

32132

AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS ESTABLISHING A PLAN OF CONDOMINIUM
OWNERSHIP FOR HEARTHWOOD, A CONDOMINIUM PROJECT

(An Expandable Condominium)

This Amendment to Declaration (the "Amended Declaration") is made this 23 day of SEPTEMBER, 1986 by KIRK D. WILLIAMSON, d/b/a HEARTHWOOD CONDOMINIUMS and JACQUELINE K. WILLIAMSON (collectively "Declarant").

RECITALS:

A. Declarant has previously recorded that certain Declaration of Covenants, Conditions and Restrictions Establishing a Plan of Condominium Ownership for Hearthwood, a Condominium Project on the 23rd day of April, 1986 as Entry No. 12148, in Book 2298, Pages 56-110, (the "Declaration") with respect to certain real property located in Utah County, Utah, more particularly described on Exhibit "A" attached hereto and incorporated herein by this reference. The terms and conditions of said Declaration are hereby incorporated for purposes of this Amended Declaration.

B. In accordance with Paragraph 12.8 and Article XIV of the Declaration and in accordance with Utah Code Ann. § 57-8-13.6 and 57-8-13.10(2) the Declarant hereby establishes this Amended Declaration providing (1) for the expansion of the Project and the amendment of the Declaration to include Phase Two and the real property described on Exhibit "C" of the Declaration; and (2) for the reallocation of undivided interests

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in the Common Areas and facilities on the same basis as the Units depicted on the record of survey map as required by Utah law.

C. The Declaration as amended by the execution and recordation of this Amended Declaration and by the recordation of a record of survey map for Phase Two of the Project shall collectively result in the Project consisting of 24 individual Units and related Common Areas and facilities. Each Owner in the Project will receive title to a Unit plus an undivided one-twenty fourth (1/24th) fractional interest as tenant-in-common to the Common Areas located within the Project. Each condominium Unit shall have appurtenant to it a membership in the Association.

NOW, THEREFORE, the real property described on Exhibit "C" of the Declaration is hereby included within the Project, and the Declaration is hereby amended as follows:

1. Paragraph 1.3 Common Areas/Common Facilities.

Paragraph 1.3 Common Areas/Common Facilities shall be amended in its entirety to read as follows:

1.3 Common Areas/Common Facilities.

Shall mean the real property described in Exhibit "A" hereof, except for those portions thereof which lie within the description of any Unit. Without limiting the generality of the foregoing, Common Areas shall also include:

(a) All foundations and roofs constituting a portion of or included in the improvements which comprise a part of the Project.

(b) All installations for and all equipment connected with the furnishings of the Project with any and all Utility

Services, including but not limited to electricity, gas, water and sewer.

(c) The Project outdoor lighting, fences, landscaping and maintenance systems, sidewalks, curb and gutters, parking areas and road(s) or roadway and driveways, and water drainage system.

2. Paragraph 1.9 Map. Paragraph 1.9 Map shall be amended to read as follows:

1.9. Map. Shall mean all survey maps, or recorded plats or vicinity maps of the Hearthwood Condominiums prepared pursuant to the Utah Condominium Ownership Act and recorded at the County Recorder's Office, County of Utah, State of Utah.

3. Paragraph 1.15 Unit. Paragraph 1.5 Unit shall be amended in its entirety to read as follows:

1.15 Unit. Shall mean the elements of a Condominium that are not owned in common with the other Owners of Condominiums in the Development. For purposes of this Declaration, a Unit is defined as a space in a building, together with all fixtures therein intended for the sole use of said Unit. Such Units and their respective elements are more particularly described in the Map. The boundaries of a Unit are shown and described in such Map. Ownership of a Unit includes an undivided one-twenty fourth (1/24th) interest as tenant-in-common in the Common Areas located within the Project, any and all additional rights or privileges with respect to Limited Common Areas appurtenant to said Unit, and a membership in the Association. Whenever reference is made in this Declaration, in the Map, in any deed or elsewhere to a Unit it shall be assumed that such reference is made to the Unit as a whole, including each of its component elements, and to any and all exclusive

easements appurtenant to said Unit or the Common Areas or Limited Common Areas, if any.

4. Paragraph 2.3. Allocation of Interests in Common Area. Paragraph 2.3 Allocation of Interests in Common Area shall be amended in its entirety to read as follows:

2.3 Allocation of Interests in Common Area. The undivided interest in the Common Areas of each Owner appurtenant to each Owner's Unit shall be equal and shall be one-twenty fourth (1/24th) of the total ownership of the Common Areas.

5. Paragraph 12.8. Amendment. The first word of Paragraph 12.8 Amendment shall be amended to read ^{Owners} ~~Owner's~~ instead of Owner.

6. Compliance with Amendment Requirement. Declarant hereby declares that Declarant has complied with the provisions of paragraph 12.8 of the Declaration in that Declarant is the holder of at least 67% of the total votes in the Association. In addition, prior to the recordation hereof and the recordation of the Map as supplemented showing Phase Two, Declarant will obtain approval from eligible mortgage holders representing at least fifty one percent (51%) of the votes of Unit estates that are subject to mortgages held by eligible holders.

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

DECLARANT:

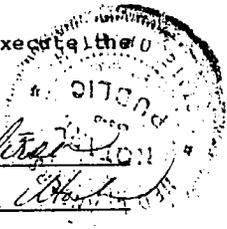
HEARTHWOOD CONDOMINIUMS

By X Kirk D. Williamson
KIRK D. WILLIAMSON
X Jacqueline K. Williamson
JACQUELINE K. WILLIAMSON

STATE OF UTAH)
) : ss
COUNTY OF UTAH)

On the 23rd day of September, 1986, personally
appeared before me the signers of the foregoing Amended
Declaration who duly acknowledged to me that they did execute the
same.

Neil D. Anderson
NOTARY PUBLIC
Residing at: Quincy, Utah

A circular notary seal for Neil D. Anderson, Notary Public, State of Utah. The seal contains the text "NOTARY PUBLIC STATE OF UTAH" around the perimeter and "NEIL D. ANDERSON" in the center.

My Commission Expires:
July 9, 1989

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APPROVAL OF MORTGAGE HOLDER

The undersigned hereby consents to the recordation of this Amended Declaration for Hearthwood Condominiums, and declares that the consent and approval given hereby constitutes approval from the mortgage holder with respect to the Project.

DESERET FEDERAL SAVINGS & LOAN
ASSOCIATION

By *Jerry H. Miller*
Its *Asst. Vice Pres.*

State of Utah
County of

On the 23 day of September, 1986, personally appeared before me *Jerry H. Miller*, who being by me duly sworn, did say that he is the *Asst. Vice President* of DESERET FEDERAL SAVINGS AND LOAN, a corporation, and that said instrument was signed in behalf of said corporation by authority of its by-laws (or by a resolution of its board of directors) and said *Jerry H. Miller* acknowledged to me that said corporation executed the same.

Deborah Engley
Notary Public

My commission Expires *1/31/88* Residing at: *Salt Lake*

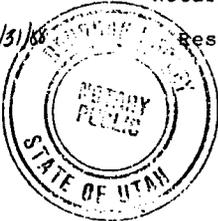


EXHIBIT "A"

Entire Real Property

Commencing at a point on the West boundary of 100 West Street, Orem, Utah, said point being located North $0^{\circ}38'10''$ West along the Section line 607.75 feet and West 694.41 feet from the East one-quarter corner of Section 10, Township 6 South, Range 2 East, Salt Lake Base and Meridian; thence South $89^{\circ}35'15''$ West 130.7 feet; thence South $0^{\circ}34'11''$ East 55.70 feet; thence South $89^{\circ}35'15''$ West along a fenceline 144.31 feet; thence South $0^{\circ}18'19''$ East along a fenceline 165.00 feet; thence South $89^{\circ}35'15''$ West along a fenceline 154.46 feet; thence North $0^{\circ}18'19''$ West 325.60 feet; thence North $89^{\circ}35'15''$ East 428.73 feet; thence South $0^{\circ}34'11''$ East along the West boundary of said 100 West Street 104.90 feet to the point of beginning.

EXHIBIT "B"

Phase One

Commencing at a point North 00°38'10" West along Section line 607.75 Feet and West 694.41 Feet from the East one-quarter corner of Section 10, Township 6 South, Range 2 East, Salt Lake Base & Meridian; thence South 89°35'15" West 130.70 Feet; thence South 00°34'11" East 55.70 Feet; thence South 89°35'15" West 144.31 Feet along a fence line; thence North 45°21'32" West 77.07 Feet; thence South 89°41'41" West 47.09 Feet; thence North 72°34'56" West 29.39 Feet; thence South 89°41'41" West 24.83 Feet; thence North 00°18'19" West 95.92 Feet; thence North 89°35'15" East 428.73 Feet; thence South 00°34'11" East 104.90 Feet along the West boundary of said 100 West Street, Orem, Utah to the point of beginning.

EXHIBIT "C"

Phase Two

Commencing at a point North 00°38'10" West along Section line 550.07 Feet and West 969.50 Feet from the East one-quarter corner of Section 10, Township 6 South, Range 2 East, Salt Lake Base & Meridian; thence South 00°18'19" East 165.00 Feet along a fence line; thence South 89°35'15" West 154.46 Feet along a fence line; thence North 00°18'19" West 228.68 Feet; thence North 89°41'41" East 24.83 Feet; thence South 72°34'56" East 29.39 Feet; thence North 89°41'41" East 47.09 Feet; thence South 45°21'32" East 77.07 Feet; to the point of beginning.

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