereby reserves to itself, its successors and assigns, an easement for the installation, construction, maintenance, reconstruction and repair of public and private utilities to serve the Project and the Lots therein, including but not limited to the mains, conduits, lines, meters and other facilities for water, storm sewer, sanitary sewer, gas, electric, telephone/data, cable television, and other public or private services or utilities deemed by Declarant necessary or advisable to provide service to any Lot, or in the area or on the area in which the same is located.

3) Declarant reserves unto itself and its successors and assigns, the right to dedicate all of said roads, streets, alleys, rights of way, or easements and storm water management reservation, to public use all as shown on the Plat. No road, street, avenue, alley, right of way or easement shall be laid out or constructed through or across any Lot or Lots in the Project except as set forth in this Declaration, or as laid down and shown on the Plat, without the prior written approval of the Declarant.

4) Declarant further reserves unto itself and its successors and assigns, the right at or after the time of grading of any street or any part thereof for any purpose, to enter upon any abutting Lot and grade a portion of such Lot adjacent to such street, provided such grading does not materially interfere with the use or occupancy of any structure built on such Lot, but Declarant shall not be under any obligation or duty to do such grading or to maintain any slope.

#### ARTICLE XI. RIGHTS OF FIRST MORTGAGEE

Notwithstanding anything contrary contained herein, the following provisions apply:

11.1. **Title in Mortgagee.** Any first Mortgagee who obtains title to a Lot pursuant to the remedies provided in the Mortgage or foreclosure of the Mortgage will not be liable for such Lot's Assessments or charges which accrue prior to the acquisition of title of such Lot by the Mortgagee. However, such first Mortgagee shall be responsible for Assessments levied while it holds title to the Lot.

11.2. **Notice of Default by Lot Owner.** In the event an Owner neglects for a period of sixty (60) days or more to cure any failure on his part to perform his obligations under this Declaration, the Declarant, upon written request from the Mortgagee, shall give written notice of such fact to the Mortgagee covering such Owner's Lot.

11.3. **Abandonment, Termination, Etc.** Unless all of the holders of first Mortgages on the individual Lots have given their prior written approval, no Owners acting as a group shall be entitled by act, omission, or otherwise to abandon or terminate the Project.

#### ARTICLE XII. RIGHT OF ENTRY

12.1. The Declarant shall have the right at all times upon reasonable notice of at least 48 hours to enter upon or into any Lot or Residence, without trespass, and regardless of whether or not the Lot Owner or Occupant thereof is present at the time, to abate any infractions, to fulfill its responsibilities, to exercise its rights, to make repairs or correct any violation of any of the Declaration, and in connection therewith shall have the further right to assess all costs incurred against the Owner. Notice shall not be necessary in case of an emergency originating in or threatening such Residence or any other part of the Project, including the sound or sight of running water in a Residence, the smell or sight of smoke in a Residence, abnormal or excessive noises; and foul smell. Owners shall be responsible for any costs incurred by the Declarant as a result of entering upon a Lot or into a Residence under this Section and shall indemnify and hold harmless the Declarant for all damages related to such entry; except for such damages resulting from recklessness or bad faith.

### ARTICLE XIII. MISCELLANEOUS

13.1. **Term**. This Declaration as the same, may be amended from time to time hereafter, including all of the Restrictive Covenants hereof, shall run until December 31, 2030. Thereafter, this Declaration, including the Restrictive Covenants hereof shall be automatically extended for successive periods of ten years each, unless amended or extinguished by a written instrument executed by the Owners of at least sixty-seven percent (67%) of the Lots and recorded in the office of the Utah County Recorder.

13.2. **Mortgage Protection**. Nothing herein contained, and no violation of these covenants, conditions and restrictions, shall invalidate or impair the lien of any mortgage or deed of trust, given in good faith and for value.

13.3. **Amendment**.

1) **Special Mortgagee Provisions**. No amendment of Section 13.2 shall be effective as to any Beneficiary who does not join in the execution thereof, provided that the Beneficiary's Deed of Trust is Recorded prior to the recordation of such amendment; provided however, that after foreclosure or conveyance in lieu of foreclosure the property which was subject to such Deed of Trust, shall be subject to such amendment. No amendment of this Declaration shall be effective until executed and recorded in the real property records of Utah County in the manner hereinafter provided.

2) **By Declarant**. Except as provided in Section 13.3(1), this Declaration may be amended only by Declarant during the period of Declarant control. If Declarant wishes to amend this Declaration, it shall first give at least ten (10) days written notice to each Owner of a Lot then subject thereto of the time and place of a hearing to be held to consider such amendment. Such notice may be given in person or by mail. If such notice is given by mail, the effective date thereof shall be the third (3) day (other than a Saturday, Sunday or legal holiday) after such notice shall have been deposited in the United States mail, postage prepaid, and addressed to the residence of such Owner in Lone Peak Canyon Subdivision. If the Owners of seventy-five percent (75%) or more of the Lots which on the date of such hearing were subject to this Declaration, by written notice delivered to Declarant within fifteen (15) days after such hearing object to the amendment proposed by Declarant it shall not become effective. No amendment shall be effective until there has been recorded, in the real property records of Utah County, an instrument executed and acknowledged by Declarant setting forth the amendment and certifying that the above mentioned notice and hearing was given and held and that Declarant did not within twenty-five (25) days after said hearing receive written objections to the amendment from the Owners of seventy-five percent (75%) or more of said Lots, as aforesaid.

3) **By Owners.** Except as provided in Sections 13.3(1) and 13.3(2), this Declaration may be amended by the recording in the Utah County real property records of an instrument executed and acknowledged by the Owners of at least seventy-five percent (75%) of the Lots subject to this Declaration at the time of the amendment.

4) **Common Owners.** For purposes of Sections 13.3(2) and 13.3(3) above, if more than one Person holds title to any Lot jointly or in common, the vote with respect to said Lot shall be held in the same manner. However, neither fractional votes nor split votes shall be allowed, and all joint or common Owners must object in writing to the proposed amendment under Section 13.3(2), or approve in writing the proposed amendment under Section 13.3(3), as the case may be, or the vote with respect to such Lot shall not be counted.

13.4. **Interpretation.** The provisions of this Declaration shall be liberally construed to effectuate their purposes of creating a uniform plan for the development of the Lots subject hereto and promoting and effectuating the fundamental concepts of Lone Peak Canyon Subdivision as set forth in the RECITALS and DECLARATION of this Declaration. This Declaration shall be construed and governed under laws of the State of Utah.

13.5. **Construction and Severability.** The captions which precede the Articles and Sections of this Declaration are for convenience only and shall in no way affect the manner in which any provision hereof is constructed. Whenever the context so requires, the singular shall include the plural, the plural shall include the singular, the whole shall include any party thereof, and any gender shall include the other gender. The invalidity or unenforceability of any portion of this Declaration shall not affect the validity or enforceability of the remainder hereof.

13.6. **Notices.** Any notice required or permitted to be given to any Owner or Member according to the provisions of this Declaration shall be deemed to have been properly furnished if personally delivered, emailed, or if mailed, postage prepaid, to the Person who appears as an Owner, at the latest email or mailing address for such Person appearing in the records of the Association at the time notice is sent. If no mailing address has been provided, the Lot owned by said Owner shall be used for notice purposes.

13.7. **Consent in Lieu of Voting.** In any case in which this Declaration requires authorization or approval of a transaction the assent or affirmative vote of a stated percentage of the votes present or represented at a meeting, such requirement may be fully satisfied by obtaining, with or without a meeting, consents in writing to such transaction from Members entitled to cast at least the stated percentage of all membership votes outstanding in the Association. The following additional provisions shall govern any application of this Section:

1) All necessary consents must be obtained prior to the expiration of sixty (60) days after the first consent is given by any Member.

2) The total number of votes required for authorization or approval under this Section shall be determined as of the date on which the last consent is signed.

3) Except as provided in the following sentence, any change in ownership of a Lot which occurs after consent has been obtained from the Owner thereof shall not be considered or taken into account for any purpose.

13.8. **Covenants to Run with Land.** This Declaration and all provisions hereof shall constitute covenants to run with the land or equitable servitudes, as the case may be, and shall be binding upon and shall inure to the benefit of all parties who hereafter acquire any interest in a Lot or in the Common Areas shall be subject to the terms of this Declaration and the provisions of any Rules, agreements, instruments, and determinations contemplated by this Declaration; and failure to comply with any of the foregoing shall be grounds for an action by the Declarant or an aggrieved Owner for the recovery of damages, or for injunctive relief, or both. By acquiring any interest in a Lot, the party acquiring such interest consents to, and agrees to be bound by, each and every provision of this Declaration.

13.9. **Insurance by Owner.** Each Owner shall insure his/her Lot, Residence, any and all Lot improvements, and personal property.

13.10. **Security.** The Declarant shall in no way be considered an insurer or guarantor of security within or relating to the Property, and the Declarant shall not be held liable for any loss or damage by reason of any failure to provide adequate security or any ineffectiveness of security measures undertaken. Owner or Occupant agree by purchasing a Lot in this Project, Declarant is not an insurer of the safety or well-being of Owners or Occupants or of their personal property, and that each Owner or Occupant assumes all risks for loss or damage to persons, the Lots, and to the contents of improvements located thereon.

EACH OWNER AND OCCUPANT UNDERSTANDS AND ACKNOWLEDGES THAT THE DECLARANT HAS NOT MADE ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND AND THAT EACH OWNER OR OCCUPANT HAS NOT RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO THE SECURITY OF THE PROJECT.

13.11. **Effective Date.** The Declaration and any amendment hereof shall take effect upon its being filed for record in the office of the County Recorder of Utah County, Utah.

**CERTIFICATION**

IN WITNESS WHEREOF, Declarant has executed this Declaration the day and year first above written.

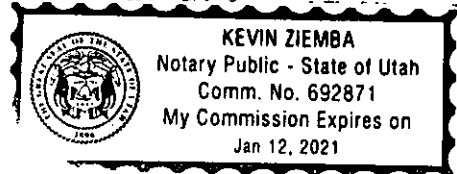
Lone Peak Canyon Development, Limited Liability Company  
a Utah limited liability company

By: David K. Mast  
David K. Mast  
Manager

STATE OF UTAH )  
  ) ss.  
COUNTY OF ~~UTAH~~ )  
  ) Salt Lake

On July 31, 2019, David K. Mast personally appeared before me and proved on the basis of satisfactory evidence to be the person whose name is subscribed to in this document, and acknowledged that he executed the same in his capacity as Manager of Lone Peak Canyon Development, Limited Liability Company.

[Signature]  
NOTARY PUBLIC

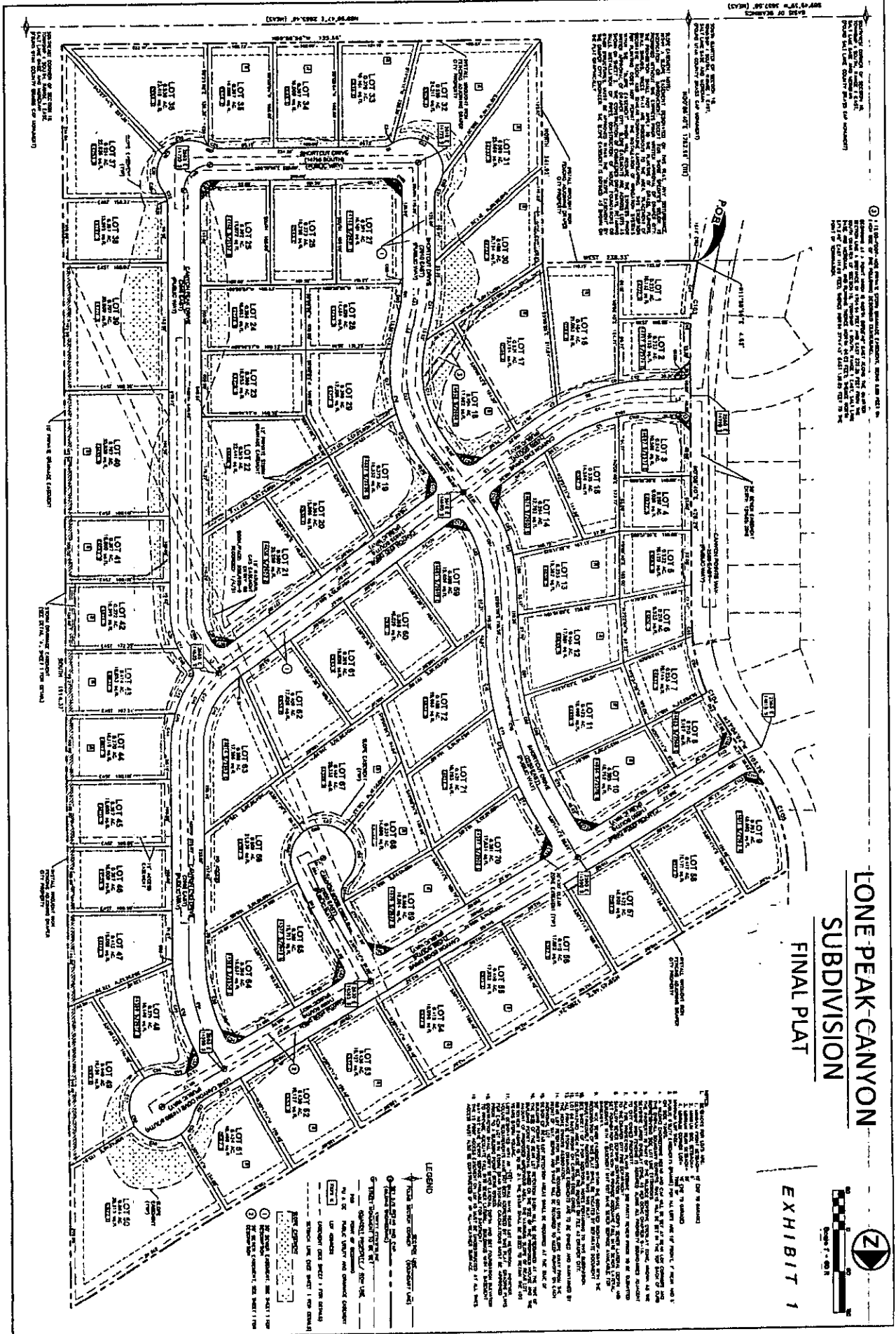


**EXHIBIT "A"**

**Legal Description of the Property**

All of Lots 1 through 72, inclusive, of the Lone Peak Canyon Subdivision, according to the official plat thereof on file and of record in the office of the Utah County Recorder.





LONE PEAK CANYON  
SUBDIVISION  
FINAL PLAT

EXHIBIT 1



**LEGEND**

- Point of Beginning (POB)
- Easement
- Setback
- Utility Easement
- Flood Hazard Area
- Wetland
- Other

1. This plat shows the subdivision of the land described in the foregoing description into lots, blocks, tracts, and parcels, and the same are hereinafter described as follows:

2. The subdivision is bounded by the following:

3. The subdivision is bounded by the following:

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39. The subdivision is bounded by the following:

40. The subdivision is bounded by the following:

**EXHIBIT "B"**

**Illustrations Of The Types Of Exterior Elevations And Finishes That Would  
Comply With The Standards Set Forth In Section 2.1.**

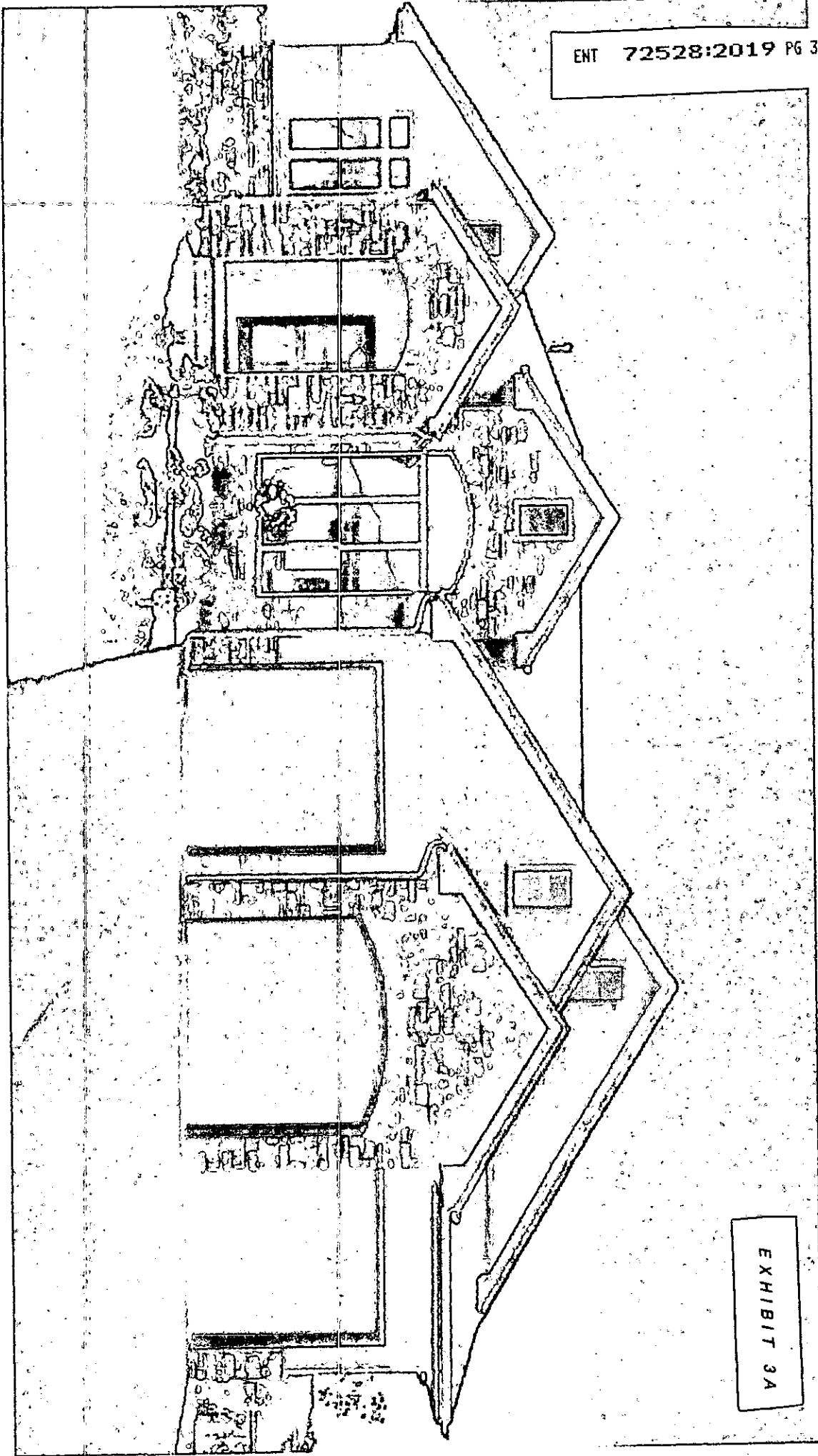


EXHIBIT 3A



EXHIBIT 3B

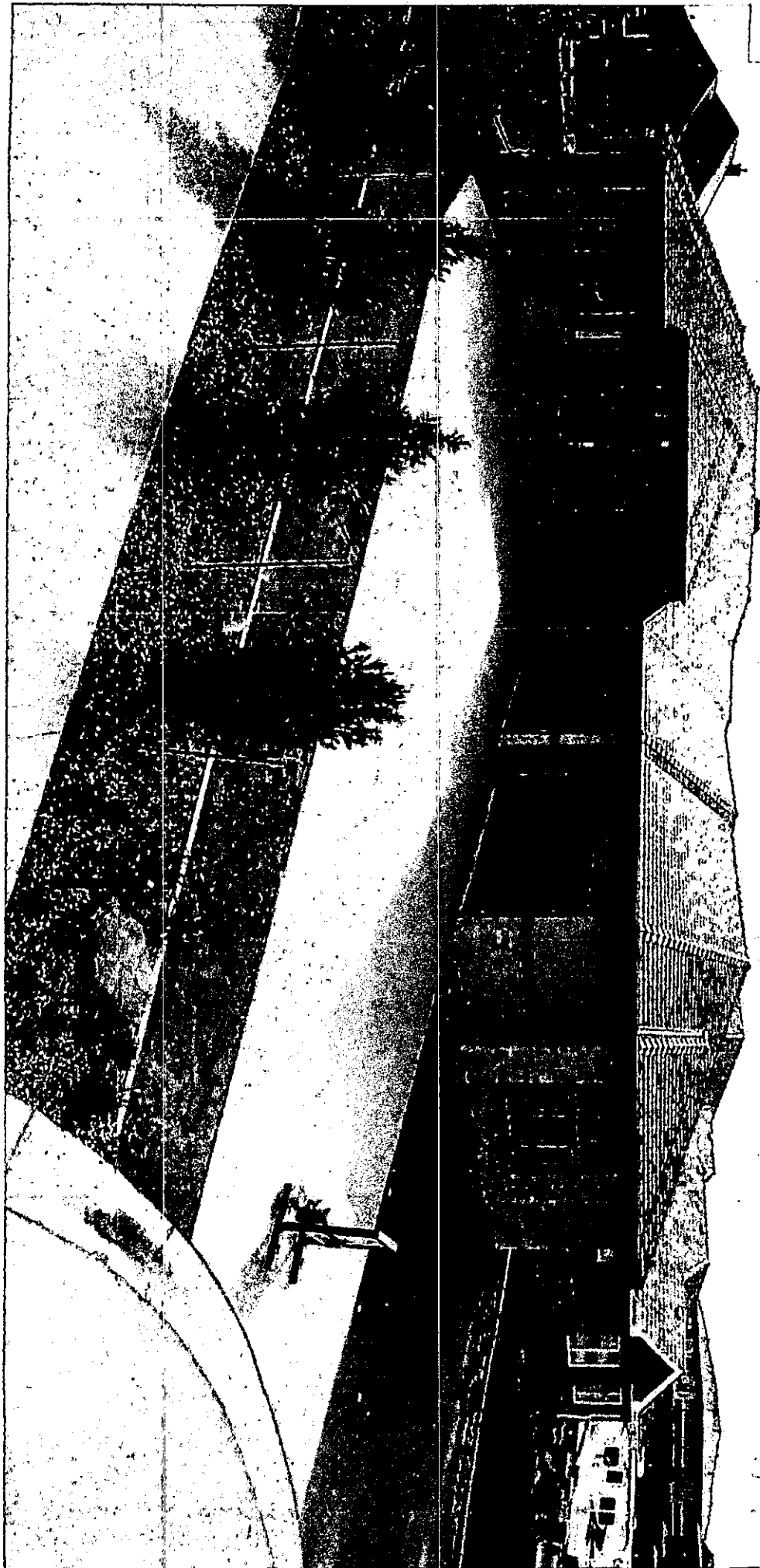


EXHIBIT 3C

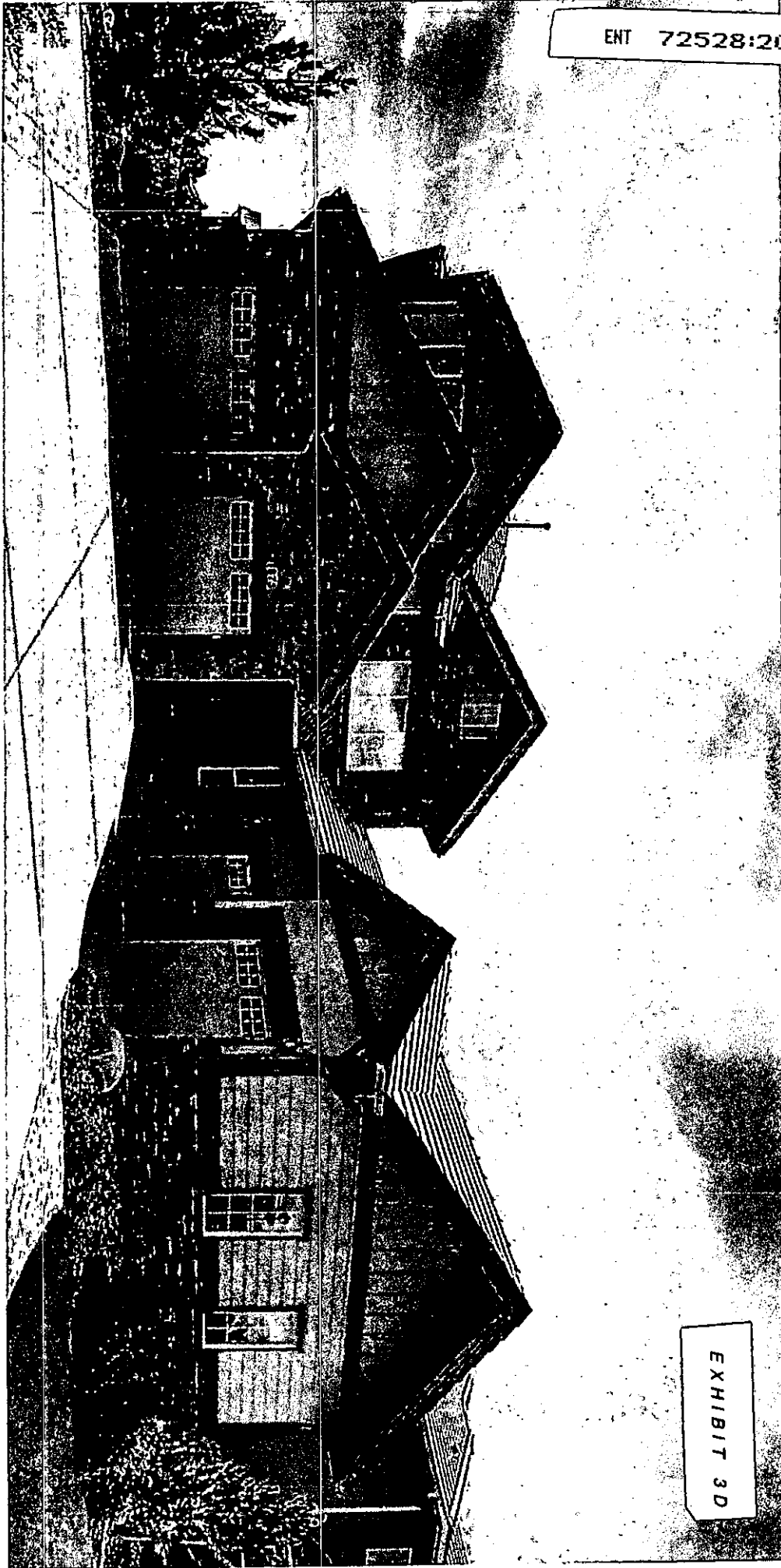


EXHIBIT 3D

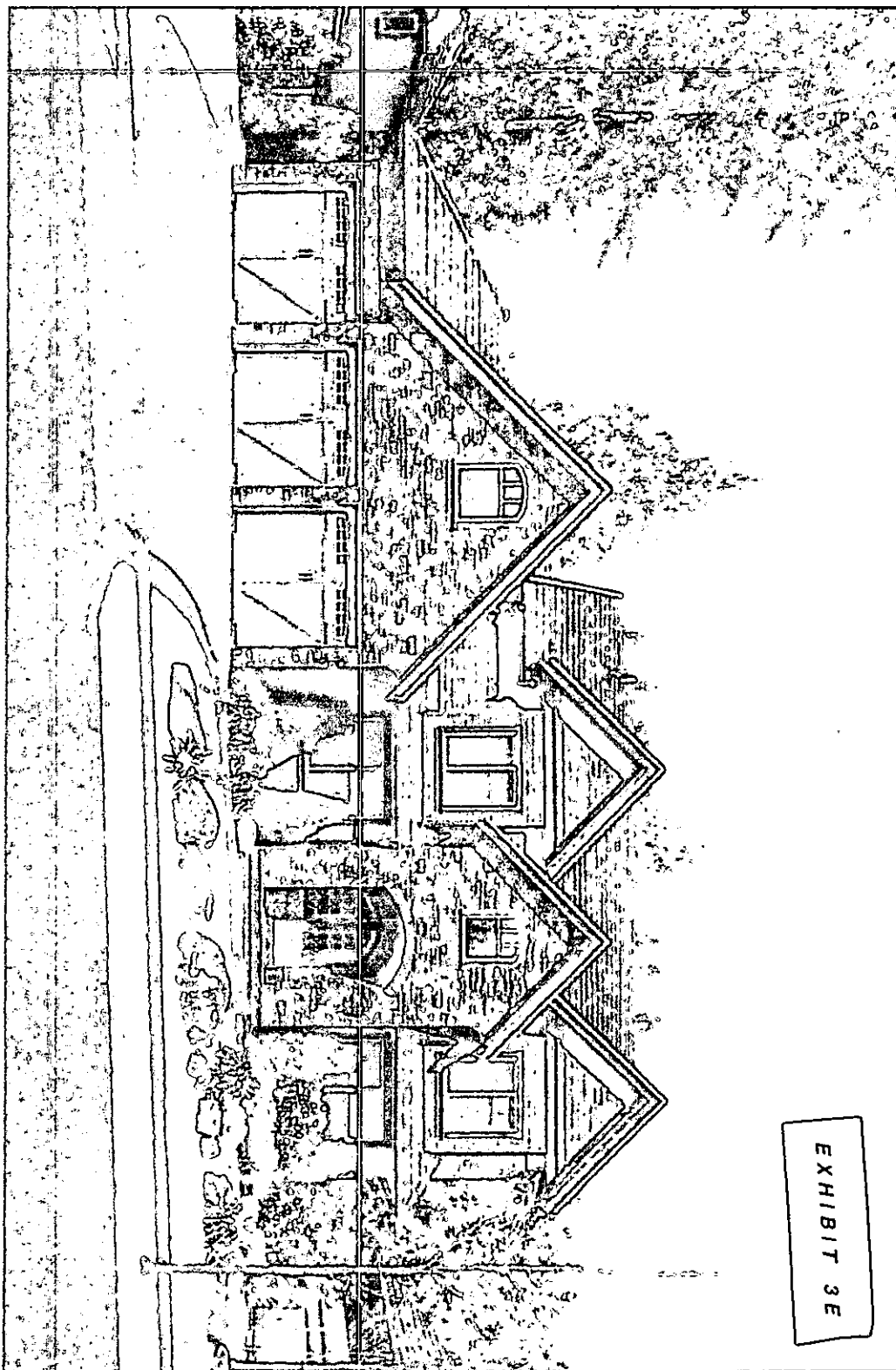


EXHIBIT 3E



EXHIBIT 3F