

11/53
RETURNED

←
OCT 17 1997

WHEN RECORDED RETURN TO:
James R. Blakesley
Attorney at Law
2102 East 3300 South
Salt Lake City, Utah 84109

E 1354515 B 2189 P 265
JAMES ASHAUER, DAVIS CNTY RECORDER
1997 OCT 17 12:22 PM FEE 113.00 DEP D.M
REC'D FOR IVORY HOMES

100 to 159
Common area
**DECLARATION OF PROTECTIVE COVENANTS
FOR THE WYNDOM HIGHLANDS NO. 1 SUBDIVISION**

This Declaration of Protective Covenants for the WYNDOM HIGHLANDS NO. 1 SUBDIVISION is made and executed this 17th day of July, 1997, by GMW DEVELOPMENT, INC. and WAYNE A. BELLEAU of 1544 North Woodland Park Drive, Suite 300, Layton, Utah 84041 (hereinafter referred to as the "Declarant."

RECITALS

09-266-0100 to 0160
A. This Declaration of Covenants, Conditions and Restrictions affects that certain real property located in Davis County, Utah described with particularity in Article II set forth below (the "Tract").

B. Declarant is the owner of the Tract.

C. Declarant has constructed, or is in the process of constructing, a residential subdivision upon the Tract.

D. All of such construction has been, or is to be, performed in accordance with the plans contained in the Record of Survey Map to be recorded concurrently herewith.

E. Declarant intends to sell to various purchasers the fee title to the individual Lots contained in the subdivision.

F. The Declarant desires that the subdivision be known as the "WYNDOM HIGHLANDS NO. 1 SUBDIVISION."

G. The streets in the subdivision shall be dedicated to Layton City.

H. The Declarant desires that the Tract shall be subject to the protective covenants herein recited.

I. The Declarant desires, by filing this Declaration of Protective Covenants, to submit the WYNDOM HIGHLANDS NO. 1 SUBDIVISION and all improvements now or hereafter constructed thereon to the terms, covenants, conditions and restrictions set forth below, which shall run with the Land.

NOW, THEREFORE, the Declarant does hereby establish the nature of the use and enjoyment of all Lots in the subdivision and does hereby declare that the conveyances of said Lots shall be made subject to the following conditions, restrictions, stipulations, and provisions:

E 1354515 B 2189 P 266

ARTICLE I. DEFINITIONS

When used in this Declaration (including in that portion hereof entitled "Recitals"), each of the following terms shall have the meaning indicated.

1. Assessments shall mean and refer the allocation of Common Expenses which each Lot or Lot Owner is obligated to pay.

2. Association shall mean and refer to the association of all of the Lot Owners taken as, or acting as, a group.

3. Board of Trustees shall mean and refer to the committee of three (3) Lot Owners elected to manage the Association.

4. Business and Trade are terms which shall be construed to have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (a) such activity is engaged in full or part-time; (b) such activity is intended to or does generate a profit; or (c) a license is required therefor. Notwithstanding the above, the leasing of a Lot or Dwelling Unit shall not be considered a trade or business within the meaning of this sub-Section.

5. Common Areas shall mean and refer to the entryway to the subdivision, the green space and landscaping immediately adjacent to the entryway and the street lights.

6. Common Expense shall mean and refer to:

a. All sums lawfully assessed against the Lot Owners;

b. Expenses of administration, maintenance, repair, or replacement of the Common Areas;

c. Expenses agreed upon as common expenses by the Association; and

d. Expenses declared common expenses by the Project Documents.

7. Community shall mean and refer to the Tract.

8. Declaration shall mean and refer to this Declaration of Protective Covenants.

9. Lot shall mean and refer to a portion of the Property, other than the Common Area, intended for any type of independent ownership and use as may be set out in this Declaration and as shall be shown on the Plats or Surveys filed with this Declaration. Where the context indicates or requires, the term Lot includes any structure constructed or located on the Lot.

10. Lot Owner shall mean and refer to the person who is the owner of record (in the office of the County Recorder of Davis County, Utah) of a fee or an undivided fee interest in a Lot. The term Lot Owner does not mean or include a mortgagee or a beneficiary or trustee under a deed of trust unless and until such party has acquired title pursuant to foreclosure or any arrangement or proceeding in lieu thereof.

11. Majority shall mean and refer to those eligible persons or votes of Owners or other groups as the context may indicate totaling more than fifty (50%) percent of the total eligible number.

12. Map shall mean and refer to the Record of Survey Map.

13. Member shall mean and refer to each Lot Owner.

14. Owner shall mean and refer to a Lot Owner.

15. Project shall mean and refer to the Tract.

16. Project Documents shall mean and refer jointly and severally to this Declaration, By-Laws and all administrative rules and regulations as they may be adopted and/or modified by the Association from time to time.

17. Property shall mean and refer to the Land.

18. Record of Survey Map shall mean and refer to the record of survey map or maps of this subdivision on file with the Davis County Recorder. The Map will show the location of the Lots and Common Area.

19. Street shall mean and refer to the roads within the subdivision dedicated to Layton City.

20. Survey Map shall mean and refer to the Record of Survey Map.

21. Tract shall mean and refer to the real property subject to the protective covenants of this Declaration.

ARTICLE II. SUBMISSION

The Land described with particularity below is hereby made subject to these protective covenants, conditions and restrictions.

See Exhibit "A," attached hereto and incorporated herein by this reference.

SUBJECT TO the described easements and rights of way.

TOGETHER WITH all easements, rights-of-way, and other appurtenances and rights incident to, appurtenant to, or accompanying the above-described parcel of real property.

ALL OF THE FOREGOING IS SUBJECT TO: All liens for current and future taxes, assessments, and charges imposed or levied by governmental or quasi-governmental authorities; all Patent reservations and exclusions; any mineral reservations of record and rights incident thereto; all instruments of record which affect the above-described Tract or any portion thereof, including, without limitation, any mortgage or deed of trust; all visible and necessary easements and rights-of-way; all easements and rights-of-way of record; any easements, rights-of-way, encroachments, or discrepancies shown on or revealed by the Survey Maps or otherwise existing; an easement for each and every common area improvement, equipment, pipes, lines, cables, wires, utility systems, or similar facilities which traverse or partially occupy the above-described Tract; and all easements necessary for servicing, repairing, ingress to, egress from, maintenance of, and replacement of all such common area improvements, equipment, pipes, lines, cables, wires, utility systems, and similar facilities.

ALL OF THE FOREGOING IS ALSO SUBJECT TO:

An easement for public utilities and drainage, telephone and gas for the installation.

There is hereby created a blanket easement upon, across, over and under the Property for public utility purposes. By virtue of this easement, it shall be expressly permissible for all public utilities serving the Property to lay, construct, renew, operate and maintain conduits, cables, pipes, mains, ducts, wires and other necessary equipment on the Property, provided that all such services shall be placed underground, except that said public utilities may affix and maintain electrical and/or telephone wires, circuits and conduits on, above, across and under roofs and exterior walls. Notwithstanding anything to the

contrary contained in this section, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on the Property in such a way as to unreasonably encroach upon or limit the use of the Common Area or any structure thereon. In the initial exercise of easement rights under this section, a utility shall make reasonable efforts to occupy and use the same physical location or lane as other utilities. After a utility service has initially exercised its easement rights under this section, the utility shall make reasonable efforts to occupy and use the same physical location as its prior installations. Should any utility furnishing a service covered by the general easement herein provided request a specific easement by separate recordable document, Declarant or the Association shall have the right, power and authority to grant such easement on said property without conflicting with the terms hereof.

ARTICLE III. RESIDENTIAL AREA COVENANTS

1. Land Use and Building Type. No lot shall be used except for residential purposes. No building shall be erected, altered, placed or permitted to remain on any Lot other than one detached single-family dwelling not to exceed two (2) stories in height and private garages for not more than three (3) vehicles. All structures to contain no less than a two-car garage and not more than a three-car enclosed garage. All construction to be of new materials, except that used brick may be used with prior written approval of the Architectural Control Committee. Said premises shall be used for private residence purposes only, except as hereinafter set forth, and no structure of any kind shall be moved from any other prior residence upon said premises, nor shall any incomplete building be permitted to remain incomplete for a period in excess of one (1) year from the date the building was started unless an extension is approved in writing by the Architectural Control Committee.

2. Architectural Control. No building shall be erected, placed or altered on any lot until the construction plans and specifications and a plan showing the location of the structure have been approved by the Architectural Control Committee as to the quality of workmanship and materials, harmony of external design with existing structures, and as to location with respect to topography and finish grade elevation. No fence or wall shall be erected, placed or altered on any lot nearer to any street than the front building setback line unless similarly approved.

3. Dwelling Cost, Quality and Size. The ground square area of the main structure exclusive of garage and any one-story porches shall not be less than one thousand

four hundred (1,400.00) square feet to a one-story dwelling. In a split level dwelling, the combined area of single level and each of the two levels in the adjoining two-story portion of the dwelling, exclusive of garage and any one story porches shall total not less than one thousand four hundred fifty (1,450.00) square feet. In a two-story home which is two stories above the curb level, exclusive of garage and any one-story open porches shall total not less than one thousand four hundred sixty (1,460.00) square feet. In a split-entry dwelling, the combined area of the above ground level and the below ground level shall be two thousand (2,000.00) square feet with the above ground level being not less than one thousand three hundred fifty (1,350.00) square feet, exclusive of garage and any one-story open porches. If four (4') feet or more of foundation is above finished grade, then the basement shall be deemed to be the first story, otherwise, story for the purposes of these covenants, the basement area shall in no event be considered a story. It is the purpose of this covenant to assure that all dwellings shall be of a similar quality of workmanship and materials, substantially the same as or better than that which can be produced at the date that these covenants are recorded. All structures shall contain not less than a two-car garage and not more than a three-car enclosed garage. In addition, the following shall be required.

a. No dwelling or garage shall be constructed or reconstructed with a flat roof. All roofs shall have minimum of a 4-in-12 pitch with a maximum pitch of 9-in-12.

b. All roofs shall be of either quality asphalt composition shingles, sawn cedar shingles, hand-split cedar shakes, slate shingles or of architectural tile in natural colors;

c. Any and all additions to a dwelling or garage must be approved in writing and in advance by the Architectural Control Committee;

d. The front exteriors of all dwellings shall be at least thirty percent (30%) brick, cultured or natural stone veneer. The front exterior shall be a combination of either brick and stucco or stone and stucco. The exterior balance shall be of high-quality aluminum siding or stucco in traditional earth tones indigenous to the area;

e. No dwelling shall be permitted on any Lot with a value of less than \$100,000, exclusive of the lot's fair market value, based upon value levels prevailing on the date these covenants are recorded.

4. Building Location.

E 1354515 B 2189 P 271

a. No building shall be located on any Lot nearer than twenty-five (25') feet to the front Lot line, nearer than 20 feet to any side street Lot line;

b. No dwelling shall be located nearer than eight (8') feet to any interior Lot line. No dwelling shall be located nearer than eighteen (18) feet to any adjoining dwelling. No dwelling shall be located on any interior lot nearer than thirty (30) feet to the rear Lot line. Unless a written exception is granted by the Architectural Control Committee where unusual circumstances exist, side yards, rear yard and setback lines as defined by these covenants and city ordinance shall apply to all dwellings built. Detached garages or other permitted accessory buildings may be located seven (7') feet or more from the rear Lot line, so long as such buildings do not encroach upon any easement;

c. For the purpose of this covenant, coves, steps, and open porches shall not be considered as a part of a building, provided, however that this shall not be construed to permit any portion of any building on a Lot to encroach upon another Lot.

5. Lot Area and Width. No dwelling shall be erected or placed on any Lot having a width of less than seventy (70') feet at the front building setback line nor shall any dwelling be erected or place on any Lot having an area of less than eight thousand (8,000.00) square feet.

6. Easement. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat and over the rear ten (10') feet of each Lot. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction or flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each Lot and all improvements in it shall be maintained continuously by the owner of the Lot, except for those improvements for which a public authority or utility company is responsible.

7. Nuisance. No noxious or offensive activity shall be carried on in, on or about any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. No clothes drying or storage of any articles which are unsightly (in the sole opinion of the Architectural Control Committee) will be permitted unless in enclosed areas designed for such purposes. No automobiles, trucks, vans, trailers, boats or other vehicles are to be stored on streets or front or side lots unless

they are in running condition, properly licensed and are being regularly used.

In addition, the following acts or activities shall be deemed to constitute a nuisance:

a. The development of any unclean, unhealthy, unsightly, or unkempt condition on, in or about a Lot or the Common Areas;

b. The storage of any item, property or thing that will cause any Lot or the Common Area to appear to be in an unsightly, unclean, unhealthy, or untidy condition or that will be noxious to the senses;

c. The storage of any substance, toxin, hazardous waste, pollutant, thing or material upon any Lot or in the Common Areas 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;

d. Actions or activities tending to cause embarrassment, discomfort, annoyance, distress or a disturbance to any other residents, their guests or invitees, particularly if the police or sheriff must be called to restore order; and

e. The maintenance of any plants, animals, devices or things of any sort whose activities or existence in any way is illegal, noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the neighborhood by other residents, their guests, visitors or invitees.

8. Temporary Structures. No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other out-buildings shall be used on any lot at any time as a residence either temporarily or permanently. No Mobile Homes are permitted.

9. Signs. No sign of any kind shall be displayed to the public view on any lot except one professional sign of not more than one (1) square foot, one sign of not more than five (5) square feet advertising the property for sale or rent, except signs used by the Declarant to advertise the property during the construction and sales period may be as large as deemed appropriate by the Declarant.

10. Pets, Animals, Livestock and Poultry. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats or other household pets may be kept provided that they are not kept, bred or maintained for any commercial purpose and are restricted to

the Owner's premises or on leash under handler's control. No pets, animals, livestock or poultry shall be permitted to create a nuisance. Unreasonable barking, whining, scratching or howling shall be deemed to be a nuisance.

11. Garbage and Refuse Disposal. No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition. Each Lot and its abutting street are to be kept free of trash, weeds and other refuse by the Lot owner. No unsightly materials or other object are to be stored on any Lot in view of the general public.

12. Sight Distance at Intersections. No fence, wall, hedge, or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above the roadways shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines and a line connecting them at points twenty five (25) feet from the intersection of the street lines, or in the case of a rounded property corner, from the intersection of the street property lines extended. The same sight-line limitations shall apply on a driveway or alley pavement. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

13. Oil and Mining Operations. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot.

14. Slope and Drainage Control. No structure, planting or other material shall be placed or permitted to remain or other activities undertaken which may damage or interfere with established slope ratios, create erosion or sliding problems, or which may change the direction or flow of drainage channels or obstruct or retard the flow of water through drainage channels. The slope control areas of each lot and all improvements in them shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or utility company is responsible.

15. Antennas. No television, ham radio, citizen band, radio, or other similar electronic receiving or sending device shall be permitted upon the rooftop or side of any home or elsewhere visible from the street or any other Lot

unless approved by the Architectural Control Committee, which consent shall be consistent with FCC guidelines and shall not be unreasonably withheld. It is the intent of the Declarant that no such receiving or sending antenna or other device shall be impaired or allowed to interfere with the peaceful and quiet enjoyment of any neighboring Lot Owner's premises or home entertainment facilities or equipment.

16. Fencing. No fence or other similar structure shall be erected in any required front yard of a dwelling to a height in excess of three and one-half feet; nor shall any fence or other similar structure be erected in any side or rear yard to a height in excess of six (6') feet.

On corner lots, no fence or other similar structure shall be erected in any yard bordering a street or front yard of an adjoining lot to a height in excess of three and one-half (3.5') feet. All fences require a building permit from Layton City.

17. Parking and Storage. No inoperative automobile shall be placed or remain on any lot or adjacent street for more than forty-eight (48) hours. No commercial type vehicles and no trucks shall be parked or stored on the front yard setback of any Lot, or within the side yard building setback on the street side of a corner Lot, or on the residential street except while engaged in transportation. Trailers, mobile homes, trucks over three (3) quarter ton capacity, boats, campers not on a truck bed, motor homes, buses, tractors, recreational, oversized, and maintenance or commercial equipment of any kind shall be parked or stored behind the front yard setback in an enclosed area screened from street view. Sufficient side yard gate access should be planned and provided for in the design of the home, to permit ingress, egress and storage of trailers and recreational type vehicles on the side and rear yards. The storage or accumulation of junk, trash, manure or other offensive or commercial materials is prohibited. Facilities for hanging, drying or airing clothing or household fabrics shall be appropriately screened from view. No pads used for the storage of vehicles or other material either temporarily or permanently shall be constructed within the side or a front yard set back requirements of a given Lot. This open space shall remain unoccupied and unobstructed by buildings, vehicles and/or hard surfaces such as asphalt, cement and packed surface from this time henceforth and forever. For additional information, contact Layton City, Utah. All motor vehicles driven or transported into the Project shall be subject to the following restrictions:

a. Improper Practices. No motor vehicle or any other transportation device of any kind may be parked or stationed in a fire lane or in a red zone, in an unsafe or

dangerous manner, or in front of any carport, garage or driveway.

b. Mechanical Repairs, Oil Changing and Restoration of Motor Vehicles. No Owner or resident may repair, change the oil or other fluids of, or restore any motor vehicle of any kind in, on or about any Lot or Common Area, except for emergency repairs, and then only to the extent necessary to enable movement thereof to a proper repair facility.

c. Recreational, Commercial and Oversized Motor Vehicles. No recreational, commercial or oversized motor vehicle may be parked in the Project, except temporarily as may be necessary to load or unload passengers or property.

d. Storage of Vehicles. No recreational, commercial, oversized, inoperable or unregistered motor vehicle may be stored within the Project if it is visible from the street or another Lot.

18. Pools, Spas, Game Courts. Pools, spas, and game courts shall be located so as to avoid unreasonably impacting adjacent properties with balls, light or sound. Pool heaters and pumps must be screened from view from the street.

19. Unsightly Work, Hobbies or Unkempt Condition. The pursuit of hobbies or other activities, including but not limited to the assembly and disassembly of motor vehicles and other mechanical devices which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken on any part of the Project.

20. Removing Dust & Debris. All rubbish, trash, refuse, waste, dust, debris and garbage shall be regularly removed from the Lot and shall not be allowed to accumulate thereon.

21. Firearms, Incendiary Devices and Graffiti. The use of firearms and incendiary devices, or the painting or graffiti, within the Project is prohibited. The term firearms includes but is not limited to all guns, pistols, handguns, rifles, automatic weapons, semi-automatic weapons, BB guns, pellet guns, sling shots, wrist-rockets, blow-dart guns, and other firearms of all types, regardless of size.

22. Energy Conservation Equipment. No solar energy collector panels, other energy conservation equipment or attendant hardware shall be constructed or installed on the Project without the prior written consent of the Board of Trustees.

23. Business Use. No commercial trade or business may be conducted in or from any Lot unless: (a) the existence

or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the Lot; (b) the business activity conforms to all zoning requirements for the Project; c) the business activity does not involve persons coming onto the Project who do not reside in the Project or door-to-door solicitation of residents of the Project; and (d) the business activity is consistent with the residential character of the Project and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Project, as may be determined in the sole discretion of the Board of Trustees.

24. Insurance. Nothing shall be done or kept in, on or about any Lot or the Common Areas which may result in the cancellation of or increase the premium (over what the Association would have paid but for such activity) for the insurance on the Property.

25. Laws. Nothing shall be done or kept in, on or about any Lot or the Common Areas, or any part thereof, which would be a violation of any statute, rule, law, ordinance, regulation, permit or other validly imposed requirement of any governmental body.

26. Damage or Waste. No damage to or waste of the Common Area shall be committed by any Owner, his family members, friends, guests, visitors or invitees. Each Lot Owner shall indemnify and hold the Association, Board of Trustees, and other Owners harmless against all loss resulting from any such damage or waste caused by that Owner or his family members, guests, visitors or invitees; provided, however, that any invitee, guest or visitor of the Declarant shall not under any circumstances be deemed to be an invitee of any other Owner.

27. Maintenance. The Lots and Common Area shall be maintained in a usable, clean, functional, aesthetic, attractive and good condition.

28. Landscaping. All landscaping in the Project shall be maintained and cared for in a manner consistent with the standards of design and quality originally established by Declarant and in accordance with Community Standards. Specific guidelines and restrictions on landscaping may be established by the Board of Trustees from time to time. All landscaping shall be maintained in an aesthetic, tasteful, clean, safe, sanitary, neat and orderly fashion. Any weeds or diseased or dead lawn, trees, ground cover or shrubbery shall be removed and replaced. All lawn areas shall be neatly mowed and trees, shrubs and bushes shall be neatly trimmed. Aesthetic considerations are important and all landscaping shall be tasteful, so as not to affect adversely the value or use of any other Lot or the Common Area, or to

detract from the uniform design and appearance of the Project.

29. Storage of Commercial Equipment. No Lot shall be used or maintained as a storage area for commercial equipment of any kind for use in a trade or business except as permitted by county codes for a residential area and then it should be stored out of the general view.

30. Landscape Site Preparation Guidelines. All demolition, clearing, grubbing, stripping of soil, excavation, compaction and grading must be performed within the confines of the Lot.

31. Subdivision of Lots. No Lot Owner shall at any time be permitted to subdivide or attempt to subdivide his Lot.

ARTICLE IV. ARCHITECTURAL CONTROL COMMITTEE

1. Membership. The Architectural Control Committee (the "ACC") shall consist of the Board of Trustees, or any subcommittee appointed by the Board of Trustees, or any three (3) Lot Owners elected by at least a majority of the Lot Owners. No member of the ACC shall be entitled to any compensation for services provided.

2. Procedure. The ACC's approval or disapproval as required in these covenants shall be in writing. In the event the ACC, or its designated representative, fails to approve or disapprove within thirty (30) days after plans and specifications have been submitted to it, the request shall be deemed to have been approved and the related covenants shall be deemed to have been fully complied with.

ARTICLE V. RIGHT OF ENTRY

1. Right of Entry. Wherever sanitary sewer connections, water connections, electricity, gas, telephone or drainage facilities are installed within the subject property, the owners of any Lot or Lots served by said connections, lines or facilities shall have the right, and are hereby granted an easement to the full extent necessary therefor, to enter upon the Lots owned by others, or to have utility companies enter upon the Lots owned by others, in or upon which said connections, lines or facilities, or any portion thereof lie, to repair, replace and generally maintain said connections as and when the same may be necessary as set forth below. Any premises so entered shall be restored by those entering to as near its original condition as is reasonably possible. Nothing in this section can be construed to grant any new easement without the express written authorization of the Lot Owner.

ARTICLE VI. OWNERSHIP, OPERATION AND MANAGEMENT

1. Ownership - Association of Property Owners. The Lot Owners shall comprise an association for the maintenance and enforcement of these protective covenants. Membership in the association is appurtenant to and runs with each Lot. All Common Expenses shall be shared and allocated equally among the Lots and Lot Owners. Each Lot shall be considered to hold one (1) share for all purposes.

2. Maintenance Costs. The cost of maintenance of the Common Area (i.e., entryway and street lights) shall be shared equally between all Lot Owners.

3. By-laws of Property Owners Association. The procedure for the administration and management of the Association and the subject property shall be governed by the following By-Laws:

a. Board of Trustees. The Association shall be managed by a Board of Trustees consisting of three (3) Members of the Association who shall be duly qualified and elected by the affirmative vote of at least a Majority of the Lot Owners.

b. Voting at Meeting of Lot Owners. At any meeting or election of lot owners, each owner shall be entitled to one (1) vote per Lot. In the event of multiple ownership of a given Lot, said multiple owners shall cumulatively only have one (1) vote and shall come to agreement among themselves with respect to how said vote shall be cast.

c. Annual Meeting of Lot Owners and Elections. The Lot Owners shall hold an annual meeting of the Association on the first Tuesday in February of each calendar year, or at such other time as may be designated by the Board of Trustees. Notice of the annual meeting shall be delivered to the Lot Owners not less than ten (10) or more than thirty (30) days prior to the date fixed for said meeting. At the annual meeting elections shall be held to elect members of the Board of Trustees which shall consist of three (3) Lot Owners. The three (3) members of the Board of Trustees shall elect a President who will conduct meetings and make assignments. Of the remaining two (2) Members, one (1) will be appointed as Secretary. All three (3) will have equal votes when matters are put to a vote. A financial report shall be given and such other business conducted as may be properly presented at the meeting. A special meeting of the Association may be called at any time by written notice signed by the Majority of the Members of the Board of Trustees or by the owners having one-third (1/3) of the total votes, delivered not less than ten (10) days prior to the date fixed for said meeting. The notice

therefor shall state the date, time, place and matters to be considered.

d. Terms. The Members of the Board of Trustees shall serve for a term of one (1) year from the date of the annual meeting, at which time an election of their successors shall be held as provided herein. The Board of Trustees shall have all the powers, duties and responsibilities which are provided by law, and by these protective covenants and any amendments subsequently filed hereto. In the case of a vacancy on the Board of Trustees occasioned by death, resignation, removal or inability to act for a period in excess of ninety (90) days, the remaining Members of the Board of Trustees shall elect a successor to hold the office until the next regular meeting of the Lot Owners.

e. Improvements. The Board of Trustees shall have authority to provide additional facilities and improvements to the Tract, provided the cost of such additional improvements shall not in total exceed the sum of Fifty Dollars (\$50.00) per Lot per year, unless the excess expenditure is approved in writing by at least two-thirds (2/3) of the Lot Owners.

f. Reserves. Unless otherwise indicated by the prior written approval of at least two-thirds (2/3) of the Lot Owners, the Board of Trustees shall collect from each Lot Owner an annual reserve fee of One Hundred Dollars (\$100.00) per Lot for the establishment of a reserve fund for the capital improvements and unexpected operating expenses. The Board of Trustees shall have the right in its sole discretion to decrease the annual reserve account fee as it seems appropriate.

4. Payment of Common Expenses. In addition, each Lot Owner hereby agrees to pay to the Board of Trustees promptly his portion of all Common Expenses, including but not limited to the cost of maintaining, repairing and replacing the entryway and street lights, the operation of all machinery and equipment related thereto, the cost of the power and electricity to operate the street lights, and all other related expenses, debts, obligations, and liabilities incurred by the Association hereunder.

a. Purpose of Assessments. The Assessments provided for herein shall be used for the general purpose of operating the Project, promoting the recreation, health, safety, welfare, common benefit and enjoyment of the Lot Owners.

b. Budget. Before the Annual Meeting of the Association each year, the Board of Trustees shall prepare a budget which shall set forth an itemization of the anticipated Common Expenses for the twelve (12) month

calendar year, commencing with the following January 1. The budget shall be based upon advance estimates of cash requirements by the Board of Trustees to provide for the payment of all estimated expenses growing out of or connected with the maintenance and operation of the Common Areas, which estimates shall include but are not limited to expenses of management, grounds maintenance and repair of the entry way and the street lights, premiums for all insurance which the Board of Trustees is required or permitted to maintain, wages for employees, legal and accounting fees, any deficit remaining from a previous period; the creation of a reasonable contingency reserve, surplus or sinking fund, capital improvement reserve, and other expenses and liabilities which may be incurred by said Association for the benefit of the Owners under and by reason of this Declaration.

c. Approval of Budget and Assessments. The proposed budget and the Assessments shall become effective unless disapproved at the Annual Meeting by a vote of at least a Majority of the Members of the Association. Notwithstanding the foregoing, however, if the Membership disapproves the proposed budget and Assessments or the Board of Trustees fails for any reason to establish the budget and Common Area Assessments for the succeeding year, then and until such time as a new budget and new Assessment schedule shall have been established, the budget and the Common Area Assessments in affect for the then current year shall continue for the succeeding year.

d. Method of Payment. The Board of Trustees has the sole authority and discretion to determine how and when the Assessments are to be paid.

e. Equitable Changes. If the aggregate of all payments on all of the Lots is too large or too small as a result of unanticipated income or expenses, the Board of Trustees may from time to time effect an equitable change in the amount of said payments. Owners shall be given at least thirty (30) days prior written notice of any proposed change before it becomes effective.

5. Personal Obligation of Owner. Lot Owners are jointly and severally liable to pay all Assessments and Additional Charges; provided, however, no first mortgagee or beneficiary under a first deed of trust, who obtains title to a Lot pursuant to the remedies provided in the mortgage or trust deed shall be liable for unpaid Assessments which accrued prior to the acquisition of title.

6. Superiority of Common Area Assessments. All Assessments and liens created to secure the obligation to pay Assessments are superior to any homestead exemptions to which an Owner may be otherwise entitled under Utah law, and to that extent the Owner, by accepting a deed to the Lot or

as a party to any other type of conveyance, waives his right to claim the priority thereof.

7. Individual Assessments. In addition, individual assessments shall be levied by the Board of Trustees against a Lot and its Owner to reimburse the Association for:

a. fines levied and costs incurred in enforcing the Project Documents;

b. costs associated with the maintenance, repair or replacement of Common Area for which the Lot Owner is responsible;

c. any other charge, fee, due, expense, or cost designated as an Individual Assessment in the Project Documents; and

d. attorneys' fees, interest, and other charges relating thereto as provided in this Declaration.

8. Lien. If any Lot Owner fails or refuses to make any payment of his portion of the Common Expenses when due, that amount constitutes a lien on the interest of the Owner in the Property.

9. Late Assessments and Accruing Interest. Any Assessments delinquent for a period of more than ten (10) days shall incur a late charge of Twenty Five and no/100th Dollars (\$25.00) or five percent (5%) of the delinquent amount, whichever is greater. Interest at the rate of One and $\frac{1}{2}$ percent (1.5%) per month shall accrue on all delinquent accounts. The Board of Trustees may, in its sole discretion, change the amount of the late fee or waive late fees and accruing interest, but it is not required to do so.

10. Remedies. If any Assessments remain unpaid, the Board of Trustees, may elect to institute a lawsuit to obtain a judgment or foreclose the lien, or both.

11. Duty to Pay Independent. The duty to pay Assessments is independent of the duty of the Association to maintain the Common Areas and Facilities.

12. Foreclosure of Lien as Mortgage or Trust Deed. The lien for nonpayment of Assessments may be enforced by sale or foreclosure of the Owner's interest therein by the Board of Trustees. The sale or foreclosure shall be conducted in the same manner as foreclosures in deeds of trust or mortgages or in any other manner permitted by law. In any foreclosure or sale, the Owner shall pay the costs and expenses of such proceedings, including but not limited to the cost of a foreclosure report, reasonable attorney's Assessments, and a reasonable rental for the Lot during the pendency of the foreclosure action. The Board of Trustees

in the foreclosure action may require the appointment of a receiver to collect the rental without regard to the value of the mortgage security. The Association may bid for the Lot at foreclosure or other sale and hold, lease, mortgage, or convey the same. If the Board of Trustees elects to foreclose the lien in the same manner as foreclosures in deeds of trust, then the Owner by accepting a deed to the Lot or otherwise accepting conveyance of an interest in the Property, hereby irrevocably appoints the attorney of the Association (provided he is a member of the Utah State Bar) as Trustee, and hereby confers upon said Trustee the power of sale set forth with particularity in Utah Code Annotated, Section 57-1-23 (1953), as amended. In addition, Owner hereby transfers in trust to said Trustee all of his right, title and interest in and to the real property for the purpose of securing his performance of the obligations set forth herein.

13. Indemnity. The Association and each Lot Owner, by acceptance of a deed to a Lot or other document of conveyance, agrees to and shall indemnify every officer of the Association and Member of the Board of Trustees against any and all expenses, including but not limited to attorney's fees reasonably incurred by or imposed upon any officer or member of the Board in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then said Board of Directors) to which he may be a party by reason of being or having been an officer of the Association or Member of the said Board. The officers and Members of Board of Trustees shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct or bad faith. The officers of the Association and Members of said Board shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of said Association (except to the extent that such officers or Members of said Board may also be Members of said Association), and said Association shall indemnify and forever hold each such officer and Member of the said Board of Trustees free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall be exclusive of any other rights to which any officer or Member of the said Board, or former officer or Member of the said Board, may be entitled.

ARTICLE VII. STREET LIGHTING & UTILITY CHARGES

The Association shall maintain, repair and replace all street lights and lighting. The Declarant may elect to provide electricity to certain street lighting from an individual Lot or Dwelling Unit in which case the Lot Owner shall be entitled to a monthly credit in an amount equal to the greater of:

(1) \$2.00, or

(2) The sum equal to the number of watts in the light bulb, multiplied by the Utah Power and Light Kilowatt rate, multiplied by 4,000, divided by 1,000, and divided by 12.

ARTICLE VIII. INSURANCE

1. Insurance. The Association shall if reasonably available purchase and maintain adequate property insurance, public liability insurance, directors and officers insurance, and a fidelity bond.

2. Deductible. The deductible on a claim made against the property insurance policy of the Association shall be paid for by the party responsible for the loss covered by the claim. If multiple parties are responsible then each shall pay his proportionate share and if no party or parties are clearly responsible, then the deductible shall be paid by said Association.

3. Individual Insurance. Each Owner and Resident shall purchase and maintain adequate liability and property insurance on his Lot, Dwelling Unit, personal property and contents; provided, however, no Owner shall be entitled to exercise his right to maintain insurance coverage in such a way as to decrease the amount which the Association.

4. Priority of Coverage. In the event of duplicate coverage of a claim or loss, the Owner's insurance shall be primary and the insurance of the Association shall be secondary.

ARTICLE IX. DURATION, ENFORCEMENT AND AMENDMENT

1. Duration of Restrictions. These covenants are to run with the Land and shall be binding upon all Lot Owners and all persons claiming any right, title or interest in or to the Property by, through or under them for a period of forty (40) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by at least a majority of the then Lot Owners has been recorded, agreeing to change said covenants in whole or in part.

2. Enforcement. A Lot Owner or the Board of Trustees, shall be entitled to prosecute any proceeding, at law or equity, against any person, firm, entity, partnership, limited liability company, corporation or party violating, attempting or threatening to violate any of the terms, covenants, conditions and restrictions contained herein and shall be entitled to recover from the defaulting party all reasonable attorney's fees and costs incurred

thereby, regardless of whether a lawsuit is filed. Failure by the Board of Trustees or any Lot Owner to enforce any of said covenants or restrictions shall in no event be deemed a waiver of the right to do so thereafter.

ARTICLE X. MISCELLANEOUS

1. Agent for Service of Process. The initial agent to receive service of process is Gary M. Wright of 1544 North Woodland Park Drive, Layton, Utah 84041, which is also the initial office of the registered agent. After transition, the President of an Association is the person to receive service of process and the office of the registered agent is the street address of the President of the Association.

2. Perpetuities. If any of the covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall only continue until twenty-one (21) years after the death of all lives in being on the date this instrument is recorded, at which time they shall automatically terminate or be terminated.


3. Binding Effect of Covenants. All Lot Owners shall, at all times, obey all such rules, covenants, conditions and restrictions, and see that the same are faithfully observed by those persons over whom they have or exercise control and supervision. It is understood and agreed that such rules, covenants, conditions and restrictions shall run with the land, and shall inure to the benefit of and be binding upon all Lot Owners and their heirs, successors and assigns.

4. Severability. Invalidation of any one of these covenants by judgment or court order shall in no wise affect any of the above provisions which shall remain in full force and effect.

5. Effective Date. This Declaration of Protective Covenants shall become effective the date it is recorded in the Office of the County Recorder of Davis County, Utah.

IN WITNESS WHEREOF, the undersigned have executed these covenants and restrictions the ____ day of July, 1997.

GMW DEVELOPMENT, INC.

By: 
Title: Gary M. Wright, President

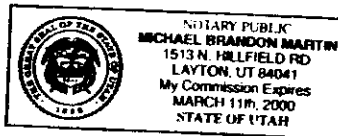
Wayne A. Belleau
WAYNE A. BELLEAU, Individually

STATE OF UTAH)
) ss:
COUNTY OF UTAH)

AUGUST

On the 5th day of July, 1997, personally appeared before me Gary M. Wright, who by me being duly sworn, did say that she is the President of the GMW DEVELOPMENT, INC., a Utah corporation, and that the within and foregoing instrument was signed in behalf of said corporation by authority of its By Laws or a resolution of its Board of Directors, and said Gary M. Wright, duly acknowledged to me that said Corporation executed the same.

Michael Brandon Martin
NOTARY PUBLIC
Residing At:
Commission Expires:

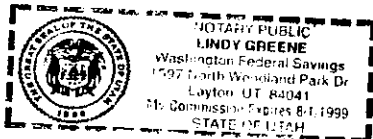


STATE OF)
) ss:
COUNTY OF)

On the 5th day of August, 1997, personally appeared before me WAYNE A. BELLEAU, who being by me first duly sworn, did say that he executed the same.

Lindy Greene
NOTARY PUBLIC
Residing at: Layton, Utah

My Commission Expires: 8/1/99



The Land described in the foregoing document is located in DAVIS COUNTY, UTAH and is described more particularly as follows:

BOUNDARY DESCRIPTION

A part of Section 10, Township 4 North, Range 1 West, Salt Lake Base and Meridian, U.S. Survey:

Beginning at a point 552.70 feet North 89°57'50" West along the Quarter Section line from the Southeast Corner of the Northwest Quarter of said Section 10; running thence South 91.85 feet to the North line of Chaple Hill No. 1, Layton City, Davis County, Utah; thence North 89°19'30" West 878.36 feet along the North line of Chapel Hill No. 1 and 3; thence North 378.28 feet; thence South 89°41'45" East 229.18 feet; thence North 743.76 feet; thence South 89°05'07" East 1311.13 feet to the West right-of-way line of Church Street; thence Southwesterly along the arc of a 2824.93 foot radius curve to the right a distance of 60.35 feet (Long Chord bears South 7°01'09" West 60.35 feet) along said right-of-way line; thence North 89°05'07" West 99.69 feet; thence South 0°07'30" West 115.01 feet; thence North 89°05'07" West 791.72 feet; thence South 0°00'01" West 564.35 feet; thence South 89°41'45" East 237.08 feet; thence South 292.12 feet to the point of beginning.

Contains 18.023 Acres