

22212

THE RETREAT, PLAT A  
DECLARATION OF BUILDING AND USE RESTRICTIONS

MINA B. FIELD  
UTAH COUNTY RECORDER  
OFFICE

1984 JUL 27 PM 2:03

RECORDED AT THE COUNTY CLERK'S OFFICE  
*Deanna Kelly*

22212

PART A. PREAMBLE

KNOW ALL MEN BY THESE PRESENTS:

THAT, WHEREAS, the undersigned, being the owners of the following described real property located in Orem City, Utah County, State of Utah to-wit:

Lots 1 to 25 inclusive, The Retreat; Plat A according to the plat thereof, as recorded in the office of the county recorder of said County.

do hereby establish the nature of the use and enjoyment of all lots in said subdivision and do declare that all conveyances of said lots shall be made subject to the following conditions, restrictions, and stipulations:

PART B. 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 stories in height and private garages and/or carports for not more than two vehicles. All construction to be of new materials.
2. Architectural Control. No building or fence shall be erected, placed, or altered on any lot until the construction plans and specifications and a plan showing the location of the structure or fence have been approved by the Architectural Control Committee as to quality of workmanship and materials, harmony of external design with existing structures, and as to location with respect to topography and finish grade elevation. Approval shall be as provided in Part C.
3. Dwelling cost, Quality and Size. No dwelling shall be permitted on any lot at a cost of less than \$35,000.00 exclusive of lot, based upon cost levels prevailing on the date these covenants are recorded, it being the intention and purpose of the covenants to assure that all dwellings shall be of a quality of workmanship and materials substantially the same or better than that which can be produced on the date these covenants are recorded at the minimum cost stated herein for the minimum permitted dwelling size. The main floor area of the main structure, exclusive of one-story open porches and garages, shall be not less than 800 square feet.
4. Building Location.
  - (a) No building shall be located on any lot nearer than 25 feet to the front lot line, or nearer than 15 feet to any side street line.
  - (b) No dwelling shall be located nearer than 5 feet to any interior lot line. No dwelling shall be located on any interior lot nearer than 12 feet to the rear lot line. Other permitted accessory buildings may be located ten feet or more from the rear lot line, so long as such buildings do not encroach upon any easements.

BOOK 2152 PAGE 485

(c) For the purpose of this covenant, caves, 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 40 feet at the front building setback line nor shall any dwelling be erected or placed on any lot having an area of less than 4,000 square feet, except that a dwelling may be erected or placed on corner and cul-de-sac lots as shown on the recorded plat.

6. Easement. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat. 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 of 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, irrigation company or utility company is responsible.

7. Nuisances. No noxious or offensive activity shall be carried on upon 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 articles which are unsightly in the opinion of the Architectural Control Committee will be permitted in carports, unless in enclosed areas designed for such purpose. No automobiles, trailers, boats or other vehicles are to be stored on streets or front or side lots unless they are in running condition, properly licensed, inspected and are being regularly used.

8. Temporary Structures. No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuildings 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 square foot, one sign of not more than five square feet advertising the property for sale or rent, or signs used by a builder to advertise the property during the construction and sales period.

10. 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.

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 objects are to be stored on any lot in view of the general public.

12. Sight Distance at Intersection. No fence, wall, hedge, or shrub planting which obstructs sight lines at elevations between 2 and 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 25 feet from the intersection of the street lines or in 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 distance 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. Landscaping. Trees, lawns, shrubs, or other plantings provided by the developer or builder shall be properly nurtured and maintained or replaced at the property owner's expense upon the request of the Architectural Control Committee.

15. 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 of 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, irrigation company or utility company is responsible.

16. Recreational Vehicles. Only those Recreational Vehicles which can be parked entirely within the garage or carport with the garage door closed completely can be kept in the subdivision. Under no circumstances can a Recreational Vehicle be parked in the driveway or streets except for loading or unloading.

17. Dwelling units constructed on the respective lots must be so constructed as to utilize a patio fence. This patio fence shall be constructed simultaneously with the dwelling unit and shall be located so that it is immediately contiguous to, in line with and on the same plane as the exterior wall of the dwelling unit nearest the location of the patio fence. The patio fence and contiguous exterior of the respective dwelling unit shall be on a line parallel to the nearest side boundary line of the lot and shall be located no less and no greater than five (5) feet from said side boundary line. The patio fence may utilize the exterior wall of the dwelling unit as a part of said fence, (unless an alternative location of the dwelling unit is approved pursuant to the other provisions of these covenants.) Neither the patio wall nor the dwelling unit exterior wall shall provide for any openings, access or entry ways into the adjacent lot. The cost of construction, maintenance and repair of the patio fence shall be the sole and exclusive responsibility of the lot owner on whose property the same is located. All patio walls and fences shall be constructed and approved in accordance with the provisions of part B. paragraph 2 hereof.
  
18. There is hereby reserved on each lot (the "servient estate") a five (5) foot easement which is located between the patio fence (including such dwelling unit wall as is a part of the patio fence) and the nearest parallel side boundary line, for the sole and exclusive use of the adjoining lot (the "dominant estate") owner. Such easement may be used by the owner of the dominant estate for drainage, for planting and caring of shrubbery and other landscaping, and other residential uses, subject to the following provisions:
  - (a) The owner of the servient estate shall have the right at all reasonable times to enter upon the easement in order to perform necessary construction, maintenance and repair of the servient estate, including the patio fence. The use of said easement by the servient estate shall not exceed a reasonable period of thirty (30) days each year for essential maintenance. Any landscaping, shrubbery or planting in the easement area which is removed or damaged by the owner of the servient estate shall be repaired or replaced at the expense of the owner of the servient estate causing such damage; and
  - (b) The servient estate shall have the right of drainage over, across and upon the easement area for water draining from any structure upon the servient estate and the right to maintain eaves and appurtenances thereto, together with the portions of any dwelling unit adjacent to or a part of the patio fence; and
  - (c) The owner of the dominant estate shall not attach any object to the patio fence or to any dwelling unit or structure belonging to the servient estate or disturb the grading of the easement area or otherwise act with respect to the easement in any manner which would damage the servient estate; and

(d) Any damage caused by the owner of the dominant estate to the servient estate or structures located thereon shall be repaired or paid for by the owner of the dominant estate; and

(e) The owner of the dominant estate shall, within sixty (60) days after taking possession of said easements (weather and seasonal conditions permitting), provide for and thereafter maintain appropriate landscaping of the easement area.

19. Each lot owner shall, within 1 year, after taking possession of the property (weather and seasonal conditions permitting) provide for appropriate landscaping of the sideyard and rear yard. Each lot owner shall have the duty to maintain his landscaping (including that landscaping within the easement area) in an attractive well-kept manner at all times.

#### PART C. ARCHITECTURAL CONTROL COMMITTEE

1. Membership. A majority of the committee may designate a representative to act for it. In the event of death or resignation of any member of the committee, the remaining members of the committee shall have full authority to select a successor. Neither the members of the committee, nor its designated representative, shall be entitled to any compensation for services performed pursuant to this covenant. The owner of record of each lot shall have one representative vote and a majority of the votes shall have the power through a duly recorded written instrument to change the membership of the committee or to withdraw from the committee or restore to it any of its powers and duties. The Architectural Control Committee is composed of John L. Dester, Wayne R. Luck and Dan Hansen.

2. Procedure. The Committee's approval or disapproval as required in these covenants shall be in writing. In the event the committee, or its designated representative, fails to approve or disapprove within 30 days after plans and specifications have been submitted to it, or in any event, if no suit to enjoin the construction has been commenced prior to the completion thereof, approval will not be required, and the related covenants shall be deemed to have been fully complied with.

3. The architectural control committee shall have the power and authority to take such action as it deems necessary to keep any portion of the subject property and exterior of any structure maintained so that the same complies with the provisions of this declaration. In this connection, the committee may notify any lot owner of any violation hereunder, and after due notice, if the owner fails to correct such violation, then in such event the architectural control committee shall cause the necessary corrections to be made and compliance hereunder to be effected, and the cost and expenses thereof shall constitute a lien against such real property affected and shall also be the personal obligation of the owner of said property. The architectural control committee shall have the right to foreclose its lien against the said real property in the manner and nature that mechanics liens are foreclosed and shall also have an action at law against the owner for the amount involved.

PART D. GENERAL PROVISIONS

1. Term. These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of forty years from the date these covenants are recorded, after which time, said covenants shall be automatically extended for successive periods of ten years unless an instrument signed by a majority of the then owners of the lots has been recorded, agreeing to change said covenants in whole or in part. The owner of record of each lot shall have one vote.

2. Enforcement. Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant either to restrain violation or recover damages.

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

4. Amendment. These covenants are to run with the land and shall be binding on all parties and all persons claiming under them unless an instrument signed by seventy-five percent of the then owners of the lots has been recorded. Agreeing to change said covenants in whole or in part.

Dated this July 26 day of July, 1984

[Signature]  
John L. Dester

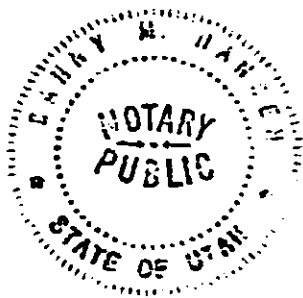
State of Utah )  
                  ss.  
County of Utah )

On the 26<sup>th</sup> day of July, 1984, personally appeared before me John L. Dester, who being by me duly sworn did say that he the said John L. Dester, signed the within and foregoing instrument in behalf of The Retreat, Plat A.

In witness whereof I have hereunto set my hand

[Signature]  
Notary Public

Residing at: Erlem, Utah  
My commission expires: 4-2-85



22212