

FOR: _____
DATE: _____
CLASS: _____
BY: A
ED: _____

DECLARATION OF
PROTECTIVE COVENANTS FOR
THAYNES CANYON SUBDIVISION NO. 2

THIS DECLARATION is made this 31st day of March, 1976

by ROYAL STREET LAND COMPANY, a Utah corporation.

I. PURPOSE OF COVENANTS.

1.1 It is the intention of Royal Street Land Company, expressed by its execution of this instrument, that the property within Thaynes Canyon Subdivision No. 2 be developed and maintained as a highly desirable residential area. It is the purpose of these covenants that the present natural beauty, view and surrounding of Thaynes Canyon Subdivision No. 2 shall always be protected insofar as is possible in connection with the uses and structures permitted by this instrument. Royal Street Land Company hereby declares that the Property and every part thereof is held and shall be held, conveyed, devised, leased, rented, encumbered, used, occupied and improved and otherwise affected in any manner subject to the provisions of this Declaration, each and all of which provisions are hereby declared to be in furtherance of the general plan and scheme of ownership referred to herein and are further declared to be for the benefit of the Property and every part thereof and for the benefit of each owner thereof. All provisions hereof shall be deemed to run with the land as covenants running with the land or as equitable servitudes as the case may be, and shall constitute benefits and burdens to the Declarant, its successors and assigns, and to all parties hereafter owning any interest in the Property.

BOOK M79 PAGE 224

Entry No. <u>131393</u>	Book <u>M79</u>
RECORDED <u>4-23-76</u> at <u>2:00 PM</u>	Page <u>224-241</u>
REQUEST of <u>Summit County Title</u>	
FEE <u>\$ 19.50</u>	WANDA Y. SPRIGGS, SUMMIT CO RECORDER
INDEXED _____	By <u>Wanda Y. Spriggs</u>
	ABSTRACT _____

II. DEFINITIONS.

2.1 Declarant: "Declarant" means Royal Street Land Company, together with its successors and assigns.

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

2.3 Building: "Building" means any building constructed on the property.

2.4 Lot: A "lot" shall mean any parcel of property shown as such on the recorded Subdivision plat.

2.5 Subdivision: "Subdivision" shall mean Thaynes Canyon Subdivision No. 2 as recorded in the records of Summit County.

III. THAYNES CANYON HOMEOWNERS ASSOCIATION.

3.1 General Purposes and Powers: Thaynes Canyon No. 2 Homeowners Association ("Association") has been formed and incorporated as a Utah nonprofit corporation to be constituted and to perform functions as provided in this Declaration and to further the common interests of all owners of property which may be subject, in whole or in part, to any or all of the provisions, covenants, conditions and restrictions contained in this Declaration. The Association shall be obligated to and shall assume and perform all functions and obligations imposed on it or contemplated for it under this Declaration and any similar functions or obligations imposed on it or contemplated for it under any Supplemental or Amended Declaration with respect to any Property now or hereafter subject to this Declaration. The Association shall have all powers necessary or desirable to effectuate these purposes. It shall not engage in commercial, profit making activity.

3.2 Membership in Thaynes Canyon No. 2 Homeowners

Association: All persons who own or acquire the title in fee to any of the lands in the Subdivision (other than lands dedicated as public roads), by whatever means acquired, shall automatically become Members of the Association, in accordance with the Articles of Incorporation and By-Laws of said Association as presently in effect and as the same may be duly amended from time to time and also filed or recorded in the Summit County Records.

IV. ARCHITECTURAL COMMITTEE.

4.1 Architectural Committee: The Architectural Committee shall consist of three members. The Committee shall consist of two members selected by the Declarant with the one remaining membership being selected by the Thaynes Canyon No. 2 Homeowners Association. At such time as 90% of the lots are sold or in 5 years, whichever comes first, Declarant's memberships shall pass to the Homeowners Association. Said Architectural Committee shall have and exercise all of the powers, duties, and responsibilities set out in this instrument.

4.2 Approval by Architectural Committee: No improvements of any kind, including but not limited to dwelling houses, swimming pools, ponds, parking areas, fences, walls, tennis courts, garages, drives, bridges, antennae, flag poles, curbs and walks shall ever be erected, altered or permitted to remain on any lands within the Subdivision, nor shall any excavating, alteration of any stream, clearing, removal of trees or shrubs, or landscaping be done on any lands within the Subdivision, unless the complete plans and specifications therefor are approved by the Architectural Committee prior to the commencement of such work.

A fee of \$50 shall be paid to the Architectural Committee to cover costs and expenses of review. Improvements to be done after the initial improvements costing less than \$500 shall be submitted as directed to the Architectural Committee for approval but the fee of \$50 shall not be required. The Architectural Committee shall consider the materials to be used on the external features of said buildings or structures, including exterior colors, harmony of external design with existing structures within said subdivision, location with respect to topography and the adjacent golf course and finished grade elevations and harmony of landscaping with the natural setting and surrounding native trees, bushes and other vegetation. The complete architectural plans and specifications must be submitted in duplicate, must include at least four different elevation views. One complete copy of plans and specifications shall be signed for identification by the owner and left with the Architectural Committee. In the event the Architectural Committee fails to take any action within 45 days after complete plans for such work have been submitted to it, then all of such submitted plans shall be deemed to be approved. In the event the Architectural Committee shall disapprove any plans, the person submitting such plans may appeal the matter at the next annual or special meeting of the Members of the Association, where an affirmative vote of at least two-thirds of the membership shall be required to change the decision of the Architectural Committee.

4.3 Variances: Where circumstances, such as topography, hardship, location of property lines, location of trees, brush, streams or other matters require, the Architectural Committee may, by an affirmative vote of a majority of the members of the Architectural Committee, allow reasonable

variances as to any of the covenants and restrictions contained in this instrument, on such terms and conditions as it shall require.

4.4 General Requirements: The Architectural Committee shall exercise its best judgment to see that all improvements, construction, landscaping, and alterations on the lands within the Subdivision conform and harmonize with the natural surroundings and with existing structures as to external design, materials, color, siting, height, topography, grade and finished group elevation.

4.5 Preliminary Approvals: Persons who anticipate constructing improvements on lands within the Subdivision, whether they already own lands or are contemplating the purchase of such lands may submit preliminary sketches of such improvements to the Architectural Committee for informal and preliminary approval or disapproval. All preliminary sketches shall be submitted in duplicate and shall contain a proposed site plan together with sufficient general information on all aspects that will be required to be in the complete plans and specifications to allow the Architectural Committee to act intelligently on giving an informed and preliminary approval or disapproval. The Architectural Committee shall never be finally committed or bound by any preliminary or informal approval or disapproval until such time as complete plans are submitted and approved or disapproved.

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

4.7 Architectural Committee Not Liable: The Architectural Committee shall not be liable in damages to any person submitting any plans for approval, or to the Association or to any owner or

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

4.8 Written Records: The Architectural Committee shall keep and safeguard complete written records of all applications for approval submitted to it (including one set of all preliminary sketches and all architectural plans so submitted) and of all actions of approval or disapproval and all other actions taken by it under the provisions of this instrument which records shall be maintained for a minimum of five years after approval or disapproval.

4.9 Occupancy: No Building within the Property shall be occupied until and unless the owner of any Building shall first have obtained a written final inspection and approval from the Architectural Committee stating that the owner has completed the Building in accordance with, and complied with, all approved plans and is entitled to occupancy.

V. GENERAL RESTRICTIONS ON ALL PROPERTY.

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

5.2 No Mining, Drilling or Quarrying: No mining, quarrying, tunneling, excavating or drilling for any substances within the earth, including oil, gas, minerals, gravel, sand, rock, and earth, shall ever be permitted on the surface of the Property.

5.3 No Business Uses: The Lots within the Property except Lot 42, shall be used exclusively for residential living purposes, such purposes to be confined to approved residential Buildings within the Property. No Lots within the Property shall ever be occupied or used for any commercial or business purposes, provided, however, that Lot 42 may be used for the purpose of constructing and operating a tennis club and, provided, however, that nothing in this Paragraph 5.3 shall be deemed to prevent (a) Declarant or its duly authorized agent from using any Lot owned by Declarant as a sales office, sales model, property management office or rental office, or (b) any owner or his duly authorized agent from renting or leasing said owner's residential Building from time to time, subject to all of the provisions of this Declaration.

5.4 Restriction on Signs: With the exception of a sign no larger than three square feet identifying the architect and a sign of similar dimension identifying the prime contractor to be displayed only during the course of construction and a sign no larger than three square feet for the owner to advertise his home or lot for sale, no signs or advertising devices, including but without limitation, commercial, political, informational or directional signs or devices, shall be erected or maintained on any of the Property, except signs approved in writing by the Architectural Committee as to size, materials, color and location: (a) as necessary to identify ownership of the Lot and its

address; (b) as necessary to give directions; (c) as necessary to identify the aforementioned tennis club; (d) to advise of rules and regulations; (e) to caution or warn of danger; and (f) as may be required by law.

5.5 Restrictions on Animals: No animals or other pets shall be kept or allowed to remain on any of the Property unless and until written authorization is obtained from the Board of Trustees of the Association. The Board of Trustees, in its sole discretion, shall have the right to revoke such authorization at any time in its sole discretion and shall have the power to require any owner or lessee of lands in the Subdivision to remove any animal or other pet belonging to it which is not disciplined or which constitutes an undue annoyance to other owners or lessees of land in the Subdivision.

5.6 No Resubdivision: No Lot shall be resubdivided and no Building shall be constructed or allowed to remain on any tract that comprises less than one full lot.

5.7 Underground Utility Lines: All water, gas, electrical, telephone and other electronic pipes and lines and all other utility lines within the limits of the Property must be buried underground and may not be exposed above the surface of the ground.

5.8 Service Yards: All clothes lines, equipment, service yards or storage piles on any Lot in the Property shall be kept screened by approved planting or fencing so as to conceal them from the view of neighboring Lots, streets, access roads and areas surrounding the Property.

5.9 Maintenance of Property: All Property and all improvements on any Lot shall be kept and maintained by the owner thereof in clean, safe, attractive and sightly condition and in good repair.

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

5.11 No Hazardous Activities: No activities shall be conducted on any Property and no improvements constructed on any Property 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 Property; and no open fires shall be lighted or permitted on any Property except in a contained barbecue unit while attended and in use for cooking purposes or within a safe and well-designed interior fireplace.

5.12 No Unsightliness: No unsightliness shall be permitted upon any of the Property. Without limiting the generality of the foregoing, (a) any unsightly structures, facilities, equipment, tools, boats, vehicles other than automobiles, objects and conditions shall be enclosed within an approved Building or appropriately screened from view, except equipment and tools when in actual use for maintenance or repairs; (b) no trailers, mobile homes, tractors, truck campers or trucks other than pickup trucks shall be kept or permitted to remain upon the Property; (c) no vehicle, boat or equipment shall be constructed, reconstructed, repaired or abandoned upon any of the Property; (d) no lumber, grass, shrub or tree clippings, plant waste, metals, bulk materials or scrap shall be kept, stored or allowed to accumulate on any of the Property, except in service yards meeting the requirements of Section 5.9; (e) refuse, garbage and trash shall be placed and kept at all times in a covered container and such container shall be kept within an enclosed structure or appropriately screened from view; (f) hanging,

drying or airing of clothing or household fabrics shall not be permitted within Buildings or on Lots if visible from Buildings, Lots or areas surrounding the Property.

5.13 No Annoying Lights, Sounds or Odors: No light shall be emitted from any Lot or Property which is unreasonably bright or causes unreasonable glare; no sound shall be emitted from any Lot or Property which is unreasonably loud or annoying including but without limitation, speakers, horns, whistles, bells or other sound devices, except security and fire alarm devices used exclusively to protect any of the Property or Buildings; and no odors shall be emitted from any Lot or Property which is noxious or offensive to others.

5.14 No Cesspools or Septic Tanks: No cesspools or septic tanks shall be permitted on any Property. Any other type of sewage disposal system shall be installed only after approval by the Architectural Committee and all governmental health authorities having jurisdiction.

5.15 Rules and Regulations: No owner shall violate the rules and regulations for the use of the Lots as adopted from time to time by the Association. No such rules or regulations shall be established which violate the intention or provisions of this Declaration or which shall unreasonably restrict the use of any Lot by the owner thereof.

5.16 Stream Crossings: Stream crossings for access to lots must be accomplished by the construction of single span bridges the design of which must be approved by the Architectural Committee in writing. Culverts for stream crossings are prohibited except under public dedicated roads.

VI. RESTRICTIONS ON LOTS.

6.1 Number and Location of Buildings: With the exception of Lot No. 42, no Buildings or structures shall be placed, erected, altered, or permitted to remain on any Lot other than one single family dwelling house, and one garage together with related nonresidential structures and improvements of the types described in Section 4.2 hereof. Each Lot must be improved with a garage with at least a two-car capacity at the time of construction of the dwelling house on the Lot.

The building sites for all such Buildings and structures shall be approved by the Architectural Committee. In approving or disapproving the building sites, the Architectural Committee shall take into consideration the locations with respect to topography and finished grade elevations and the effect thereof on the setting and surroundings of the Subdivision.

6.2 Residence Floor Area: The residence structure which may be constructed on a lot in the Property shall have a minimum living floor area, exclusive of garages, balconies, porches, and patios of 1,500 square feet.

6.3 Dwelling House to be Constructed First: With the exception of Lot No. 42, no garage or other structure shall be constructed on any Lot until after commencement of construction of the dwelling house on the same Lot except as otherwise specifically permitted by the Architectural Committee. All construction and alteration work shall be prosecuted diligently, and each Building, structure, or improvements which is commenced on any Lot shall be entirely completed within 18 months after commencement of construction.

6.4 Setbacks: All Buildings and structures on all Lots shall be setback at least 10 feet from the side and rear lot lines and a minimum of 20 feet from the front lot line. The "Front Lot Line" is defined to mean that Lot Line of a Lot abutting on a dedicated road. In the event a Lot abuts on more than one of such road, the owner or owners of such Lot shall be required to set back a minimum of 20 feet from each dedicated road.

6.5 Height Limitations: No building or structure shall be placed, erected, altered or permitted to remain on any Lot which exceeds a height of 30 feet measured vertically from the average finished grade elevation of the foundation of such building or structure.

6.6 Towers and Antennae: No Towers, and no exposed or outside radio, television or other electronic antennae, with the exception of television receiving antennae shall be allowed or permitted to remain on any lot.

6.7 Used or Temporary Structures: No used or previously erected or temporary house, structure, house trailer, mobile home, camper, or nonpermanent outbuilding shall ever be placed, erected, or allowed to remain on any Lot except during construction periods, and no dwelling house shall be occupied in any manner prior to its completion and approval in accordance with Section 4.9 hereof.

6.8 Fences: It is the general intention that all perimeter fencing within the Property have a continuity of appearance in keeping with the setting and surroundings of the Property. The term "perimeter fencing" is defined to mean fences along or near Lot lines or fencing not connected with

a Building or structure. All perimeter fencing shall be of a type specified by the Architectural Committee. No fence shall be allowed to be constructed or remain across a stream on the Property. Interior fences, screens or walls which are associated or connected with a Building or structure may be of such design, material and height as may be approved by the Architectural Committee.

6.9 Flashings and Roof Gutters: Flashing or roof gutters or other metal fittings on the exterior of Buildings shall be painted to match adjacent materials on Buildings.

6.10 Limitation on Driveway Access: Driveway access from Thaynes Canyon Drive to Lots 3, 5, 6, 7, 8, 32, 34, 35, 36 and 37 is specifically prohibited. Driveway access from Three Kings Court to Lots 4, 10 and 23 is specifically prohibited. Driveway access from Webster Drive to Lots 33 and 40 is specifically prohibited.

VII ENFORCEMENT.

7.1 Enforcement and Remedies: The obligations, provisions, covenants, restrictions and conditions contained in this Declaration or any Supplemental or Amended Declaration with respect to the Association or Lots shall be enforceable by Declarant or by any owner of a Lot subject to this Declaration by a proceeding for a prohibitive or mandatory injunction. The obligations, provisions, covenants, restrictions and conditions contained in this Declaration or any supplemental or Amended Declaration with respect to a person or entity or property of a person or entity other than the Association or Declarant shall be enforceable by Declarant or the Association by a proceeding for a prohibitive or mandatory injunction. If court proceedings are instituted in connection with the rights of enforcement and remedies

provided in this Declaration, the prevailing party shall be entitled to recover its costs and expenses in connection therewith, including reasonable attorneys' fees.

7.2 Protection of Encumbrancer: No violation or breach of any provision, restriction, covenant or condition contained in this Declaration or any Supplemental or Amended Declaration and no action to enforce the same shall defeat, render invalid or impair the lien of any mortgage or deed of trust taken in good faith and for value and perfected by recording prior to the time of recording of an instrument giving notice of such violation or breach, or the title or interest of the holder thereof or the title acquired by any purchaser upon foreclosure of any such mortgage or deed of trust. Any such purchaser shall, however, take subject to this Declaration or any Supplemental or Amended Declaration except only that violations or breaches which occur prior to such foreclosure shall not be deemed breaches or violations hereof with respect to such purchaser, his heirs, personal representatives, successors and assigns.

7.3 Limited Liability: Neither Declarant, the Association, the Board of Trustees of the Association, the Architectural Committee nor any member, agent or employee of any of the same shall be liable to any party for any action or for any failure to act with respect to any matter if the action taken or failure to act was in good faith and without malice.

VIII. GENERAL PROVISIONS.

8.1 Duration of Declaration: Any provision, covenant, condition or restriction contained in this Declaration or any Supplemental or Amended

Declaration which is subject to the common law rule sometimes referred to as the rule against perpetuities, shall continue and remain in full force and effect for the period of fifty years or until this Declaration is terminated as hereinafter provided, whichever first occurs. All other provisions, covenants, conditions and restrictions contained in this Declaration or in any Supplemental or Amended Declaration shall continue and remain in full force and effect until January 1, 2026 A. D., provided, however, that unless at least one year prior to said time of expiration, there is recorded an instrument directing the termination of this Declaration, executed by the owners of not less than two-thirds of the Lots then subject to this Declaration, said other provisions, covenants, conditions and restrictions shall continue automatically for an additional ten years and thereafter for successive periods of ten years unless, at least one year prior to the expiration of any such extended period of duration, this Declaration is terminated by recorded instrument directing termination signed by the owners of not less than two-thirds of the Lots then subject to this Declaration as aforesaid.

8.2 Amendment or Revocation: At any time while any provision, covenant, condition or restriction contained in this Declaration or any Supplemental or Amended Declaration is in force and effect, it may be amended or repealed by the recording of a written instrument specifying the amendment or the repeal, executed by the owners of not less than two-thirds of the Lots then subject to this Declaration. No such amendment or repeal shall be effective with respect to the holder or successor or assign of the holder of a mortgage or deed of trust recorded prior to recording of the

instrument specifying the amendment or repeal unless such holder executes the said instrument.

8.3 Severability: Invalidity or unenforceability of any provision of this Declaration or of any Supplemental or Amended Declaration in whole or in part shall not affect the validity or enforceability of any other provision or valid and enforceable part of a provision of this Declaration.

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

8.5 No Waiver: Failure to enforce any provision, restriction, covenant or condition in this Declaration or in any Supplemental or Amended Declaration shall not operate as a waiver of any such provision, restriction, covenant or condition or of any other provision, restriction, covenant or condition.

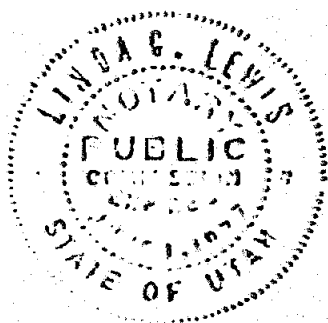
IN WITNESS WHEREOF, Royal Street Land Company has executed this Declaration the day and year first above written.

ROYAL STREET LAND COMPANY,
a Utah Corporation

By J. Warren King
J. Warren King, President

STATE OF UTAH)
) ss.
COUNTY OF)

On the 31st day of March, 1976, personally appeared before me J. WARREN KING, who, being by me duly sworn did say that he is the President of ROYAL STREET LAND COMPANY, a Utah corporation, and that the within and foregoing Declaration of Protective Covenants for Thaynes Canyon Subdivision No. 2 was signed in behalf of said corporation by authority of the unanimous written consent of all of the Directors of its Board of Directors, and said J. WARREN KING duly acknowledged to me that said corporation executed the same and that the seal affixed is the seal of said corporation.



Linda G. Lewis
Notary Public

Residing at Heber City Utah

My Commission Expires:

6-1-77

EXHIBIT A
TO DECLARATION OF PROTECTIVE COVENANTS
FOR THAYNES CANYON SUBDIVISION No. 2

The land referred to in this report is situated in the County of Summit,
State of Utah, and is described as follows:

Beginning at a point North $89^{\circ}51'02''$ West along the section line 891.345 feet and North 586.46 feet from the East quarter corner of Section 8, Township 2, South, Range 4 East, Salt Lake Base and Meridian and running thence North $66^{\circ}16'$ West 72.67 feet to a point of a 225.00 foot radius curve to the left; thence Northwesterly along the arc of said curve 130.18 feet to a point of tangency; thence South $80^{\circ}35'$ West 722.37 feet to a point of a 225.00 foot radius curve to the right; thence Northwesterly along the arc of said curve 280.23 feet to a point of tangency; thence North $28^{\circ}03'20''$ West 105.56 feet; thence North $61^{\circ}56'40''$ East 165.00 feet; thence North $0^{\circ}33'$ West 490.00 feet; thence North $19^{\circ}26'$ West 157.00 feet; thence North $65^{\circ}10'$ East 113.00 feet; thence South $56^{\circ}40'$ East 65.00 feet; thence North $72^{\circ}45'$ East 72.00 feet; thence South $41^{\circ}21'$ East 500.00 feet; thence South $51^{\circ}32'$ East 555.00 feet; thence South $46^{\circ}20'$ East 179.86 feet; thence South $23^{\circ}44'$ West 44.03 feet to the point of beginning.

Contains 13.321 Acres.

Also known as Lots No. 1 through 42, Thaynes Canyon Subdivision No. 2 according to the official plat thereof. Said Subdivision was recorded in Summit County, Utah on March 1, 1976 as Document No. 130671.