

RECORDED 11/6/79 AT 2 P.M. BOOK 210 PAGE 831-852
REQUEST OF Bruce Whited
FEE PAID - JANET J. LUND, SANPETE COUNTY RECORDER
\$26.00 BY Janet J. Lund SECURITY
GRANTOR'S W
GRANTEES W

See Amended " Rec. 8-18-99 Blk 442 Pg 2686-2770
WHISPERING PINES

Ucll

This declaration, containing covenants, conditions, reservations, and restrictions relating to Whispering Pines, a recreational housing development, is made on the date set forth at the end hereof by Swan Creek Village, Inc., a Utah corporation, hereinafter called "declarant", for itself, its successors, grantees and assigns.

RECITALS

Declarant is the owner and/or contract purchaser of the property described within the boundary description on an exhibit entitled Exhibit A consisting of one page which is attached hereto and incorporated by reference.

Declarant desires and intends to develop the Whispering Pines recreational housing project in phases, in two plats, a plat A to consist of lots that are equal to or larger than 1 acre lots and smaller than 2 acre lots, and plat B consisting of lots that are equal to and larger than 2 acre lots. It is planned that plat A shall contain 251 lots, and plat B shall contain 83 lots.

DECLARATION

WITNESSETH

NOW, THEREFORE, for such purposes, declarant hereby makes the following declaration containing covenants, conditions, reservations and restrictions relating to the Whispering Pines development, and hereby declares that all of said lots and property described in Exhibit A are held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved subject to the following restrictions, all of which are declared and agreed to be in furtherance of a plan for the sub-division, improvement and sale of said lots and are established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of the property described. All of the restrictions shall run with the

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land and shall be binding upon all parties having or acquiring any right, title or interest in and to the real property or any part or parts thereof subject to such restrictions:

1. Name of project: The name by which this project shall be known is Whispering Pines.

2. Definitions.

a. The word "declarant," or "developer" shall mean and refer to Swan Creek Village, Inc., a Utah corporation, and/or its successor.

b. The word "phase" shall mean and refer to each separate step in development of the property which is initiated through submission of a tract to the terms of this declaration.

3. Term.

a. These restrictions shall effect and run with the land and shall exist and be binding upon all parties and all persons claiming under them until January 1, 1985, after which time the same shall be extended for successive periods of ten years each, unless an instrument signed by a majority of the then owners of the lots subject thereto has been recorded, agreeing to change the covenants in whole or in part; provided, however, that at any time before January 1, 1995, these restrictions may be amended by the vote of the then record owners of two thirds of such lots and thereafter by a majority of such owners.

4. Mutuality of Benefit and Obligation. The restrictions and agreements set forth herein are made for the mutual and reciprocal benefit of each and every lot in the subdivision and the development and are intended to create mutual, equitable servitudes upon each of said lots in favor of each and all of the other lots therein; to create reciprocal rights between the respective owners of all said lots; to create a privity of contract and estate between the grantees of said lots; their

5. Planning and Environmental Control Committee. For the purpose of further insuring the development of the lands so platted as an area of high standards, there shall be formed a committee which shall have the power to control the buildings, structures, and other improvements placed on each lot as well as to make such exceptions to these reservations and restrictions as the developer or committee hereinafter designated, shall deem necessary and proper.

a. A planning and control committee shall be organized by declarant and shall consist of three members to be initially appointed by declarant. Committee members shall be subject to removal by declarant and any vacancies from time to time existing shall be filled by appointment of declarant, or in the event of declarant's failure to so appoint within two months after any such vacancy, then by the Board of Directors of the Whispering Pines Property Owners Association, (hereinafter called "association"); provided, however that declarant shall relinquish to the Board of Directors of the association the power of appointment and removal reserved herein to the declarant not later than January 1, 1986. Such transfer of power shall be evidenced in writing.

b. Whether or not provision therefore is specifically stated in any conveyance of a lot made by the declarant, the owner or occupant of each and every lot, by acceptance of title thereto or by taking possession thereof, covenants and agrees that no building, wall, or other structure shall be placed upon such lot unless and until the plans and specifications therefore and plot plans have been approved in writing by the committee aforementioned. Each such building, wall, or structure shall be placed on the premises only in accordance with the plans and specifications and plot plans so approved. Refusal of approval of plans and specifications by such committee may be based on any ground,

c. There shall be submitted to the committee a building application on forms approved by declarant together with two complete sets of plans and specifications for any and all proposed improvements, the erection or alterations of which is desired, and no structures or improvements of any kind shall be erected, altered, placed or maintained upon any lot unless and until the final plans, elevations, and specifications therefore have received such written approval as herein provided. Such plans shall include plot plans showing the location on the lot of the building, wall, fence, or other structure proposed to be constructed, altered, placed or maintained, together with the scheme for roofs and exteriors thereof and proposed landscaped planting. The committee shall set a filing fee which from time to time may be increased or decreased as needed.

d. The committee shall approve or disapprove plans, specifications and details within 30 days from the receipt thereof.

e. Neither the committee nor any architect or agent thereof or of declarant shall be responsible in any way for any defects in any plans or specifications submitted, revised or approved in accordance with the foregoing provisions, nor for any structural or other defects in any work done according to such plans and specifications.

6. Land Use and Improvements. The land described in Exhibit A, and each and every lot therein shall be used for single family dwellings and structures customarily incidental to single family dwellings. Club house facilities, parks, play-grounds and other community or recreation centers may be constructed upon said land in the discession of the "association", and member land owners as they see fit to so construct in the future.

Lot owners and owners of structures thereon may lease or rent their units with their appurtenant rights subject to the terms and conditions chosen solely by the owner and his lessee, except that all unit owners, their tenants and other occupants or users of such shall be subject to this declaration, and all rules and regulations established by the aforementioned committee, and association.

None of the lots shall at any time be divided into more than one building site and no building sites shall be less in area than the area of the smallest lot platted for the development herein. The minimum lot size shall be 43,560 square feet for plat A, and 87,120 feet for plat B.

a. Set-Back Requirements. By this declaration, declarant, and all lot owners agree to be subject and comply with any and all applicable zoning ordinances of Sanpete County. In that regard, and to retain desired separation of buildings on adjacent lots, encouraging opportunity for individual freedom for developments of the lots, the following guidelines are set:

1. Dwelling shall be set back 30 feet from front yards along a line paralleling the front property line, 10 feet for side yards, along a line paralleling side property lines, 30 feet for rear yards, along a line paralleling the rear yard line, except that this rear yard may be reduced to 15 feet where bordering on an "open area" within the sub-division, provided that no dwelling shall be constructed nearer than 20 feet from a bordering street.

2. Provided, that no dwelling may be constructed nearer than 15 feet from an accessory building or 25 feet from a dwelling on an adjacent lot, and no accessory building may be constructed nearer than 15 feet from a dwelling on an adjacent lot. (First issued building permit shall prevail in situations

where buildings are planned but not yet constructed on adjacent lots. Such permits shall be good for one year only).

7. Management. In connection with the aforementioned association, the business, property and affairs of the project shall be managed, operated and maintained by the lot owners and in particular by a management committee association as agent for the lot owners. The management committee shall have, and is hereby granted, the following authority and powers:

1. The authority to execute and record, on behalf of all unit owners, any amendment to the declaration or exhibits herein, which has been approved by the vote or consent necessary to authorize such amendment;

2. The authority to enter into contracts which in any way concerns the project, so long as any vote or consent of the unit owners necessitated by the subject matter of the agreement has been obtained;

3. The power and authority to convey or transfer any interest in real property, so long as any vote or consent necessary under the circumstances has been obtained;

4. The power and authority to purchase, otherwise acquire, and accept title to, any interest in real property, so long as such action has been authorized by any vote or consent which is necessary under the circumstances;

5. The authority to promulgate such reasonable rules, regulations, and procedures as may be necessary or desirable to aid the committee in carrying out any of its functions or to insure that the project is maintained and used in a manner consistent with the interests of the owners; and

6. The power and authority to perform any other acts and enter into any other transactions which may be reasonably necessary for the management committee to perform its functions as agents for the owners.

7. The power and authority to enter into contracts, covenants, charters, or a special water used district, in order to assure that the requirements of the Utah State Board of Health are met in relationship to the use of water, and to assure compliance with all other applicable state and local regulations related thereto.

The management committee shall be composed of nine members. At the first regular association meeting three committee members shall be elected for three year terms, three committee members shall be elected for two year terms, and three committee members for one year terms. At each annual association meeting thereafter any vacant seat on the committee shall be filled with a member elected for a three year term. Only lot owners and officers and agents of owners shall be eligible for committee membership. Notwithstanding the above, until January 1, 1986, or until 90% of the development has been sold, declarant alone shall be entitled to select five of the nine committee members. Notwithstanding the foregoing limitations, until the first annual meeting of the owners, the members of the committee, although numbering less than nine, shall be the following persons and each shall hold the office indicated opposite his name:

President: Scott W. Bennett

Vice-President: Newell Dalton

Secretary-Treasurer: James H. Rentmeister

The committee may carry out its obligations through a project manager. Any manager so engaged shall be an independent contractor and not an agent or employee of the committee.

8. General Prohibitions and Requirements.

a. The following general prohibitions and requirements shall prevail as to the construction or activities conducted on any lot in the sub-division or development.

1. The aforementioned planning and environmental control committee under the supervision of the management committee, shall adopt such rules and regulations as they deem to be

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appropriate and in the best interests of the development, relating to the keeping and boarding of animals on any lot within the development. All lot owners shall be bound by said rules and regulations, and covenant to abide by the same. No clothes lines or drying yards shall be permitted unless concealed by hedges, lattice work, or screening acceptable to the aforementioned committee. No signs or other advertising shall be displayed on any lot unless the size, form, and number of same are first approved in writing by the aforementioned committee. No weeds, underbrush, or other unsightly growth shall be permitted to grow and remain on the premises other than natural growth, and no refuse pile or unsightly objects shall be allowed to be placed or suffered to remain anywhere thereon. In the event that any of the aforementioned events occur declarant, or any management committee in force at the time may enter upon such lands and remove the same at the expense of the owner and such entry shall not be deemed a trespass. Any expenses incurred therein shall be a lien against the property of owner payable within 30 days after the owner is billed therefore.

2. No boundary walls shall be constructed without the prior approval of the aforementioned committee.

3. No permanent dwelling house or dwelling unit having a ground floor living area of less than 800 square feet, and no prefabricated or pre-erected dwelling of less than 800 square feet living area exclusive of open porches, and attached garage, if any, shall be erected, permitted or maintained on any of said lots. Permanent dwellings of less than 800 square feet of ground floor living area which have exceptional planning will be accepted only upon written approval by the Planning & Environmental Control Committee. Permanent dwellings shall be of masonry, stucco or insulated frame construction. All dwellings shall be set on permanent foundations. (This paragraph shall not apply to

any temporary building used for storage or watchmen during the progress of construction continuously prosecuted).

4. No outside toilet or individual water well shall be constructed on any lot. Septic systems shall be allowed on lots subject to compliance with all applicable state and local regulations governing the same. All plumbing fixtures, dishwashers or toilets shall be connected to individual septic systems as permitted above.

5. Overnight camping will be allowed in designated areas until such time as improvements are completed in the development. Said camping shall be subject to such rules and regulations established by the management committee. All lot owners and those camping with them agree and covenant to be bound by said rules and regulations governing overnight camping.

6. Once construction of improvements is started on any lot, the improvements must be substantially completed in accordance with plans and specifications, as approved, within twelve months from commencement.

7. No residence shall be occupied until the same has been substantially completed in accordance with its plans and specifications.

8. All structures constructed or placed on any lot shall be constructed with a substantial quantity of new material and no used structures shall be relocated or placed on any such lot.

9. No stripped down, partially wrecked, or junk motor vehicles, or sizeable part thereof, shall be permitted to be parked on any street in the sub-division or development or on any lot.

10. Every tank for the storage of fuel installed outside any building in the sub-division or development shall be either buried below the surface of the ground or screened to the satisfaction of the committee by fencing or shrubbery. Every outdoor receptacle for ashes, trash, rubbish or garbage shall be

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installed underground, screened, or so placed and kept as not to be visible from any street, adjacent lot, or waterway within the sub-division or development at any time except during refuse collections.

12. No owner of any lot shall build or permit the building thereon of any dwelling house that is to be used as a model house or exhibit unless prior written permission to do so shall have been obtained from the committee.

14. No noxious, offensive or illegal activities shall be carried on any lot nor shall anything be done on any lot that shall be or become an unreasonable annoyance or nuisance to the neighborhood.

15. No oil or natural gas drilling, refining, quarrying, or mining operations of any kind shall be permitted upon or in any lot and no derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted on any lot without the prior written approval of the architectural committee.

16. No commercial type truck shall be parked for storage overnight or longer, on any lot in the sub-division or development in such a manner as to be visible to the occupants of the other lots in the sub-division or development or the users of any street, or waterway within the sub-division or development, unless the prior written approval of the committee has been obtained.

17. Any dwelling or outbuilding on any lot in the sub-division or development which may be destroyed in whole or in part by fire, windstorm or for any other cause or act of God must be rebuilt or all debris removed and the lot restored to a sightly condition with reasonably promptness, provided, however, that in no event shall such debris remain longer than sixty days.

18. No tree or a natural growth shall be removed from any lot or land in the sub-division or development without

deemed to be such aggregate sum as the management committee from time to time shall determine, in its judgment, is to be paid by

all the owners then in existence to enable the management committee to pay all estimated expenses and outlays to the close of such year, growing out of or in connection with the maintenance and operation of such land, buildings and improvements; which sum may include, among other things the cost of management, special assessments, fire, casualty, flood, fidelity, public liability and other insurance or bond premiums, common lighting, landscaping, and care of the grounds, repairs, and renovations, and any other services which are separately billed or metered to the land as a whole. The management committee may, from time to time, up to the close of the year for which such cash requirements have been so filed or determined, increase or diminish the amount previously fixed or determined for such year.

11. Each monthly assessment and each special assessment shall be separate, distinct and personal to the owners of the lot against which the same is assessed. Suit to recover a money judgment for unpaid expenses may be maintained without foreclosing or waiving the liens securing the same.

12. In any case in which this declaration requires the vote of a stated percentage of the owners for authorization or approval of a transaction, such requirement may be fully satisfied by obtaining, with or without a meeting, consents in writing to such transaction from lot owners who collectively hold at least 51%.

13. Notwithstanding any other provision in this declaration, until the development and land in Exhibit "A" is completely sold, declarant shall have the right to maintain a reasonable number of promotional, advertising, and/or directional signs, banners or similar devices at any place or places on the property, but any such device shall be of a size and in a location as is reasonable and customary. Declarant shall have the right to maintain a sales office and/or model units of a nature as it deems reasonable and proper in this regard, declarant shall have the right from time to time to locate or re-place any of their sales office, banners or similar devices. No lot owner shall be

allowed to place outside sales signs on his property without the written consent of the aforementioned committee.

14. Variations. The committee may allow reasonable variations and adjustments of these restrictions in order to overcome practical difficulties and prevent unnecessary hardships in the application of the provisions contained herein; provided, however, that such is done in conformity with the intent and adjustment will not be materially detrimental or injurious to the other property or improvements in the neighborhood, the subdivision or the development.

15. Easements.

a. The declarant reserves unto itself, its successors and assigns, certain easements along, across, over and upon the real estate that constitutes the development. The easements so reserved by the declarant are described as follows:

(1) Declarant, for itself, its successors and assigns and licensees, reserves a ten foot wide easement along all road rights-of-way, and rear property lines, and a three foot easement along the side lines of each and every lot in the development for the purpose of installing, maintaining and operating utility mains thereon, together with the right to trim, cut or remove any trees and/or brush, and the right to locate braces and anchors wherever necessary for said installation, maintenance and operations, together with the right to install and maintain and operate utility mains and appurtenances thereto, and reserving unto itself, its successors, assigns and licensees, the right to ingress and egress to such areas for any of the purposes heretofore mentioned. No permanent building shall be placed on such easements, but the same may be used for gardens, shrubs, landscaping and other purposes, provided that such use or uses does not interfere with the use of such easement for their intended purposes. In instances where an owner of two or more adjoining lots erects and constructs a dwelling or building which will cross over or through a common lot line, the same shall not

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be subject to the aforementioned three foot easement along or upon the contiguous or common lot line, except where utility lines or mains have been platted or installed.

(2) Each lot shall further be subject to an easement for the maintenance and permanent stabilization control of slopes.

(3) No owner of any lot in the development shall have any claim or cause of action against declarant, its successors, assigns or licensees, either in law or in equity, and arising out of exercise of any easement reserved hereunder, excepting in cases of willful or wanton negligence.

b. Rules for determination of location of easements. The rules prescribed in paragraph five of the restrictions above for the establishment of setback lines that must be measured from meandered lines may be applied, whenever necessary and with such adaptations as are necessary, in defining the location of an easement that is to encumber a strip of land contiguous to a meandered line.

c. On each lot, the rights-of-way and easement areas reserved by declarant or dedicated to public utilities purposes shall be maintained continuously by the lot owner but no structures, plantings or other material shall be placed or permitted to remain or other activities undertaken which may damage or interfere with the installation or maintenance of utilities, which may change the direction of flow of drainage channels in the easements, which may obstruct or retard the flow of water through drainage channels in the easements, or which damage or interfere with established slope ratios or create erosion or sliding problems, provided, however that where the existing location of a drainage channel would hinder the orderly development of a lot the drainage channel may be relocated provided such relocation does not cause an encroachment on any other lot in the sub-division or development and upon written approval from the committee. Improvements within such areas shall

also be maintained by the respective lot owner except for those for which a public authority or utility company is responsible.

d. Whenever two or more contiguous lots in the development shall be owned by the same person, and such person shall desire to use two or more of said lots as a site for a single-dwelling house, he shall apply in writing to the committee for permission so to use said lots. If written permission of such a use shall be granted, the lots constituting the site for such single-dwelling house shall be treated as a single lot for the purpose of applying these restrictions to said lots, so long as the lots remain improved with a single-dwelling house.

e. The lots in the sub-division or development shall be burdened by such additional easements as may be shown on the recorded plats.

16. Ownership, Use and Enjoyment of Parks and Recreational Amenities.

a. All parks, recreational facilities and other amenities within the sub-division or development are private, and neither the declarant's recording of the plat nor any other act of declarant with respect to the plat, shall be construed as a dedication to the public, but rather all such parks, recreational facilities and other amenities shall be for the use and enjoyment of members or associate members of the Whispering Pines Property Owners Association, Inc., to residents of rental properties, other classifications of persons as may be designated by the declarant, and to the guests of such members of the association or other residents of Whispering Pines who qualify for the use and enjoyment of the facilities.

b. The ownership of all recreational facilities within the sub-division and development shall be in declarant or its designee, however declarant shall convey any or all of the facilities designated as common areas on the plat to Whispering Pines Property Owners Association, Inc., and such conveyance shall be accepted by it.

17. Whispering Pines Property Owners Associations, Inc.

a. Every person acquiring legal or equitable title to any lot in the sub-division, becomes a member of the Whispering Pines Property Owners Association, Inc., a Utah non-profit corporation, herein referred to as "Association" and with such ownership in the sub-division and membership in the association he then becomes subject to the requirements and limitations imposed in these restrictions and to the regulations and assessments of the association, with the exception, however, of such person or persons who hold an interest in any such lot merely as security for the performance of an obligation to pay money, e.g. mortgages, deeds of trust, or real estate contract purchases. However, if such a person should realize upon his security and becomes the real owner of a lot within the sub-division he will then be subject to all the requirements and limitations imposed in these restrictions on owners of lots within the sub-division and on members of the association, including those provisions with respect to alienation and the payment of an annual charge.

b. The general purpose of the association is to further and promote the community welfare of property owners in the sub-division.

c. The association shall be responsible for the maintenance, upkeep and repair, and the establishment and enforcement of rules and regulations concerning the operation and use, of all recreational facilities, and other properties within the sub-division as it may from time to time own. The association may provide fire and police protection for the residents of the sub-division.

In the event that the association at any time fails to properly maintain such parks and recreational facilities, or fails to provide adequate fire and police protection, the declarant may in its sole discretion enter upon and make any and all repairs, or may maintain any of the properties under the police protection and may charge the association for all such

repairs or protections, provided, however, that declarant shall under no circumstances be obligated to take any such action.

d. The association shall have all the powers that are set out in its Articles of Incorporation and all other powers that belong to it by operation of law, including (but not limited to) the power to assess and collect from every member of the association a uniform monthly charge per single-family residential lot within the sub-division. The amount of such charge is to be determined by the Board of Directors of the Association for the purposes set forth in the Articles of Incorporation, and the charge in no event shall be less than two dollars per month, payable annually.

e. Unless otherwise provided, the association shall have the authority to administer a water system for the Whispering Pines development, charging such fees for use as it deems appropriate, and to assure that no lot owner will consume more than 146,000 gallons of water per year per connection. Any over-run in said use shall be subject to increased fees and in cases of continued disregard for said use requirements, the committee and those acting under them shall have the authority to disconnect existing water connections.

Motel and hotel property owners and others may contract for the use of the recreational properties and facilities within the sub-division for their guests upon such terms and conditions and for such fees as may be mutually agreed upon from time to time between the operators of such properties and the declarant or the Board of Directors of the Association.

(1) All annual charges are payable annually by the member to the association on or before the first day of May of each year, for the ensuing year. The Board of Directors of the association shall fix the amount of the annual charge per lot by the first day of April of each year, and written notice of the charge so fixed shall be sent to each member in the event it is changed from the previous year.

(2) Every person who shall become the legal or equitable owner of any lot in the sub-division by any means is, by the act of acquiring such title, or by the act of contracting to acquire such title, held to have agreed to pay the association all charges that the association shall make in accordance with these restrictions. If such payment is not made when due, it shall bear interest from the due date at the rate of 18% per annum. The association may publish the name of a delinquent member and may file notice that it is the owner of a lien to secure payment of the unpaid charge plus costs and reasonable attorney's fees, and which lien shall encumber the lot or lots and may be foreclosed in accordance with the laws of the State of Utah.

(3) The association shall upon demand at any time furnish a list of members who have paid such assessment or of such members who are then delinquent in the payment of such assessments.

f. The fund accumulated as a result of the charges levied by the association shall be used exclusively for purposes of promoting the recreation, health, safety and welfare of the members of the association and in particular providing police and fire protection and the maintenance of the waterways, parks, and other recreational facilities.

g. The lien of a mortgage or deed of trust placed upon any lot for the purpose of permanent financing and/or constructing a residence or other improvement thereon, shall be superior to any such lien as provided for in these restrictions.

h. The Board of Directors of the association shall have the right to suspend voting rights (if any) and the right to the use of the recreational facilities of any member or associate member if any charge owed (as assessed under paragraphs 11-D and 12 of these restrictions) remains unpaid; or for any continuing violation of the restrictive covenants for the sub-division, after the existence of the violation has been brought to the attention of the member in writing by the Board of Directors of the

association; or during the period that any utility bill for water or sewer service remains unpaid.

18. Association's Right to Perform Certain Maintenance.

In the event an owner of any lot in the sub-division shall fail to maintain the premises and the improvements situated thereon in a manner satisfactory to the Board of Directors of the Association, the association shall have the right to enter upon said lot and repair and restore the lot and the exterior of any improvements erected thereon. Such right shall not be exercised unless two-thirds of the Board of Directors shall have voted in favor of such action. The cost of such exterior restoration and maintenance shall be added to and become a part of the annual charge to which such lot is subject. The association shall not be liable for any damage which may result from any maintenance work performed hereunder.

19. Water Service. Every legal or equitable owner of a lot in the sub-division shall pay charges for water service in accordance with rates as provided by the association or other legal entity entrusted with the management of said water system.

Each lot owner in the sub-division or development shall be required to connect to the water system when provided prior to the completion of the construction and prior to occupancy of the dwelling or improvement on the lot, and thereafter shall pay for water at consumption rates, as set forth by the management committee or other legal entity acting in said capacity, subject to a monthly minimum charge, all of such rates and charges being subject to change and prior approval of any applicable commissions of the State of Utah. In connection with use of water by any lot owner, each lot owner covenants to use no more than 146,000 gallons of water per connection per year. Easements in addition to those reserved through these restrictions and on the recorded plats shall be granted for the practical construction, operation and maintenance of such water facilities, upon request of

the declarant or other applicable utility or governing body.

20. Remedies.

a. The association or any party to whose benefit these restrictions inure, including the declarant and assigns, may proceed at law or in equity to prevent the occurrence, continuation or violation of any of these restrictions; provided, however, that it is expressly understood that neither declarant nor the association shall be liable for damages of any kind to any party for failing to either abide by, enforce, or carry out any of these restrictions.

b. No delay or failure on the part of an aggrieved party to invoke an available remedy set forth in 15A above in respect to a violation of any of these restrictions shall be held to be a waiver by that party of (or an estoppel of that party to assert) any right available to him upon the recurrence or continuation of said violation or the occurrence of a different violation.

21. Grantee's Acceptance.

a. The grantee of any lot subject to the coverage of the Declaration, by acceptance of a deed conveying title thereto, of the execution of a contract for the purchase thereof, whether from declarant or a subsequent owner of such lot, shall accept such deed or contract upon and subject to each and all of these restrictions and the agreements herein contained, and also the jurisdiction, rights and powers of declarant and of the association and by such acceptance shall for himself, his heirs, personal representatives, successors and assigns, covenant, consent and agree to and with declarant, the association, and with grantees and subsequent owners of each of the lots within the development to keep, observe, comply with and perform said restrictions and agreements.

b. Each such grantee also agrees, by such acceptance, to assume, as against declarant, its successors or assigns, all the risks and hazards of ownership or occupancy attendant to such lot.

22. Severability. Every one of the restrictions is hereby declared to be independent of, and severable from, the rest of the restrictions and of and from every other one of the restrictions and of and from every combination of the restrictions. Therefore, if any of the restrictions shall be held to be invalid or to be unenforceable or to lack the quality of running with the land, that holdings shall be without effect upon the validity, enforceability, or "running" quality of any other one of the restrictions.

23. Captions. The underlined captions preceeding the various paragraphs and subparagraphs of these restrictions are for convenience of reference only, and none of them shall be used as an aid to the construction of any provision of the restrictions. Whenever and wherever applicable, the singular form of any word shall be taken to mean or apply to the plural, and the masculine form shall be taken to mean or apply to the feminine or to the neuter.

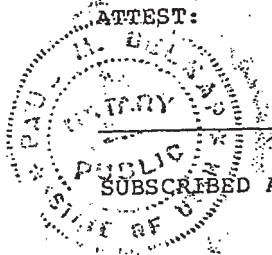
IN WITNESS WHEREOF, the declarant has executed this declaration on the day and year first above written.

WHISPERING PINES

BY Newell Dalton
Newell Dalton
President

STATE OF UTAH)
COUNTY OF SALT LAKE) ss

ATTEST:



SUBSCRIBED AND SWORN to before me this 15 day of October, 1979.

My Commission Expires
9-20-82

Paul H. Behrman
NOTARY PUBLIC Residing at:
Buff, UT

EXHIBIT A

Beginning at the South Quarter Corner of Section 25, T.15 S., R. 4 E., S.L.B. & M., said corner being N. 89°44'56" E., 2659.90 feet from the S. E. Corner of said Section 25 and running thence N. 0°45'17" W., 5398.23 feet to the North 1/4 Corner of Section 25; thence N. 0°44'39" W. 1341.97 feet; thence S. 89°58'14" E. 665.43 feet to the Centerline of Cedar Creek; thence along said centerline the following three courses: S. 51°55'53" E., 297.57 feet; S. 29°48'01" E., 179.15 feet; S. 59°29'06" E., 411.28 feet; thence S. 0°43'44" E., 796.06 feet to the North line of Section 25; thence S. 89°54'11" E., 1335.76 feet along said North line to the Northeast Corner of Section 25; thence S. 1°01'17" E., 1698.57 feet along the East line of Section 25; thence N. 89°15'58" W., 1340.04 feet; thence S. 0°53'18" E., 336.72 feet; thence S. 89°23'59" E., 1340.73 feet to the East line of Section 25; thence S. 1°01'17" E., 667.23 feet along said East line; thence N. 89°40'03" W., 655.21 feet to a point of tangency to a 560 foot radius curve to the left (radius point bears S. 0°19' 57" W.); thence Southwesterly along the arc of said curve 673.41 feet (Delta=68°53'57"); thence S. 21°26'00" W., 316.39 feet; thence S. 89°57'00" E., 1841.08 feet to a point on a 1100 foot radius curve to the right (radius point bears N. 69°39'55" W.); thence Southwesterly along the arc of said curve 161.70 feet (Delta=8°25'21"); thence S. 60°51'32" E., 995.84 feet; thence S. 60°27'00" E., 200.00 feet; thence N. 31°33'45" E., 718.36 feet to a point in the centerline of a roadway; thence S. 80°00'00" E. along said centerline 797.65 feet; thence S. 49°30' E. along said centerline 223.44 feet; thence leaving said centerline N. 55°00' E., 600.00 feet; thence S. 49°13'44" E., 314.79 feet to the northernmost corner of Lot 16, Whispering Pines Phase 2 as recorded in the records of Sanpete County, Utah; thence South 1750.00 feet; thence S. 89°43'34" W., 925.00 feet to the South Quarter Corner of Section 30, T. 15 S., R. 5 E., S.L.B. & M.; thence S. 89°37'53" W., 2447.54 feet to a point N. 89°37'53" E., 199.93 feet from the S.E. corner of Section 25, T. 15 S., R. 5 E., S.L.B. & M.; thence N. 39°03' E., 250.00 feet; thence N. 56°55'49" W., 1009.30 feet to a point on a 5000 foot radius curve to the right; (radius point bears N. 64°00'00" W.); thence Southwesterly along the arc of said curve 391.00 feet; (Delta=4°28'50"); thence N. 89°57'00" W., 1274.65 feet; thence S. 21°26'00" W., 442.78 feet; thence S. 89°44'57" W., 550.09 feet to the point of beginning.

Containing 460.47 Acres.