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**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
WHISPER RIDGE AT STONE CANYON**

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## DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

### WHISPER RIDGE AT STONE CANYON

This Declaration of Covenants, Conditions, and Restrictions for WHISPER RIDGE AT STONE CANYON is made this 24th day of June, 2008, by WHISPER RIDGE DEVELOPMENT, LLC, a Utah limited liability company.

#### RECITALS:

A. This Declaration governs certain real property and improvements that are part of a larger area consisting of approximately eight-eight (88) acres located north of the old highway in Mountain Green, Morgan County, State of Utah (the "Development Area"), as depicted on the plan attached as Exhibit "A" hereto (the "Master Plan").

B. The Development Area is divided into areas as shown on the Master Plan, more particularly described as follows: (1) the residential development area (the "Residential Parcels"); (2) a project entrance, waterfall park, other parks and open spaces, although the use thereof may be restricted (collectively the "Park Parcels"); (3) a main roadway intended to provide primary access within the Project (the "Parkway"); and (4) one or more private streets.

C. The Project initially consists of two (2) areas (the "Project Areas") as depicted on the Master Plan: (1) a "Residential Area;" and (2) "Common Areas;" although the Residential Area and the Common Areas may be expanded and supplement from the Additional Land in accordance with the provisions herein contained. The Project, as initially constituted or to be constructed, is described on Exhibit "B" and graphically described on the Master Plan, Exhibit "A" attached hereto.

D. Declarant intends to create a public trail system for the general well being and use of owners within the Project and members of the public.

E. Declarant is the owner of the Project. Declarant has deemed it desirable to impose a general plan for the improvement and development of the Project and the adoption and establishment of covenants, conditions and restrictions upon the real property and each and every portion thereof and upon the use, occupancy and enjoyment thereof, all for the purpose of enhancing and protecting the value, desirability and attractiveness of the Project.

F. Declarant hereby declares that all portions of the Project shall be held, sold, conveyed, encumbered, hypothecated, leased, used, occupied and improved subject to the following easements, restrictions, covenants, conditions and equitable servitudes.

#### ARTICLE 1

##### DEFINITIONS

1.1 "Additional Land" means: (a) the real property, together with all Improvements located thereon, described on Exhibit "C;" and (b) any other real property, together with the Improvements located thereon, located not more than two miles from the exterior boundaries of the property described on Exhibit "C" or Exhibit "C".

1.2 "Annual Assessments" means the Assessments levied pursuant to Section 6.2 and/or Section 6.4, as applicable.

- 1.3 "Articles" means the articles of incorporation of the Association, as amended from time to time.
- 1.4 "Assessable Property" means each Lot or Parcel, except for Exempt Property.
- 1.5 "Assessment" means an Annual Assessment, the Private Street Assessment, as applicable, or Special Assessment.
- 1.6 "Assessment Lien" means the lien created and imposed by Article 6.
- 1.7 "Assessment Period" means the period set forth in Section 6.8.
- 1.8 "Association" means Whisper Ridge at Stone Canyon Community Association, Inc., a Utah nonprofit corporation, and its successors and assigns.
- 1.9 "Association Land" means all land, together with all Improvements situated thereon, which the Association at any time owns in fee or in which the Association has a leasehold interest, easement, right-of-way, license or other property interest for as long as the Association is the owner of the fee or holds such leasehold interest, easement, right-of-way, license or other property interest. It is anticipated that the Association shall hold one or more licenses upon the real property of owners adjacent to the Project, which licenses will allow the Association to install, improve, maintain, replace and repair landscaping for the benefit of the Project.
- 1.10 "Association Member" means any Person who is a member of the Association as provided in Section 5.6.
- 1.11 "Association Membership" means a membership in the Association.
- 1.12 "Association Membership Assessment" shall have the meaning given such term in Section 6.3.1.
- 1.13 "Association Rules" means the rules adopted by the Board pursuant to Section 5.3, as amended from time to time.
- 1.14 "Board" means the Governing Board of Trustees of the Association.
- 1.15 "Bylaws" means the bylaws of the Association, as amended from time to time.
- 1.16 "Common Area" means: (a) all Association Land (including, but not limited to the leasehold interest, easement, right-of-way, license or other property interest comprising the same, some of which may be designated by an alphabetic lot number upon the Plat); (b) all land, and the Improvements situated thereon, within the Project which the Declarant indicates on a Recorded subdivision plat or other Recorded instrument is to be conveyed to the Association or is dedicated to the Association for the benefit and use of the Association Members; (c) all land, and the Improvements situated thereon, which is situated within the boundaries of a Lot or Parcel and which is designated on a Recorded subdivision plat Recorded by the Declarant or approved by the Declarant or the Association, or designated herein as a Landscape Easement even though not designated upon a Recorded Plat, as land which is to be improved, maintained, repaired and replaced by the Association; (d) all land, and the Improvements situated thereon, within or adjacent to the Project which the Declarant indicates on a Recorded subdivision plat or other Recorded instrument is to be used for roads, trails, parks, landscaping, drainage or water retention or flood control for the benefit of the Project or the general public; (e) all real property, and the Improvements situated thereon, within or adjacent to the Project located within dedicated rights-of-way with respect to which Morgan County has not accepted or will not accept responsibility for the maintenance thereof (i.e., the Parkway Landscaping located within the Parkway which the Association shall maintain), but only until such time as Morgan County has accepted all responsibility for the maintenance, repair and replacement of such areas, and only if the specific areas to be maintained, repaired and replaced by the Association pursuant to this clause have been expressly approved

by either the Declarant or the Board; and (f) all land, and the Improvements situated thereon, which is designated in a Recorded amendment to this Declaration as a Parcel Assessment Area.

1.17 "Common Expenses" means expenditures made by or financial liabilities of the Association, together with any allocations to reserves.

1.18 "County" shall mean Morgan County, State of Utah, including its successors (i.e., a City or Township if the same have jurisdiction over the Project, or any portion thereof).

1.19 "Declarant" means Whisper Ridge Development, LLC, a Utah limited liability company, its successors and any Person to whom it may expressly assign any or all of its rights under this Declaration.

1.20 "Declarant Affiliate" means any Person directly or indirectly controlling, controlled by or under common control with the Declarant, and shall include, without limitation, any general or limited partnership, limited liability company, limited liability partnership or corporation in which the Declarant (or another Declarant Affiliate) is a general partner, managing member or controlling shareholder.

1.21 "Declaration" means this Declaration of Covenants, Conditions and Restrictions, as amended or supplemented from time to time.

1.22 "Design Guidelines" means the rules, regulations and guidelines adopted by the Design Review Committee pursuant to Section 5.10, including the Whisper Ridge at Stone Canyon Community Design Guide, as amended or supplemented from time to time, for the design and construction of Residences and other Improvements within the Project and the corresponding landscaping of Lots.

1.23 "Design Review Committee" means the committee established pursuant to Section 5.11.

1.24 "Developer" means any Person (other than the Declarant) who is in the business of developing, selling or leasing real property and who acquires one or more Lots or Parcels in connection with, and in the course of such business, for the purpose of developing, selling or leasing such Lots or Parcels.

1.25 "Development Agreement" means the Development Agreement for the Whisper Ridge at Stone Canyon PRUD, Morgan County, Utah, entered into as of August 6, 2007, by and between Declarant and the County.

1.26 "Exempt Property" means: (a) all land and improvements owned by, or dedicated to and accepted by, the United States, the State of Utah, the County, or any municipality having jurisdiction, or any political subdivision of any of them, for as long as such entity or political subdivision is the owner thereof or for as long as said dedication remains effective; (b) all Association Land, and (c) all Common Area.

1.27 "First Mortgage" means a Mortgage Recorded against a Lot or Parcel which has priority over all other Mortgages Recorded against that Lot or Parcel.

1.28 "Improvement" means: (a) any Residence, building, guest house, garage, or other accessory building, fence or wall; (b) any swimming pool, tennis court, basketball court, road, driveway, parking area or satellite dish; (c) any trees, plants, shrubs, grass or other landscaping improvements of every type and kind; (d) any statuary, fountain, artistic work, craft work, figurine, ornamentation or embellishment of any type or kind (whether or not affixed to a structure or permanently attached to a Lot or Parcel); and (e) any other structure of any kind or nature.

1.29 "Landscape Easement" shall mean those areas located within public utility easements, as such public utility easements are designated on the Plat, in which the Association has elected to improve and control landscaping, fencing, walls, water features and other amenities for the benefit of all Owners of Lots within the Subdivision; provided, however that the Landscape Easement areas shall not be a Common Area but costs incurred by the Association in repairing such areas for the benefit of Members shall be deemed Common Area costs.



1.30 "Lessee" means the lessee or tenant under a lease, oral or written, of any Lot or Parcel (or part thereof), including an assignee of the lessee's or tenant's interest under a lease.

1.31 "Lot" means a portion of the Project intended for independent ownership and residential use and designated by a numeric designation as a lot on any Plat (i.e., Lot 10) and, where the context indicates or requires, shall include any Residence, building, structure or other Improvements situated on the Lot. In the event that two or more Lots are combined for the purpose of constructing a single Residence, such combination shall require the consent of the Design Review Committee and the County, and even though such Lots may be combined for such purpose (even if reflected by a Plat amendment), they shall nevertheless be treated as separate Lots for purposes of assessments as provided in this Declaration unless the Association consents in writing to the contrary by an amendment or supplement to this Declaration which is Recorded. Designation of other portions of the Project by an alphabetic designation (i.e., "Lot A") are intended to designate a portion of the Association Land; provided, however, that ownership of Lot D shall be reserved to the Declarant for possible road expansion in connection with the development of all or a portion of the Additional Land.

1.32 "Maximum Association Membership Assessment" shall have the meaning given such term in Section 6.3.1(b).

1.33 "Maximum Association Private Street Assessment" shall have the meaning given such term in Section 6.5.1(b).

1.34 "Mortgage" means a deed of trust or a mortgage Recorded against a Lot or Parcel.

1.35 "Mortgagee" means a beneficiary under a deed of trust, or a mortgagee under a Mortgage, Recorded against a Lot or Parcel, and "First Mortgagee" means such a beneficiary or mortgagee under a First Mortgage.

1.36 "North Lots" means those three proposed Lots located within the Additional Property and more particularly described on Exhibit "E" attached hereto.

1.37 "Occupant" means any Person other than an Owner who occupies or is in possession of a Lot or Parcel, or any portion thereof or building or structure thereon, whether as a Lessee or otherwise, other than on a merely transient basis (and shall include, without limitation, a Resident).

1.38 "Owner" means the Person or Persons who individually or collectively own fee title to a Lot or Parcel (as evidenced by a Recorded instrument), provided that: (a) the Declarant (and not the fee title holder) shall be deemed to be the "Owner" of each Lot or Parcel with respect to which fee title is held by a Declarant Affiliate or by a trustee (other than the trustee of a deed of trust) for the benefit of the Declarant or a Declarant Affiliate; (b) in the event that, and for so long as, the Declarant or a Declarant Affiliate has, pursuant to a written agreement, an existing right or option to acquire any one or more Lots or Parcels (other than by exercise of a right of first refusal or right of first offer), the Declarant shall also be deemed to be the "Owner" of each Lot or Parcel with respect to which the Declarant or a Declarant Affiliate has such right or option; and (c) in any case where fee title to a Lot is vested in a trustee under a deed of trust pursuant to Chapter 1 of Title 57 of the Utah Code, the owner of the trustor's interest under the deed of trust shall be deemed to be the "Owner" of that Lot. Where reference is made in this Declaration to Lots or Parcels "owned by" a Person, such phrase shall be deemed to refer to Lots or Parcels of which that Person is the Owner, as determined pursuant to this Section.

1.39 "Parcel" means each area of real property in the Project, and all Improvements situated thereon, shown as a separate parcel of land on the Plat, provided, however, that in the event a Parcel is split in any manner into portions under separate ownership (other than by subdivision of the Parcel by Recordation of a subdivision plat into Lots, each of which constitutes or may have constructed thereon only one Residence), each portion under separate ownership shall thereafter constitute a separate Parcel. If two or more contiguous parcels of land are owned by the same Person, they shall be considered one Parcel for purposes of this Declaration. A Parcel shall cease to be a Parcel when it has been fully subdivided into Lots

(together with Common Area, if any). If a portion of a Parcel is subdivided into Lots (and Common Area, if any), the subdivided portion shall cease to be a Parcel, but each remaining unsubdivided portion shall be a Parcel if it otherwise meets the requirements of the definition set forth in this Section.

1.40 "Parkway" means those areas located within the dedicated roadway of any street or road which has been or will be dedicated to the County and is intended as a public ingress and egress to and through the Project, including but not limited to all road improvements, all related landscape improvements or landscaping, and walkways.

1.41 "Parkway Landscaping" shall mean the landscape improvements contained in the center islands and other landscaping improvements made and located within the Parkway, excluding those landscape improvements which immediately abut a Lot and appear to be part of a Lot, but extend into the road right-of-way of the County (the "Landscape Exclusions").

1.42 "Period of Declarant Control" means the period commencing on the date of the Recording of this Declaration and ending on the earlier of: (a) provided, Declarant has no direct or indirect ownership interest in any Additional Land, one hundred twenty (120) days after the conveyance of title to the last Lot owned by the Declarant; (b) December 31, 2020; or (c) such earlier date on which the Declarant elects to terminate the Period of Declarant Control by providing written notice to the Association.

1.43 "Person" means a natural person, corporation, business trust, estate, trust, partnership, association, limited liability company, limited liability partnership, joint venture, government, governmental subdivision or agency, or other legal or commercial entity.

1.44 "Plat" means the recorded subdivision plats designating the Lots, Common Area and boundaries of the Project.

1.45 "Private Streets" shall mean and refer to all of the undedicated roads and streets within the Project as designated upon a Plat which the Declarant has reserved as an easement for ingress and egress for pedestrian and vehicular traffic for the use, in common, of all or a portion of the Members. Private Streets shall for all purposes be deemed to be Common Areas; provided, however, that the cost of maintenance, repair and replacement of the same shall be subject to Private Street Assessments as provided in Section 6.4.

1.46 "Project" or "Property" means the real property described on Exhibit "B," together with all Improvements located thereon, and all real property, together with all Improvements located thereon, which is annexed and subjected to this Declaration pursuant to Section 2.2; provided, however, the North Lots shall be excluded from the requirements, obligations and benefits of this Declaration and all of its provisions, if the North Lots are made part of a Plat, unless the same are specifically included within the Project in accordance with the requirements of Section 2.2.3.

1.47 "Project Documents" means this Declaration, the Articles, the Bylaws, the Association Rules, Design Guidelines, and the Design Guidelines (which may be included as part of the Design Guidelines).

1.48 "Purchaser" means any Person, other than the Declarant, who by means of a voluntary transfer becomes the Owner of a Lot or Parcel except for: (a) a Person who purchases a Lot or Parcel and then leases it to the Declarant for use as a model in connection with the sale or lease of other Lots or Parcels; or (b) a Person who, in addition to purchasing a Lot or Parcel, is expressly assigned any or all of the Declarant's rights as the Declarant under this Declaration; or (c) a Developer.

1.49 "Record," "Recording," "Recorded" and "Recordation" means placing or having placed an instrument of public record in the official records of the County.

1.50 "Reimbursement Assessment" means any Assessment levied pursuant to Section 6.7.

1.51 "Residence" means any building, or portion of a building, including a guest house or other accessory building, situated upon a Lot or Parcel and designed and intended for separate, independent use and occupancy as a residence.

1.52 "Resident" means each individual who resides in any Residence.

1.53 "Special Assessment" means any Assessment levied pursuant to Section 6.5.

1.54 "Special Use Fees" means any fees charged by the Association for use of Common Areas pursuant to Section 4.1.1 (c).

1.55 "Trails" means a system of trails, pathways, walks, and lanes and easements reserved for the construction and maintenance of such same, and to the extent that the same are not located within the Parkway, to be established by Declarant as a Common Area and designated as such on one or more Plats as the same are submitted to the terms and conditions of this Declaration.

1.56 "Visible From Neighboring Property" means, with respect to an object, that the object is or would be visible to a six-foot tall person standing at ground level on any part of neighboring property, except where the object is visible solely through a wrought iron fence and would not be visible if the wrought iron fence were a solid fence.

## ARTICLE 2

### PLAN OF DEVELOPMENT

2.1 Property Initially Submitted to the Declaration. This Declaration is being Recorded to establish a general plan for the development and use of the Project in order to protect and enhance the value and desirability of the Project. The Declarant intends to develop the Project to consist, initially, of sixty four (64) Lots for single family use. The Project may be expanded pursuant to the provisions of Section 2.2. All of the property within the Project shall be held, sold and conveyed subject to this Declaration. By acceptance of a deed or by acquiring any interest in any of the property subject to this Declaration, each Person, for himself, herself or itself and his, her or its heirs, personal representatives, successors, transferees and assigns, binds himself, herself or itself, and his, her or its heirs, personal representatives, successors, transferees and assigns, to all of the provisions, restrictions, covenants, conditions, rules and regulations now or hereafter imposed by this Declaration. In addition, each such Person by so doing acknowledges that this Declaration sets forth a general scheme for the development and use of the Property and evidences his, her or its intent that all the restrictions, conditions, covenants, rules and regulations contained in this Declaration shall run with the land and be binding on all subsequent and future Owners, grantees, Purchasers, assignees, Lessees and transferees thereof. Furthermore, each such Person fully understands and acknowledges that this Declaration shall be mutually beneficial, prohibitive and enforceable by the Association and all Owners.

#### 2.2 Annexation of Additional Land.

2.2.1 At any time on or before December 31, 2020, the Declarant shall have the right to annex and subject to this Declaration all or any portion of the Additional Land without the consent of any other Owner or Person (other than the Person who owns the property to be annexed, if other than the Declarant). The annexation of all or any portion of the Additional Land shall be effected by the Declarant Recording a written Supplement to this Declaration setting forth the legal description of the Additional Land being annexed and stating that such portion of the Additional Land is annexed and subjected to the Declaration.

2.2.2 The Additional Land may be annexed as a whole, at one time or in one or more portions at different times, or it may never be annexed, and there are no limitations upon the order of annexation or the boundaries thereof. Property annexed by the Declarant pursuant to this Section 2.2 need not be contiguous with other property in the Project, and the exercise of the right of

annexation as to any portion of the Additional Land shall not bar the further exercise of the right of annexation as to any other portion of the Additional Land. The Declarant makes no assurances as to which, if any, part of the Additional Land will be annexed.

2.2.3 With the annexation of all or a portion of the Additional Land, the Declarant has specifically reserved the right to exclude the North Lots from the application of the terms and conditions of this Declaration, including but not limited to the Assessments required in this Declaration, even though the North Lots may be included within a Plat, unless the Declarant expressly provides in a Supplement to this Declaration that the North Lots shall be subject to the terms and conditions of this Declaration.

2.3 Withdrawal of Property. At any time on or before December 31, 2020, the Declarant shall have the right to withdraw property from the Project without the consent of any other Owner or Person (other than the Owner of such property, if other than the Declarant). The withdrawal of all or any portion of the Project shall be effected by the Declarant Recording a written Supplement to this Declaration setting forth the legal description of the property being withdrawn. Upon the withdrawal of any property from the Project pursuant to this Section, such property shall no longer be subject to any of the covenants, conditions and restrictions set forth in this Declaration.

2.4 Disclaimer of Representations. The Declarant makes no representations or warranties whatsoever that: (a) the Project will be completed in accordance with the plans for the Project as they exist on the date this Declaration is Recorded; (b) any property subject to this Declaration will be committed to or developed for a particular use or for any use; (c) any property not now subject to this Declaration will be subjected to the provisions hereof; or (d) the use of any property subject to this Declaration will not be changed in the future. In addition, if any guardhouses are constructed within the Project according to the provisions of Section 2.5, the Declarant makes no representations or warranties that a guard service will be provided or, if guard service is provided, that it will be provided during any particular hours or be continued in the future. Nothing contained in this Declaration and nothing which may be represented to a purchaser by real estate brokers or salesmen representing the Declarant or any Developer shall be deemed to create any covenants or restrictions, implied or express, with respect to the use of any property subject to this Declaration or of any part of the Additional Land.

2.5 Guardhouses, Security Gates and Security Devices. Guardhouses, security gates (manned or unmanned) and/or other security devices designed to limit access and to provide more privacy for Owners and Occupants may be constructed, removed, modified or relocated from time to time within or adjacent to Private Streets located within the Project; provided, however, that the Declarant shall have no obligation to install the same and as of the date of this Declaration has made no determination whether or not the same will be provided in for any portion of the Project. If the Declarant or the Association elect to install and use such devices, each Owner and Occupant, and their families, guests and invitees, acknowledge that any such guardhouse, security gate or other security device may restrict or delay entry into, or access within, the Project by police, fire department, ambulances and other emergency vehicles or personnel. Each Owner and Occupant and their families, guests and invitees agree to assume the risk that any such guardhouse, security gate or other security device will restrict or delay entry into, or access within, the Project by police, fire department, ambulances or other emergency vehicles or personnel. Neither the Declarant, any Declarant Affiliate or the Association nor any director, officer, agent or employee of the Declarant, any Declarant Affiliate or the Association shall be liable to any Owner or Occupant or their families, guests or invitees for any claims or damages resulting, directly or indirectly, from the construction, existence or maintenance of any such guardhouse, security gate or other security device. All present and future Owners of any Lot or Parcel or any portion of or interest in any Lot or Parcel, and all present and future Occupants of any Lot or Parcel or any portion of any Lot or Parcel, are advised that, notwithstanding anything to the contrary: (a) shown or depicted on any site plan, site map, conceptual plan, development plan or other drawing, diagram or map, however denominated, (b) contained, stated or depicted in any contract, recorded document, advertising material, promotional material, brochure or other document of any kind or type, or (c) contained, stated or set forth in any representations, promises or statements of any kind whatsoever, oral or written, by or attributed to any salesman, broker, Owner or Developer, or any officer, director, agent or representative of the Association, or any member of any Committee of the Association (including, without limitation, the

Design Review Committee), or any officer, director, employee, agent or representative of Declarant, or any other Person, any guardhouse, security gate or similar facility currently situated, or planned for construction, or hereafter constructed, across any street or roadway (i) may never be constructed, (ii) if constructed may be removed at some future date or dates, (iii) if constructed may be relocated at some future date or dates to a site which does not control or limit access to the Property or portions thereof, or (iv) if constructed may be modified (including, without limitation, to change the same from a manned facility to an unmanned facility), in all such cases without any notice or liability to or consent of any Owners or Occupants of the Property or any portion thereof or interest in the Property. Declarant makes no representations regarding, and shall have no liability for, the adequacy or degree of security or protection provided by any guardhouse, security gate or other facility constructed as part of the Project.

2.6 **Sewer Services.** Sewer services for this Project will be provided pursuant to contract with the Mountain Green Sanitary Sewer District (the "Sewer District"), or any successor or assignee of the Sewer District, or any other accessible provider of sewer services selected by the Board. At the time of acquisition and closing of any Lot and in connection therewith, the initial purchaser of such Lot (other than the Declarant) shall be required to pay the then specified connection fee payable to the Sewer District or in the alternative to the Declarant if the Declarant has previously paid the equivalent of such fee to the Sewer District. The Declarant shall be entitled to such reimbursement according to one or more agreements with the Sewer District which required the Declarant to make certain improvements for the benefit of the Sewer District. In the event that any agreements with the Sewer District require the payment of annual assessments for the privilege of having sewer service within for the Project, excluding monthly service fees, the Association shall be obligated to pay for such privilege. The privilege assessment payable pursuant to this Section shall also include any amount which may be due as a result of providing sanitary sewer to the North Lots as identified in Section 2.2.3 above.

2.7 **Culinary Water Services.** Culinary water services for this Project will be provided pursuant to contract with the Highland Water Company (the "Water Company"), or any successor or assignee of the Water Company, or any other accessible provider of culinary water services selected by the Board. In connection with obtaining water from the Water Company, the Water Company and Declarant have made improvements to the water delivery system, including the extension of water lines to each Lot. As a result of such improvements, in conjunction with the assessment of real property taxes upon each Lot, the Water Company will cause an assessment to be made on each Lot as part of such real property taxes for a proportionate amount of fees and costs of the water delivery system in amounts determined by the Water Company and as permitted by law. The Water Company may also require the payment of other fees and costs at the time that service is established for each Lot. Because the Declarant installed all or portions of the water delivery system in the Project for the benefit of the Water Company, Declarant shall be entitled to reimbursement according to one or more agreements with the Water Company. In addition, and pursuant to one or more agreements with the Water Company and/or the Weber Basin Water Conservancy District (the "District"), the Association may be required to pay annual assessments for maintaining shares in the Water Company and/or District, or for the privilege of having water service to the Project. Such assessments payable pursuant to this Section shall include any assessment attributable to the North Lots as identified in Section 2.2.3 above.

2.8 **Development Plan.** Notwithstanding any other provision of this Declaration to the contrary, the Declarant, without obtaining the consent of any other Owner or Person, shall have the right to make changes or modifications to its development plan with respect to any property owned by the Declarant in any way which the Declarant desires including, but not limited to, changing the density of all or any portion of the property owned by the Declarant or changing the nature or extent of the uses to which such property may be devoted.

### ARTICLE 3

#### LAND USES, PERMITTED USES AND RESTRICTIONS

3.1 Land Uses. The Property shall be used exclusively for single family detached residential homes (including detached guest homes, maids quarters and other accessory uses permitted by the Design Guidelines), along with ancillary uses such as public or private pedestrian, bicycle and equestrian trails, public or private parks, Common Areas and the like.

3.2 Design Control.

3.2.1 All Improvements constructed within the Project, including but not limited to grading, driveway access, building locations, building features, building materials, on-site parking, walls and fences, mechanical equipment, antennae, satellite dishes, signs, site lighting, pools, spas, sport courts, and any other and all improvement and use of a Lot shall be consistent with the requirements of the Design Guidelines and Development Agreement, shall be subject to architectural approval, shall be of new construction, and not consist of any intact buildings or other structures moved from other locations to the Project (except that construction and sales trailers or similar facilities approved in advance by the Design Review Committee may be used during construction and sales periods).

3.2.2 Each Improvement shall be located such that:

(i) No Improvement shall be located on any Lot: (a) nearer than twenty (20) feet to any public or private road (including a front yard boundary or side yard boundary) as identified upon the Plat, although varied setbacks with greater distances of Improvements as they abut public or private roads is to be encouraged; (b) nearer than ten (10) feet to any interior Lot line, with the exception of those Lots designated upon the Plat that may have Improvements not less than eight (8) feet to any interior Lot line; or (c) nearer than thirty (30) feet to any rear Lot line.

(ii) For the purposes of this covenant, eaves, steps and open porches shall be considered as a part of an Improvement.

3.2.3 No de-vegetation, excavation, grading, planting or re-vegetation work shall be performed within the Project or any Lot which is inconsistent with the Design Guidelines and without the prior written approval of the Design Review Committee.

3.2.4 No application for the construction, installation or removal of an Improvement to be located or located upon a Lot or Parcel shall be made to the County, or any other applicable governmental agency until such Improvements have first received the approval of the Design Review Committee and such approvals are evidenced by a stamp of the Design Review Committee indicating its approval and the date thereof upon the plans and specifications to be submitted to the County or applicable governmental agency.

3.2.5 No Improvement shall be constructed, installed or removed within the Project which is inconsistent with the Design Guidelines and without the prior written approval of the Design Review Committee.

3.2.6 No addition, alteration, repair, change or other work which in any way alters the exterior appearance (including but without limitation, the exterior color scheme) of any property within the Project, or any Improvements located thereon, shall be made or done which is inconsistent with the Design Guidelines and without the prior written approval of the Design Review Committee, nor shall any Lot be split, divided, further subdivided or combined with any other Lot in any manner without the prior written approval of the Design Review Committee. **IN FURTHER EXPLANATION OF THE FOREGOING REQUIREMENTS, THE DESIGN GUIDELINES**

**REQUIRE THAT PRIOR TO APPROVAL AND PERFORMANCE OF CONSTRUCTION AND/OR WORK UPON A LOT, A GEOTECHNICAL STUDY, PREPARED BY A LICENSED ENGINEER APPROVED BY THE ASSOCIATION, MUST BE SUBMITTED TO THE DESIGN REVIEW COMMITTEE FOR ITS APPROVAL.**

3.2.7 Any Owner or other Person desiring approval of the Design Review Committee for the construction, installation, addition, alteration, repair, change or replacement of any Improvement which would alter the Lot, the exterior appearance of the Lot, Parcel or other portion of the Project, or any Improvements located thereon, shall submit to the Design Review Committee a written request for approval according to the procedures set forth in the Design Guidelines, including but not limited to design review fees as may set by the Design Review Committee from time to time. The Design Review Guidelines shall designate a maximum period of time to approve or disapprove each step in the approval process and if no such time frame is designated in the Design Review Guidelines, the time for approval or disapproval for each designated step or process shall be forty-five (45) days after the submission of all required data, information and fees, together with all supporting information, plans and specifications required by the Design Review Guidelines or reasonably requested by the Design Review Committee, and if approval or disapproval has not been given during such time period, Owner shall be deemed to have complied with the designated step or process and may then proceed to the next step or process set forth in the Design Guidelines. **NOTE: THE DESIGN GUIDELINES REQUIRE THAT ALL DESIGNS SHALL BE COMPLETED BY AN ARCHITECT LICENSED WITHIN THE STATE OF UTAH.**

3.2.8 The approval by the Design Review Committee of any construction, installation, addition, alteration, repair, change, replacement or other work pursuant to this Section shall not be deemed a waiver of the Design Review Committee's right to withhold approval of any similar construction, installation, addition, alteration, repair, change, replacement or other work subsequently submitted for approval.

3.2.9 Upon receipt of approval from the Design Review Committee for any construction, installation, addition, alteration, repair, change, replacement or other work, the Owner or other Person who has requested such approval shall proceed to perform, construct or make the installation, addition, alteration, repair, change or other work approved by the Design Review Committee as soon as practicable and shall diligently pursue such approved work so that it is completed as soon as reasonably practicable and within such time as may be prescribed by the Design Review Committee.

3.2.10 Any change, deletion or addition to the plans and specifications previously approved by the Design Review Committee or the Improvements contemplated thereby must be approved in writing by the Design Review Committee.

3.2.11 The Design Review Committee shall have the right to charge a reasonable fee for reviewing requests for approval of any construction, installation, alteration, addition, repair, change, replacement or other work pursuant to this Section, which fee shall be payable at the time(s) specified in the Design Guidelines. Such fee, if established and charged by the Design Review Committee, shall be set at such reasonable level as the Design Review Committee may estimate will be necessary to defray the reasonable costs and expenses of the Design Review Committee in reviewing and evaluating any such request or application, and may include, if the Design Review Committee deems it reasonably necessary under the circumstances, an amount to cover the reasonable costs of professional consultation to the Design Review Committee by an architect or engineer and/or the subsequent inspection of the work to assure compliance with the approvals granted by the Design Review Committee.

3.2.12 The provisions of this Section do not apply to, and approval of the Design Review Committee shall not be required for, any construction, installation, addition, alteration, repair, change, replacement or other work by, or on behalf of, the Declarant.

3.2.13 With respect to any Lot which may contain or be adjacent to the "toe of a hill" or other areas where any improvement has been restricted as set forth on the Plat, the Design Guidelines may impose restrictions (i) regarding the location of Improvements upon or adjacent to the toe of a hill or other designated area, or (ii) the excavation upon or immediately adjacent to such toe of a hill or other designated area.

3.2.14 The approval required of the Design Review Committee pursuant to this Section shall be in addition to, and not in lieu of, any approvals or permits which may be required under any federal, state or local law, statute, ordinance, rule or regulation, or under any other Recorded instrument. The Design Review Committee may condition its approval of any application, plans or other items submitted to it on delivery to the Design Review Committee of evidence satisfactory to the Design Review Committee that the Owner or other Person seeking its approval has also made or will make appropriate applications for (and prior to commencing work shall have obtained) any and all such other approvals or permits. The Design Review Committee shall cooperate reasonably with any other approving authorities or entities, provided, however, that the Design Review Committee shall not be bound by any approvals, permits or other decisions of any other such approving authority or entity. In addition to the foregoing, pursuant to one or more agreements with Morgan County, **AN OWNER SHALL NOT BE ENTITLED TO AN OCCUPANCY PERMIT FOR ANY IMPROVEMENTS WHICH DO NOT COMPLY WITH THE REQUIREMENTS OF THIS DECLARATION, INCLUDING BUT NOT LIMITED TO THE DESIGN GUIDELINES.** The County may exercise its right to withhold an occupancy permit in its sole discretion.

3.2.15 Plans, specifications and other materials required for the construction and installation of any and all Improvements within the Project shall be submitted and approved by the Design Review Committee (prior to submittal to any required governmental agency) at the address specified from time to time in the Design Guidelines. At the request of the Design Review Committee, the Board has the authority to change the address for the submittal of plans, specifications and other materials.

3.3 Temporary Occupancy and Temporary Buildings. No trailer, basement of any incomplete building, tent, shack, garage or barn, and no temporary buildings or structures of any kind, shall be used at any time for a residence, either temporary or permanent. Temporary buildings, trailers or other structures used during the construction of Improvements approved by the Design Review Committee shall be removed immediately after the completion of construction, and in no event shall any such buildings, trailers or other structures be maintained or kept on any property for a period in excess of twelve months without the prior written approval of the Design Review Committee.

3.4 Installation of Landscaping. The Owner of a Lot shall install (if not already installed) grass, trees, plants and other landscaping improvements (together with an irrigation system sufficient to adequately water any grass, trees, plants and other landscaping improvements), all as required and/or limited by the Design Guidelines, including but not limited to the time limitations for installation as specified therein. The Design Review Committee shall have the right to require certain minimum landscaping requirements, such as, without limitation, specifying the minimum number of trees that must be planted on a Lot or Parcel. In addition, the Design Review Committee may require that portions of a Lot shall be maintained with natural vegetation and such areas may be further restricted from any construction, watering or disturbance of any kind. All landscaping must be installed in accordance with plans approved in writing by the Design Review Committee. If landscaping and an irrigation system are not installed on a Lot in the manner and by the applicable date(s) provided for in the Design Guidelines, the Association shall have the right, but not the obligation, to enter upon such Lot to install such landscaping improvements as the Association deems appropriate (together with an irrigation system sufficient to adequately water the same), and the cost of any such installation shall be paid to the Association by the Owner of the Lot, upon demand from the Association. Any amounts payable by an Owner to the Association pursuant to this Section shall be secured by a Reimbursement Assessment and Lien, and the Association may enforce collection of such amounts in the same manner and to the same extent as provided elsewhere in this Declaration for the collection and enforcement of Assessments. The Association shall have the right to adopt restrictions and guidelines as



part of the Design Guidelines regarding the use of chemicals during and for the maintenance of landscaping improvements.

3.5 Nuisances; Construction Activities. No rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to any Lot, Parcel or other property, and no odors, loud noises or loud music shall be permitted to arise or emit therefrom, so as to render any such property or any portion thereof, or activity thereon, unsanitary, unsightly, offensive or detrimental to any other property in the vicinity thereof or to the occupants of such other property. No other nuisance, including but not limited to those that may be contained in the Design Guidelines or Rules and Regulations, shall be permitted to exist or operate upon or adjacent to any Lot, Parcel or other property so as to be offensive or detrimental to any other property in the vicinity thereof or to its occupants. Subject to the requirements of the Design Guidelines, normal construction activities and parking in connection with the building of Improvements on a Lot, Parcel or other property shall not be considered a nuisance or otherwise prohibited by this Declaration, but during construction periods, Lots, Parcels and other property shall be kept in a neat and tidy condition, trash and debris shall not be permitted to accumulate, supplies of rock, block, lumber, other building materials and construction equipment shall be piled, stocked or kept only in such areas as may be authorized by the Design Guidelines or approved in writing by the Design Review Committee (which may also require screening of the storage areas), and no loud music shall be permitted. The Design Review Committee in its sole discretion shall have the right to determine the existence of any such nuisance. The provisions of this Section shall not apply to construction activities of the Declarant.

3.6 Diseases and Insects. No Person shall permit any thing or condition to exist upon any Lot, Parcel or other property which shall induce, breed or harbor infectious diseases or noxious insects.

3.7 Repair of Building. No Residence, building, structure or other Improvement on any Lot, Parcel or other property shall be permitted to fall into disrepair and each such Residence, building, structure and other Improvement shall at all times be kept in good condition and repair and adequately painted or otherwise finished in accordance with the requirements of the Design Guidelines. In the event any Residence, building, structure or other Improvement is damaged or destroyed, then, subject to the approvals required by Section 3.2, such Residence, building, structure or other Improvement shall be immediately repaired or rebuilt or shall be demolished.

3.8 Antennas, Poles, Towers and Dishes. No television, radio, shortwave, microwave, satellite, flag or other antenna, pole, tower or dish shall be placed, constructed or maintained upon any Lot, Parcel or other part of the Property unless the same are authorized, installed and maintained in accordance with the requirements of the Design Guidelines. Nothing in this Section shall be deemed to prohibit the Declarant from installing and maintaining flagpoles on, at or adjacent to model homes within the Project. Poles to which basketball backboards, goals and related equipment are affixed shall be governed by the requirements of Section 3.31.

3.9 Mineral Exploration. No Lot, Parcel or other property shall be used in any manner to explore for or to remove any water, oil or other hydrocarbons, minerals of any kind, gravel, gas, earth or any earth substance of any kind, except for the drilling, operation and maintenance of any testing, inspection or other water wells approved by the Declarant or the Association.

3.10 Trash Containers and Collection. No garbage or trash shall be placed or kept on any Lot, Parcel or other property except in sanitary, covered containers of a type, size and style and at locations which are in accordance with the Design Guidelines or approved by the Design Review Committee. In no event shall such containers be maintained so as to be Visible From Neighboring Property except to make the same available for collection and then only for the shortest time reasonably necessary to effect such collection. All rubbish, trash or garbage shall be removed from Lots, Parcels and other property and shall not be allowed to accumulate thereon. No outdoor incinerators shall be maintained on any Lot, Parcel or other property.

3.11 Clothes Drying Facilities. No outside clotheslines or other outside facilities for drying or airing clothes shall be erected, placed or maintained on any Lot, Parcel or other property.

3.12 Utility Service. No lines, wires or other devices for the communication or transmission of electric current or power, including telephone, television and radio signals, or temporary facilities during construction, shall be erected, placed or maintained anywhere in or upon any Lot, Parcel or other property unless the same are permitted and installed according to the Design Guidelines. In addition, utility meters and related panels and similar equipment shall be placed on building walls according to the requirements of the Design Guidelines and subject to any requirements, regulations, orders, conditions or specifications of any public, quasi-public or private utility or any governmental agency or body, provided that if it is possible to comply with both the Design Guidelines and such requirements, regulations, orders, conditions and specifications, Owners shall be required to do so.

3.13 Overhead Encroachments. No tree, shrub or planting of any kind on any Lot, Parcel or other property shall be allowed to overhang or otherwise to encroach upon any sidewalk, street, bicycle path or pedestrian way from ground level to a height of eight (8) feet without the prior approval of the Design Review Committee.

3.14 Health, Safety and Welfare. In the event additional uses, activities or facilities are deemed by the Board to be a nuisance or to adversely affect the health, safety or welfare of Owners, Lessees and Occupants, the Board may make rules restricting or regulating their presence in the Project as part of the Association Rules or may direct the Design Review Committee to make rules governing their presence on Lots, Parcels or other property as part of the Design Guidelines.

3.15 Model Homes. Any provisions of this Declaration which prohibit non-residential use of Lots and certain Parcels and regulate parking of Vehicles shall not prohibit the construction and maintenance of model homes or other model Residences of any kind (including, without limitation, any used in whole or in part as sales offices) (collectively, "Models") by Persons engaged in the construction of Residences in the Project, or parking incidental to the visiting of such Models, so long as the construction, operation and maintenance of such Models and parking otherwise comply with all of the provisions of this Declaration, and have been approved by the Design Review Committee, and further provided that such Persons have obtain County Use Permits and/or other applicable governmental approvals for the use of such Models. The Design Review Committee may also permit other areas to be used for parking in connection with the showing of Models. Any homes or other structures constructed as Models shall cease to be used as Models at any time the Owner thereof is not actively engaged in the construction and sale of Residences in the Project, and no home or other structure shall be used as a Model for the sale of homes or other structures not located in the Project. Neither the provisions of this Section nor the provisions of any other Section of this Declaration shall restrict or prohibit the right of the Declarant or a Declarant Affiliate to construct, operate and maintain Models in the Project.

3.16 Incidental Uses. The Design Review Committee may approve uses of property within a particular land use which are incidental to the full enjoyment of the Owners and Occupants of the property within that land use. Such approval may be subject to such regulations, limitations and restrictions, including termination of the use, as the Design Review Committee may wish to impose, in its sole discretion, for the benefit of the Project as a whole.

3.17 Residential Use and Trades or Businesses. All Lots and Residences shall be used, improved and devoted exclusively to residential use. No trade or business may be conducted on any Lot or Parcel or in or from any Residence, except that an Owner or other Resident may conduct a business activity in a Residence so long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Residence; (b) the business activity conforms to all applicable zoning ordinances or requirements; (c) the business activity does not involve the door-to-door solicitation of Owners or other Residents in the Project; (d) the use of the Residence for trade or business shall in no way destroy or be incompatible with the residential character of the Residence or the surrounding neighborhood; (e) the trade or business shall be conducted only inside the Residence or inside a permitted accessory building or garage, and shall not involve the viewing, purchase or taking delivery of goods or merchandise at, to, from or in any Residence, permitted accessory building or garage; (f) the trade or business shall be conducted by a Resident or Residents of the Residence; (g) no more than twenty percent (20%) of the total floor area of the Residence shall be used for trade or business; (h) the Residence used for trade or business shall not be

used as a storage facility for a business conducted elsewhere; (i) the volume of vehicular or pedestrian traffic or parking generated by such trade or business shall not result in congestion or be in excess of what is customary in a residential neighborhood; (j) a trade or business shall not utilize flammable liquids or hazardous materials in quantities not customary to a residential use; and (k) a trade or business shall not utilize large Vehicles not customary to a residential use. The terms "business" and "trade" as used in this Section shall be construed to have ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation or other form of consideration, regardless of whether: (i) such activity is engaged in full or part time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required for such activity. The leasing of a Residence by the Owner thereof shall not be considered a trade or business within the meaning of this Section; provided, however, that any lease or rental agreement shall have a term of at least thirty (30) days and no Lot, Parcel, or Residence may be leased or rented for less than thirty (30) consecutive days at a time.

3.18 Animals. No animal, livestock, poultry or fowl of any kind, other than not more than two (2) house pets, shall be maintained on or in any Lot or Parcel and then only if they are kept or raised thereon solely as domestic pets and not for commercial purposes. No house pets shall be permitted to make an unreasonable amount of noise or create a nuisance. No structure for the care, housing or confinement of any pet shall be Visible From Neighboring Property. Notwithstanding the foregoing, no pets may be kept on or in any Lot or Parcel which, in the opinion of the Board, result in an annoyance to other Owners or Occupants in the vicinity. All pets shall be leashed when not on property owned by the pet's owner or on which the pet's owner is a Resident or guest, and persons walking any pet shall promptly and properly remove and dispose of the pet's waste. Notwithstanding anything herein to the contrary, if Additional Property is annexed to the Project, Declarant shall have the unilateral right to create more liberal rules regarding pets and other animals permitted on the Lots of such Additional Land, including, without limitation, the right to keep and use horses.

3.19 Machinery and Equipment. No machinery or equipment of any kind shall be placed, operated or maintained upon or adjacent to any Lot or Parcel, except: (a) such machinery or equipment as is usual and customary in connection with the use, maintenance or construction (during the period of construction) of a building, appurtenant structures or other Improvements; and (b) that which Declarant or the Association may permit or require for the development, operation and maintenance of the Project.

3.20 Signs. No signs whatsoever (including, but not limited to commercial, political, "for sale," "for rent" and similar signs) shall be erected or maintained on any Lot or Parcel, displayed in the window of any Residence, other Improvement, or Vehicle or placed or mounted upon the face of any Residence, other Improvement, or Vehicle, except as shall be permitted by the Design Guidelines.

3.21 Required Approvals for Further Property Restrictions.

3.21.1 All proposed site plans and subdivision plats (excluding those to be filed by the Declarant) for any Lot or Parcel, or any portion thereof, must be approved in writing by the Design Review Committee prior to Recordation thereof or commencement of construction on the applicable Lot or Parcel. No Lot, or portion thereof, shall be further subdivided, no lot lines or boundaries may be modified, and no portion less than all of any such Lot, or any easement or other interest therein, shall be conveyed or transferred by any Owner without the prior written approval of the Design Review Committee.

3.21.2 No further covenants, conditions, restrictions, or easements shall be Recorded against any Lot or Parcel, or portion thereof, without the prior written approval of the Design Review Committee.

3.21.3 No applications (excluding those to be filed by the Declarant which are not required to be approved by the Design Review Committee) for rezoning, variances or use permits, or for waivers of or modifications to existing variances, use permits, zoning stipulations or similar restrictions, shall be filed with any governmental authority or agency without the prior written

approval of the Design Review Committee, and then only if such proposed zoning, variance or use, or waiver or modification, is in compliance with this Declaration.

3.21.4 No subdivision plat (excluding those to be filed by the Declarant which are not required to be approved by the Design Review Committee), easement, declaration of further covenants, conditions, restrictions or easements or other instrument which is to be Recorded and which is required by this Section 3.21 to be approved by the Design Review Committee shall be effective unless the required approval is evidenced on such instrument by the signature of an authorized representative of the Design Review Committee.

3.21.5 No site plan, subdivision plat, or further covenants, conditions, restrictions or easements, and no application for re-zoning, variances or use permits shall be submitted to the County or any other governmental authority or agency unless the same has first been approved in writing by the Design Review Committee as provided in this Section 3.21; further, no changes or modifications shall be made in any such documents, instruments or applications once the same have been approved by the Design Review Committee hereunder (whether requested by the County, any other governmental jurisdiction or otherwise) unless such changes or modifications have first been approved by the Design Review Committee in writing.

3.21.6 Notwithstanding the foregoing, neither the Declarant nor any Declarant Affiliate shall be required to seek or obtain any of the approvals or consents otherwise required under this Section 3.21 as to any Lot or Parcel, or any portion of either, of which the Declarant or any Declarant Affiliate is the Owner.

3.22 Vehicles. In general, all Vehicles (as defined below) must be parked, kept, maintained, stored, or repaired only within a fully-enclosed garage approved by the Design Review Committee pursuant to Section 3.2. For purposes of this Article 3, the term "Vehicles" includes cars, trucks and vans of all sizes, motorcycles, motorbikes, mopeds, mini-bikes, motor scooters, all-terrain vehicles, off-road vehicles, motor homes, recreational vehicles, trailers, travel trailers, tent trailers, camper shells, detached campers, boats, boat trailers, mobile homes, or other similar machinery or equipment, whether motorized or not, whether wheeled or not and whether or not in operating condition. Notwithstanding the foregoing: (a) additional cars, vans or trucks having a capacity of one ton or less may be parked from time to time on driveways or other improved parking areas on a Lot or Parcel to accommodate visitors or guests of the Owner or Occupant of that Lot or Parcel (provided that the Design Review Committee may adopt rules or regulations relating to the number or frequency of guest or visitor vehicle parking, if it determines, in its discretion, that such rules or regulations are necessary); (b) service, repair or delivery vehicles may be parked on a Lot or Parcel, but only for the period reasonably required to effect the needed service, repair or delivery; and (c) a temporary construction trailer may be placed and maintained on a Lot or Parcel in connection with construction of improvements on that Lot or Parcel, but only if that temporary construction trailer, its location on the Lot or Parcel and the period during which it will be permitted to remain on the Lot or Parcel complies with the requirements of the Design Guidelines and is approved in writing by the Design Review Committee and further provided that the Persons using a temporary construction trailer obtain a County Use Permit or other applicable governmental approvals. Except for emergency repairs, no Vehicle shall be repaired, constructed or reconstructed on the Property except within a fully-enclosed garage. No Vehicle shall be parked on any roadway or street within or adjacent to the Property, except for temporary parking (not exceeding 24 hours) of Vehicles of an Owner's or Occupant's guests.

3.23 Towing of Vehicles. The Board has the right, without notice, to have any Vehicle which is parked, kept, maintained, constructed, reconstructed or repaired in violation of the Project Documents towed away at the sole cost and expense of the owner of the Vehicle. Any expense incurred by the Association in connection with the towing of any Vehicle must be paid to the Association upon demand by the owner of the Vehicle. If the Vehicle is owned by an Owner or Occupant, any amounts payable to the Association will be secured by a Reimbursement Assessment and Lien against that Owner's or Occupant's Lot, and the Association may enforce collection of those amounts in the same manner provided for in this Declaration.

3.24 Snow Removal. Subject to the provisions of Section 6.4, the Association shall be responsible for removal of snow from all Private Streets within the Project and all Trails (including those trails located within the Parkway). Each Owner shall be responsible for removal of snow from the driveway and sidewalks on such Owner's Lot including those portions of the driveway that may extend from the lot line through the Parkway and up to the paved street located within the Parkway. If an Owner elects to hire a contractor to perform some or all of such Owner's snow removal duties under this Section, such Owner must use the contractor then used by the Association for snow removal, so as to reduce the number of snow removal Vehicles within the Project and thereby promote coordination and safety within the Project.

3.25 Variations & Exemption. The Design Review Committee may, at its option and in extenuating circumstances, grant variances from the restrictions set forth in this Article 3, including the Design Guidelines, if the Design Review Committee determines in its discretion that: (a) a restriction would create an unreasonable hardship or burden on an Owner or Occupant or a change of circumstances since the recordation of this Declaration had rendered such restriction obsolete; and (b) the activity permitted under the variance will not have any substantial adverse effect on Owners and Occupants and is consistent with the high quality of life intended for residents of the Project. Any variance granted by the Design Review Committee shall be evidenced in writing signed by a representative of such Committee. In addition to the foregoing, **Lot 106 and the improvements located thereon as of the date hereof shall be considered exempt from the requirements of the Designed Guidelines as identified in this Article;** provided, however, in the event of any material damaged to the improvements, the repair or replacement of which would equal or exceed fifty percent (50%) of the then value of such improvements, or sixty percent (60%) of the then value of the Residence for damage to the Residence, such Design Guidelines shall then apply to the repair and restoration of such improvements and/or Residence. Notwithstanding any other provisions of this Section 3.25, the Design Review Committee shall not have the power or authority to waive or modify any requirement imposed by applicable governmental ordinance and/or the requirements of the Development Agreement.

3.26 Change of Use of Common Area. Upon: (a) adoption of a resolution by the Board stating that in the Board's opinion the then present use of a designated part of the Common Area is no longer in the best interests of the Owners, and provided the proposed action is not contrary to the requirements of the Development Agreement or applicable governmental ordinances and/or regulations; (b) the approval of such resolution by Association Members casting more than seventy five percent (75%) of the votes entitled to be cast by Association Members who are present in person or by proxy at a meeting duly called for such purpose and who are entitled to use such Common Area under the terms of this Declaration; and (c) the approval of the Declarant during any period which the Declarant is the Owner of one or more Lots or has the right to add any portion of the Additional Land to the Project, the Board shall have the power and right to change the use thereof (and in connection therewith, construct, reconstruct, alter or change the buildings, structures and improvements thereon in any manner deemed necessary by the Board to accommodate the new use), provided such new use shall be consistent with the Development Agreement and any zoning regulations restricting or limiting the use of the Common Area. This Section 3.26 shall not apply to, or be deemed to limit in any way, the right and power of the Association pursuant to Section 4.1.1 (a) to grant easements or licenses over, under or through portions of the Common Area, or to dedicate portions of the Common Area, to public, quasi-public or private utility companies, municipalities or other governmental agencies or entities, in connection with or at the time of development of property within or adjacent to the Project, where required or requested by any municipality or other governmental agency or entity, or any public, quasi-public or private utility company.

3.27 Drainage. Except as may be authorized by the Design Guidelines, no Residence, structure, building, landscaping, fence, wall or other Improvement shall be constructed, installed, placed or maintained in any manner that would obstruct, interfere with or change the direction or flow of water in accordance with the drainage plans for the Project, or any part thereof, or for any Lot or Parcel as shown on the drainage plans on file with the County or municipality in which the Project is located.

3.28 Garages and Driveways. The interior of all garages shall be maintained in a neat, clean and slightly condition. Garages shall be used only for parking Vehicles and storage, and shall not be used or converted for living or recreational activities. Garage doors shall be kept closed at all times except to the

limited extent reasonably necessary to permit the entry or exit of Vehicles or persons. Driveways into any Lot or Parcel shall be constructed and maintained according to the requirements of the Design Guidelines.

3.29 Rooftop HVAC Equipment Prohibited. No heating, ventilating, air conditioning or evaporative cooling units or appurtenant equipment may be mounted, installed or maintained on the roof of any Residence or other building and all of the foregoing shall be located in other areas as required by the Design Guidelines.

3.30 Solar Collecting Panels or Devices. Solar collecting panels and other active solar devices may be placed, constructed or maintained upon any Lot within the Property only as approved by the Design Review Committee and only so long as such solar collecting panels and devices are placed, constructed and maintained in such location(s) and with such means of screening or concealment as the Design Review Committee may deem appropriate to limit the visual impact of such solar collecting panels and devices when viewed from any street or from any other property (whether within or outside the Property).

3.31 Basketball Goals or Play Structures. No basketball goal, backboard or similar structure or device, and no swingsets or other play structures, shall be placed or constructed on any Lot unless the same complies with the Design Guidelines and is approved by the Design Review Committee (including, without limitation, approval as to appearance and location).

3.32 Pools, Spas, Fountains, Gamecourts. Pools, spas, fountains and gamecourts shall be approved by the Design Review Committee prior to construction and installation and the same shall be constructed according to the requirements of the Design Guidelines, which Design Guidelines require that such Improvements be located to avoid impacting adjacent properties with light or sound. No gamecourt shall be located in front or side yards. Pool heaters and pumps must be located and screened from view and sound according to the requirements of the Design Guidelines. Nothing herein shall be construed as permitting the construction of skateboard areas and/or ramps, which structures shall be prohibited. Construction and installation of all improvements provided in this Section 3.32 shall be subject to the requirements of County and other applicable governmental ordinances, laws and regulations.

3.33 Tanks. No tanks of any kind (including tanks for the storage of fuel) shall be erected, placed or maintained on any Lot or Parcel. Nothing herein shall be deemed to prohibit use or storage upon any Lot or Parcel of an aboveground propane tank with a capacity of ten (10) gallons or less used in connection with a normal residential gas barbecue grill so long as any such tank either: (a) has a capacity of ten (10) gallons or less; or (b) is appropriately stored, used and/or screened, in accordance with the Design Guidelines.

3.34 Exterior Lighting. Exterior lighting shall be permitted on a Lot or Parcel only in accordance with the Design Guidelines.

3.35 Mailboxes. Mailboxes shall be provided and maintained by the Association or United State Post Office (the "Post Office") at one or more locations within the Project according to the requirements of the Post Office. Mailbox location, height, design and color are specified in the Design Guidelines, which specifications are at all times subject to the approval of the Post Office. As of the date hereof, the Post Office will require one or more community mail boxes to be installed within the Project at locations approved by the Post Office.

3.36 Construction. Once begun, any improvements, construction, landscaping, or alterations approved by the Design Review Committee shall be diligently prosecuted to completion according to the requirements of the Design Guidelines.

3.37 Declarant's Exemption. Nothing contained in this Declaration shall be construed to prevent the construction, installation or maintenance by the Declarant, any Declarant Affiliate or any agents or contractors thereof, during the period of development, construction and sales on the Property, of Improvements, landscaping or signs deemed necessary or convenient by the Declarant, in its sole discretion, to the development or sale of property within the Property.

## ARTICLE 4

### LAND USES, PERMITTED USES AND RESTRICTIONS

#### 4.1 Owners' Easements of Enjoyment.

4.1.1 Subject to the rights and easements granted to the public as provided in Section 4.4, and to the Declarant in Section 4.5, each Owner, and each Occupant of such Owner's Lot or Parcel, shall have a non-exclusive right and easement of enjoyment in, to and over the Common Area, which right and easement shall be appurtenant to and shall pass with the title to each Lot and Parcel, subject to the provisions of this Declaration including, without limitation, the following:

(a) Except as otherwise provided in this Declaration, no dedication, transfer, mortgage or encumbrance of all or any portion of the Common Area shall be effective unless approved by Owners representing two-thirds (2/3) of the votes in each class of Association Members. Notwithstanding the preceding sentence or any other provision of this Declaration to the contrary, the Association shall have the right, without the consent of the Owners or any other Person (except Declarant, whose consent shall be required so long as Declarant owns any part of the Property or of the Additional Property), to dedicate portions of the Common Area to the public, or grant easements or licenses over, under or through portions of the Common Area to the public, to any municipal or other governmental agency or entity, or to any public, quasi-public or private utility company, for use as a right-of-way, for utilities, for public landscape purposes and the like, as may be required or requested by the County or any municipal or other governmental agency or entity having jurisdiction, or by a public, quasi-public or private utility company, in connection with or at the time of the development of portions of the Property or of portions of the Additional Property.

(b) The Association shall have the right to (i) regulate the use of the Common Area through the Association Rules (which may include, without limitation, the adoption and implementation of a reservation system for such portions of the Common Area, or Improvements or amenities thereon, as the Board deems appropriate), (ii) to prohibit access to such portions of the Common Area, such as open spaces and/or landscaped right-of-ways or licensed areas, not intended for possessory use by the Owners, Lessees or other Occupants, or (iii) to restrict access to such portions of the Common Area, such as Private Streets, which are intended for use only by those who obtain their access to their Lots through such Private Streets.

(c) The Declarant and the Association shall each have the right to grant easements or licenses to Developers or other Persons for the construction of Improvements on the Common Area, and the Declarant and the Association shall each have the right to grant ingress and egress easements over the Private Streets in the Project to Persons who are not Members of the Association.

(d) The Declarant and the Association shall each have the right to convey certain portions of the Common Area to Owners of adjoining Lots or Parcels in connection with the correction or adjustment of any boundary between a Common Area and any one or more adjoining Lots or Parcels; provided, however, that neither the Association nor the Declarant shall have the right to transfer or convey any portion of the Common Area upon which is situated any recreational facility unless approved by a vote of the Association Members pursuant to Subsection 4.1.1(a).

(e) The Association shall have the right to charge Special Use Fees for the use of any other portion of the Common Area (other than the Private Streets which are subject to Private Street Assessments according to Section 6.4). The Special Use Fees for Common Areas (other than Private Streets) shall be set by the Board from time to time, in its discretion. Special Use Fees for Common Areas (other than Private Streets) shall be

charged only for actual entry upon or use of those portions of the Common Area, if any, selected by the Board to be subject to a Special Use Fee, and shall be imposed only where the Board deems it appropriate to collect revenue from the actual users of such selected portions of the Common Area so that all of the costs of operating such selected portions of the Common Area are not borne by all of the Owners through Annual Assessments, but rather are borne, at least in part, by the Owners, Occupants and other Persons using such selected portions of the Common Area.

(f) The Association shall have the right to suspend the rights of any Owner or Occupant to use and enjoy recreational facilities on the Common Area: (1) for any period during which an Assessment remains delinquent; (2) for a period not to exceed 60 days for any infraction of the Project Documents; or (3) for successive 60-day periods if any such infraction is not corrected during any preceding suspension period.

4.1.2 If a Lot or Parcel is leased or rented by its Owner, subject to the limitations and requirements contained in this Declaration, the Occupants of such Lot or Parcel shall have the right to use the Common Area during the term of the lease, and the Owner of such Lot or Parcel shall have no right to use the Common Area until the termination or expiration of such lease.

4.1.3 The Board shall have the right to limit the number of guests and invitees who may use the recreational facilities located on the Common Area at any one time and may restrict the use of the recreational facilities by guests and invitees to certain specified times.

4.2 Utility Easement. Subject to the further limitations herein contained, there is hereby created an easement upon, across, over and under the Common Area, Lots, Parcels and other property for reasonable ingress, egress, installation, replacement, repair or maintenance of all utilities, including, but not limited to, gas, water (including wells), sewer, telephone, cable television and electricity. By virtue of this easement, it shall be expressly permissible for the Declarant, the Association, and/or the providing utility company(ies) to install and maintain the necessary equipment on the Common Area, Lots, Parcels and other property, but no sewers, electrical lines, water lines or other utility or service lines may be installed or located on the Common Area, Lots, Parcels and other property except in areas shown on a Plat and reserved for utility easements, or as initially designed, approved and/or constructed by the Declarant, or as approved by the Design Review Committee (and, in the case of a Lot or Parcel, by the Owner of such Lot or Parcel). If any utility company requests that a more specific easement be granted in its favor in substitution for the blanket easement hereby established with respect to the Common Area, the Association shall have the power and authority, without the need for any consent by the Owners or any other Person, to grant the more specific easement on such terms and conditions as the Board deems appropriate.

In addition to the foregoing blanket easement, Declarant intends to reserve for the benefit of the Water Company, an easement for the installation, operation and maintenance of a culinary water pump and facilities incidental thereto (including, but not limited to the installation of a pump house), upon Lot 106. Such easement area shall be described upon the Plat or by separate easement to be granted by Declarant to the Water Company.

4.3 Easements for Ingress and Egress. There are hereby created easements for ingress and egress for pedestrian traffic over, through and across sidewalks, paths, walks and lanes that from time to time may exist upon the Common Area. The easements for ingress and egress created by the provisions of this Section 4.3 may be in addition to the easement for Trails created pursuant to the provisions of Section 4.4 below. There is also created an easement for ingress and egress for pedestrian and vehicular traffic over, through and across such driveways and parking areas as from time to time may be paved and intended for such purposes. Such easements shall run in favor of and be for the benefit of the Owners and Occupants of the Lots and Parcels and their guests, families, tenants and invitees. There is also created an easement for ingress and egress for pedestrian and vehicular traffic over, through and across the Trails identified in Section 4.4 below or other Common Areas for ingress to and from each Lot, at the locations designated upon the Plat or as approved by the Design Review Committee. Such easements shall run in favor of and be for the benefit of the Owners and Occupants of each such Lot and/or Parcel and their respective guests, families, tenants



and invitees. There is also hereby created an easement upon, across and over the Common Area and all Private Streets, private roadways, private driveways and private parking areas within the Project for vehicular and pedestrian ingress and egress for police, fire, medical and other emergency vehicles and personnel. The Board shall have the right to relocate and/or reconfigure any and all such easements from time to time as it sees fit without the consent of any Owners (but subject to any necessary approvals of the County or any other governmental body or agency having jurisdiction thereover including in particular, but without limitation, the easements granted herein for police, fire, medical and other emergency vehicles and personnel).

4.4 Public Use Trails. There are hereby created easements for ingress and egress for pedestrian, bicycling and other non-motorized traffic over, through and across the Trails that are shown on one or more Plats. Such Trails may be traversed by other easements and/or rights for ingress and egress as set forth in Section 4.3. The Trails are expressly made available for use by the public in accordance with their intended use, subject to reasonable, nondiscriminatory rules and regulations as the Board may adopt from time to time and subject to applicable requirements and regulations of the County and any other governmental body or agency having jurisdiction. Such uses are restricted to recreational purposes, including but not limited to hiking, walking, nature study, biking (excluding motorized vehicles), and viewing of scenic areas. Such Trails are made available to the public with the express understanding that "an owner owes no duty of care to keep the premises safe from entry or use by any person entering or using the premises for any recreation purpose or to give any warning of a dangerous condition, use, structure, or activity on those premises to that person." Any person using such Trails shall not have the status of an invitee or licensee to whom a duty of care is owed, and the Declarant, Association and the Owners assume no responsibility for nor shall they incur any liability for any injury to persons or property caused by the act or omission of the person or any other person who enters upon the Trails. The Declarant, Association and the Owners specifically rely upon the provisions of the "Limitations of Landowner Liability - Public Recreation Act", Section 57-14-1, *et. seq.*, Utah Code Annotated (or any replacement thereof), in providing the use of the Trails to the public. The Association shall maintain the Trails to the extent it determines is reasonable, in its sole and absolute discretion.

4.5 Declarant's Use and Easements.

4.5.1 The Declarant shall have the right and an easement (which, in its discretion, it may delegate to and/or share with one or more Developers, upon and subject to such terms and conditions as the Declarant may deem appropriate) to maintain sales or leasing offices, management offices and models throughout the Project and to maintain one or more advertising signs on the Common Area with respect to the sales of Lots, Parcels or other property in the Project or within any of the Additional Land. The Declarant reserves the right (which, in its discretion, it may delegate to and/or share with one or more Developers, upon and subject to such terms and conditions as the Declarant may deem appropriate) to place models, management offices and sales and leasing offices on any Lots, Parcels or other property owned by the Declarant (or by such Developer(s), as applicable) and on any portion of the Common Area in such number, of such size and in such locations as the Declarant deems appropriate.

4.5.2 So long as the Declarant is marketing Lots, Parcels or other portions of the Property or the Additional Land, the Declarant shall have the right to restrict the use of the parking spaces on the Common Area. Such right shall include reserving such spaces for use by prospective Purchasers, Declarant's employees and others engaged in sales, leasing, maintenance, construction or management activities.

4.5.3 The Declarant shall have the right and an easement on and over the Common Area to construct all improvements the Declarant may deem necessary and to use the Common Area and any Lots, Parcels and other property owned by the Declarant for construction or renovation related purposes including the storage of tools, machinery, equipment, building materials, appliances, supplies and fixtures, and the performance of work respecting the Project and property adjacent to the Project.

4.5.4 The Declarant shall have the right and an easement upon, over and through the Common Area as may be reasonably necessary for the purpose of exercising the rights granted to or reserved by the Declarant in this Declaration.

4.6 Easement in Favor of Association. The Lots, Parcels and Common Area are hereby made subject to the following easements in favor of the Association and its directors, officers, agents, employees and independent contractors:

4.6.1 For inspection during reasonable hours of the Lots, Parcels and Common Area in order to verify the performance by Owners or other Persons of all items of maintenance and repair for which they are responsible;

4.6.2 For inspection, maintenance, repair and replacement of portions of the Common Area accessible only from such Lots or Parcels;

4.6.3 For correction of emergency conditions on one or more Lots or Parcels or on portions of the Common Area accessible only from such Lots or Parcels;

4.6.4 For the purpose of enabling the Association, the Board, the Design Review Committee or any other committees appointed by the Board to exercise and discharge during reasonable hours their respective rights, powers and duties under the Project Documents;

4.6.5 For inspection during reasonable hours of the Lots and Parcels in order to verify that the Owners and Occupants, and their guests, tenants and invitees, are complying with the provisions of the Project Documents.

4.6.6 For the installation, maintenance, repair and replacement of landscape improvements, including landscaping, fences, walls, water features and other improvements upon areas claimed and/or designated as Landscape Easements (which areas are located within the public utility easements as designated upon the Plat); provided, that such easement areas need not be separately reflected upon the Plat and may be asserted to exist solely by virtue of the existence of improvements installed, maintained, and replaced by the Declarant and/or Association; provided, however that nothing herein shall preclude one or more amendments to the Plat by the Association identifying the areas claimed to be Landscape Easement areas.

#### ARTICLE 5

##### THE ASSOCIATION; ORGANIZATION; ASSOCIATION MEMBERSHIP AND VOTING RIGHTS

5.1 Formation of Association. The Association shall be a Utah nonprofit corporation charged with the duties and vested with the powers prescribed by law and set forth in the Articles, the Bylaws and this Declaration. In the event of any conflict or inconsistency between this Declaration and the Articles, Bylaws, or Association Rules, this Declaration shall control. With respect to design issues, in the event of any conflict or inconsistency between this Declaration, the Articles, Bylaws, or Association Rules, and the Design Guidelines, the Design Guidelines shall control.

5.2 Governing Board and Officers. The affairs of the Association shall be conducted by the Governing Board (the "Board") and such officers as the Board may elect or appoint in accordance with the Articles and the Bylaws. Unless the Project Documents specifically require the vote or written consent of the Association Members, approvals or actions to be given or taken by the Association shall be valid if given or taken by the Board. The Board may appoint various committees at its discretion.

In accordance with the requirements of the Development Agreement, the Association shall be required to retain by written contract, a professional manager (the "Manager") who shall be responsible for

the routine operation of the Association and the maintenance of the Common Area, unless Owners holding two thirds (2/3) or more of all votes allocated to Sub-Units agree to the contrary and the County provides its written consent. Each Manager (or its principal broker) shall be a licensed real estate broker or property manager in the State of Utah.

5.3 Association Rules. The Board may, from time to time, and subject to the provisions of this Declaration, adopt, amend and repeal rules and regulations pertaining to: (a) the management, operation and use of the Common Area including, but not limited to, any recreational facilities situated upon the Common Area; (b) traffic and parking restrictions including speed limits on Private Streets within the Project; (c) minimum standards for any maintenance of Common Areas, Lots and Parcels within the Project; or (d) any other subject within the jurisdiction of the Association. In the event of any conflict or inconsistency between the provisions of this Declaration and the Association Rules, the provisions of this Declaration shall prevail.

5.4 Personal Liability. No member of the Board, the Design Review Committee or any other committee of the Association, no officer of the Association and no manager or other employee of the Association shall be personally liable to any Association Member, or to any other Person including the Association, for any damage, loss or prejudice suffered or claimed on account of any act, omission, error or negligence of the Association, the Board or any member thereof, the Design Review Committee or any member thereof, the manager, any representative or employee of the Association, any officer of the Association or any member of any other committee of the Association; provided, however, the limitations set forth in this Section shall not apply to any person who has engaged in intentional misconduct or gross negligence or who is engaged as a manager for a fee more than a nominal amount.

5.5 Implied Rights. The Association may exercise any right or privilege given to the Association expressly by the Project Documents and every other right or privilege reasonably to be implied from the existence of any right or privilege given to the Association by the Project Documents or reasonably necessary to effectuate any such right or privilege.

5.6 Membership in the Association. Every Owner of a Lot or Parcel which is Assessable Property shall be an Association Member, and the Declarant shall be an Association Member so long as it owns any part of the Project or of the Additional Land (unless and until the Declarant expressly relinquishes in writing its status as an Association Member). There shall be one (1) Association Membership for each Lot and Parcel, which Association Membership shall be held jointly by all Owners of that Lot or Parcel.

5.7 Votes in the Association.

5.7.1 There shall be one (1) vote to each Lot and two (2) votes for each acre of every other Parcel, including through the Period of Declarant Control, the Additional Land.

5.7.2 Until the expiration or termination of the Period of Declarant Control: (a) the Association shall be deemed to have two classes of Association Members, Class A and Class B; (b) the Declarant shall be the Class B Association Member, and all votes held by the Declarant shall be Class B votes; (c) all Owners other than Declarant shall be Class A Association Members, and all votes held by such Owners shall be Class A votes. Following expiration or termination of the Period of Declarant Control, the Association shall be deemed to have a single class of Association Members and votes. During the Period of Declarant Control, all matters coming before the Association for vote shall be decided by the vote of the Declarant as the sole Class B Association Member. Following the Period of Declarant Control, all Class B Association Memberships and all Class B votes shall cease to exist, and any issue put to a vote at a duly called meeting of Association Members at which a quorum is present shall be decided by a simple majority of all votes represented in person or by valid proxy at such meeting.

5.8 Voting Procedures. A change in the ownership of a Lot or Parcel shall be effective for voting purposes from the time the deed or other instrument effecting such change is Recorded; the Board shall thereafter be given written notice of such change and provided satisfactory evidence thereof. The vote for each Lot or Parcel must be cast as a unit, and fractional votes shall not be allowed. In the event that a

Lot or Parcel is owned by more than one Person and such Owners are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose their right to vote on the matter in question. If any Association Member casts a vote representing a certain Lot or Parcel, it will thereafter be conclusively presumed for all purposes that he, she or it was acting with the authority and consent of all other Owners of the same Lot or Parcel unless objection thereto is made at the time the vote is cast. In the event more than one Owner attempts to cast the vote or votes for a particular Lot or Parcel, the vote or votes for that Lot or Parcel shall be deemed void and shall not be counted.

5.9 Transfer of Association Membership. The rights and obligations of any Association Member other than the Declarant shall not be assigned, transferred, pledged, conveyed or alienated in any way except upon transfer of ownership of an Owner's Lot or Parcel, and then only to the transferee of ownership of the Lot or Parcel. A transfer of ownership of a Lot or Parcel may be effected by deed, intestate succession, testamentary disposition, foreclosure or such other legal process as is now in effect or as may hereafter be established under or pursuant to applicable law. Any attempt to make a prohibited transfer shall be void. Upon the transfer of ownership of a Lot or Parcel to a new Owner thereof, each such Purchaser of a Lot or Parcel shall notify the Association of his, her or its purchase of a Lot or Parcel. The Association may require the Purchaser of a Lot or Parcel to pay to the Association a transfer fee in an amount to be set by the Board, and the transfer fee shall be secured by the Assessment Lien.

5.10 Design Review Committee.

5.10.1 The Association shall have a Design Review Committee to perform the functions assigned to it as set forth in this Declaration. So long as the Declarant owns any Lot, Parcel or other property within the Project, or any portion of the Additional Land, the Design Review Committee shall consist of three (3) regular members and one (1) alternate member, each of whom shall be appointed by, and serve at the pleasure of, the Declarant. At such time as the Declarant no longer owns any Lot, Parcel or other property within the Project, or any portion of the Additional Land, the Design Review Committee shall consist of such number of regular and alternate members as the Board may deem appropriate from time to time (but in no event less than three (3) nor more than seven (7) regular members, nor less than one (1) nor more than three (3) alternate members), each of whom shall be appointed by, and serve at the pleasure of, the Board. The Declarant may at any time voluntarily surrender in writing its right, as the Declarant, to appoint and remove the members of the Design Review Committee pursuant to this Section 5.10.1, and in that event the Declarant may require, for so long as the Declarant owns any Lot, Parcel or other property within the Project, or any portion of the Additional Land, that specified actions of the Design Review Committee, as described in a Recorded instrument executed by the Declarant, be approved by the Declarant before they become effective.

5.10.2 The Design Review Committee shall promulgate architectural design guidelines and standards (herein "Design Guidelines") for the Project and the construction and placement of any improvement upon each Lot. The scope of such Design Guidelines shall include, but are not limited to, permissible building designs, acceptable building materials and colors, the location of all improvements, the maintenance of natural conditions, landscape requirements, and all other items which are incidental to the development and maintenance of the Project. The decision of the Design Review Committee shall be final on all matters submitted to it pursuant to this Declaration. As provided in Section 3.2.1.1, the Design Review Committee may establish a reasonable fee to defer the costs of considering any requests for approvals submitted to the Design Review Committee, which fee shall be paid at the time the request for approval is submitted. In the event of any conflict between this Declaration and any Design Guidelines adopted by the Design Review Committee, as to design matters, the Design Guidelines shall control. The Design Guideline shall not be amended without the Declarant's consent as long as the Declarant has any interest in the Project.

5.10.3 No member of the Design Review Committee shall be personally liable to any Owner, the Association or any other Person for any mistake of judgment or for any other acts or omissions of any nature whatsoever (including, without limitation, any mistake in judgment, negligence or nonfeasance) except for willful or intentional misconduct, gross negligence or fraud.

The Association shall indemnify and hold harmless the members of the Design Review Committee, and their respective heirs and legal representatives, against all contractual and other liabilities to others arising out of: (a) contracts made by the Design Review Committee, within the scope of and in the course of performing its duties hereunder; (b) acts or omissions of such members of the Design Review Committee; or (c) their status as members of the Design Review Committee; provided, however, that such indemnification shall not be applicable where any such contract, act or omission constitutes willful or intentional misconduct, gross negligence, or fraud. The foregoing indemnification shall include indemnification against all costs and expenses (including, but not limited to, reasonable attorneys' fees and disbursements, amounts of judgments paid and settlement amounts) actually and reasonably incurred in connection with the defense of any claim, action, suit or proceeding, whether civil, criminal, administrative or other, in which any such member of the Design Review Committee may be involved by virtue of being or having been a member of the Design Review Committee; provided, however, that such indemnity shall not be operative with respect to: (i) any matter as to which a member of the Design Review Committee shall have finally been adjudged in such action, suit or proceeding to be liable for willful or intentional misconduct, gross negligence, or fraud in the performance of his or her duties as such member of the Design Review Committee; or (ii) any matter settled or compromised, unless, in the opinion of independent counsel selected by the Board, there is no reasonable ground for a claim against such member of the Design Review Committee that such member would be adjudged liable for willful or intentional misconduct, gross negligence or fraud in the performance of his or her duties as a member of the Design Review Committee.

5.10.4 Subject to the provisions of Section 5.10.3, neither the Association, the Board, nor the Design Review Committee, nor any of the members of any of them, shall be liable in damages or otherwise to anyone submitting plans and specifications for approval or to any Owner affected by this Declaration by reason of mistake of judgment, negligence or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or to disapprove any plans and specifications. Further, the design and construction of any Improvement shall be the sole responsibility of the Owner and any recommendation, requirement or condition with respect to any plans or specifications or the means or method of construction made by the Design Review Committee or any member thereof shall not alter the Owner's responsibility for the safe and proper design and construction of said Improvement, nor shall it give rise to any claim by anyone against the Association, the Board or the Design Review Committee or any member of any of them for any defect in design or construction of any Improvement.

## ARTICLE 6

### COVENANT FOR ASSESSMENTS AND CREATION OF LIEN

6.1 Creation of Lien and Personal Obligation of Assessments. The Declarant, for each Lot and Parcel, excluding the Exempt Property, hereby covenants and agrees, and each Owner, other than the Declarant, by becoming the Owner of a Lot or Parcel, is deemed to covenant and agree, to pay Assessments to the Association in accordance with this Declaration. All Assessments shall be established and collected as provided in this Declaration. The Assessments, together with interest, late charges and all costs, including but not limited to reasonable attorneys fees, incurred by the Association in collecting or attempting to collect delinquent Assessments, whether or not suit is filed, shall be a charge on the Lot or Parcel and shall be a continuing lien upon the Lot or Parcel against which each such Assessment is made. Each Assessment, together with interest and all costs, including but not limited to reasonable attorneys fees, incurred by the Association in collecting or attempting to collect delinquent Assessments, whether or not suit is filed, shall also be the personal obligation of each Person who was an Owner of the Lot or Parcel at the time when the Assessment became due. The personal obligation for delinquent Assessments shall not pass to the successors in title of the Owner unless expressly assumed by them (unless title is transferred to one or more such successors for purposes of avoiding payment of any Assessment or is transferred to a Person controlling, controlled by or under common control with the Owner transferring title), but the lien created by this

Declaration against the applicable Lot shall continue to secure payment of such delinquent Assessment (including, but not limited to, any and all interests and late charges) until the same are fully paid.

6.2 Annual Assessment and Reserve Deposit.

6.2.1 In order to provide for the operation and management of the Association and to provide funds for the Association to pay all Common Expenses and to perform its duties and obligations under the Project Documents, including, without limitation, the establishment of reasonable reserves for replacements, maintenance and contingencies, the Board, for each Assessment Period beginning with the partial fiscal year beginning July 1, 2008, and ending December 31, 2008 (the "2008 Assessment Period"), shall assess an Annual Assessment against each Lot and Parcel which is Assessable Property.

6.2.2 Beginning with the 2008 Assessment Period, the Board shall give notice of the Annual Assessment (or partial year for the 2008 Assessment Period) to each Owner at least thirty (30) days prior to the beginning of each Assessment Period, but the failure to give prior notice shall not affect the validity of the Annual Assessment established by the Board nor relieve any Owner from its obligation to pay the Annual Assessment. If the Board determines during any Assessment Period that the funds budgeted for that Assessment Period are, or will become, inadequate to meet all Common Expenses for any reason, including, without limitation, nonpayment of Assessments by Association Members, it may increase the Annual Assessment for that Assessment Period and the revised Annual Assessment shall commence on the date designated by the Board (provided, however, that the total Annual Assessment for such Assessment Period shall not exceed the maximum amount determined pursuant to Section 6.3.).

6.2.3 As set forth in Section 6.2.1, a portion of the Annual Assessment may be allocated to reasonable reserves. Such reserves shall be initially funded by each purchaser of a Lot who shall pay to the Association with payment of the first Annual Assessment or portion thereof, for deposit into an Association General Reserve Fund, the sum of \$250.00. Any amount paid to this reserve shall not be considered as an advance payment of the Annual Assessment or any other assessment. This reserve fund shall be transferred to a segregated fund in the name of the Association upon transfer of control of the Association to the Owners. The Declarant shall be prohibited from using the reserve funds to defray any of its expenses, contribution, or construction costs, or make up any budget deficits while it is in control of the Association.

6.3 Rate of Assessment - Annual Assessment.

6.3.1 The amount of the Annual Assessment against each Lot or Parcel shall be determined as follows:

(a) The term "Association Membership Assessment" shall mean: (i) for the fiscal year ending December 31, 2008, Three Hundred Dollars (\$300.00) [\$50.00 per month for 6 months]; or (ii) for each subsequent fiscal year, the amount equal to the total budget of the Association for the applicable Assessment Period, as applicable, divided by (iii) the total number of Association Memberships in the Association, as provided in Section 5.6 (subject to Subsection 6.3.1(b) below).

(b) Except for Lots and Parcels owned by the Declarant which are exempt from assessment under paragraph (c) of this Subsection 6.3.1, each Lot and Parcel shall be assessed an Annual Assessment in an amount equal to the Association Membership Assessment as established according to the provisions of Subsection 6.3.1(a) above. Notwithstanding any provision of this Declaration to the contrary, beginning with the 2008 Assessment Period (July 1, 2008, through December 31, 2008) and continuing for the 2009 Assessment Period (January 1, 2009, through December 31, 2009), the Association Membership Assessment provided for herein shall not for any fiscal year of the Association exceed the Maximum Association Membership Assessment of One Thousand Dollars

(\$1,000.00). Thereafter, unless a greater increase is approved by the affirmative vote of two-thirds (2/3) of the votes of each class of Association Members represented in person or by valid proxy at a meeting of Association Members duly called for such purpose, the Maximum Association Membership Assessment for any fiscal year (the "New Year") shall be equal to the Maximum Association Membership Assessment for the immediately preceding fiscal year (the "Prior Year") increased at a rate equal to ten percent (10%). Nothing herein shall obligate the Board to establish, in any fiscal year, a budget which results in Association Membership Assessments, as calculated pursuant to paragraph (a) above, to be in the full amount of the Maximum Association Membership Assessment for such fiscal year, and the election by the Board not to establish a budget which would result in the Association Membership Assessment, as calculated pursuant to paragraph (a) above, to be in the full amount of the Maximum Association Membership Assessment for any fiscal year shall not prevent the Board from establishing a budget in subsequent fiscal years such that the Association Membership Assessment for such subsequent fiscal year, as calculated pursuant to paragraph (a) above, is in the full amount of the Maximum Association Membership Assessment for such subsequent fiscal year (as determined in accordance with this paragraph (b)).

(c) Notwithstanding any other provision of this Declaration to the contrary, no Annual Assessment shall be levied against Lots and Parcels owned by the Declarant. During the Period of Declarant Control, the Declarant shall subsidize the Association for the amount by which (i) the cost of operating and administering the Association and maintaining reasonable reserves for maintenance, replacement and repairs and for contingencies exceeds (ii) the total amount of Assessments levied against Lots and Parcels owned by Owners other than the Declarant. The subsidy required of Declarant under this paragraph (c) may be in the form of cash or in the form of "in-kind" contributions of goods or services, or in any combination of the foregoing, and any subsidies made by Declarant in the form of "in-kind" contributions of goods or services shall be valued at the fair market value of the goods or services contributed. Declarant shall make payments or contributions in respect of its subsidy obligations under this paragraph (c) at such times as the Board may reasonably request from time to time (but shall not be required to make such payments or contributions more often than monthly); at the end of each fiscal year of the Association, either: (1) Declarant shall pay or contribute to the Association such additional funds, goods or services (or any combination thereof) as may be necessary, when added to all other funds, goods and services paid or contributed by Declarant during such fiscal year, to satisfy in full Declarant's subsidy obligations under this paragraph (c) for such fiscal year; or (2) the Association shall pay to Declarant or credit against Declarant's subsidy obligation for the immediately following fiscal year, as Declarant may elect, the amount, if any, by which the total of all payments or contributions paid or made by Declarant during such fiscal year exceeded the total subsidy obligation of Declarant for such fiscal year under this paragraph (c).

6.3.2 Upon the transfer or conveyance of a Lot or Parcel by Declarant to any other Owner, the Annual Assessment attributable to such Lot or Parcel, shall be prorated over the Assessment Period (January 1 to December 31) with the amount thereof attributable to the balance of the Assessment Period, to be payable in accordance with the further provisions of this Declaration. Consequently, upon the conveyance of a Lot or Parcel by Declarant to an Owner, assessments for the balance of the then Assessment Period shall be due and payable from the Owner at the time of conveyance by the Declarant.

6.3.3 If the rate of assessment for any Lot or Parcel changes during any Assessment Period pursuant to the provisions of Subsection 6.3.1, the Annual Assessment attributable to such Lot or Parcel shall be prorated between the applicable rates upon the basis of the number of days in the Assessment Period that the Lot or Parcel was assessed under each rate.

6.4 Private Street Assessments.

6.4.1 In order to provide for the Association to pay all expenses attributable to the operation, replacement, maintenance of the Private Streets, fixtures and Improvements related thereto, the establishment of reserves for future expenditures, and other items reasonably incidental to the foregoing (the "Private Street Expenses"), the Board, for each Assessment Period beginning with 2008 Assessment Period, shall assess an Annual Private Street Assessment against each Lot and Parcel whose primary access is through or over a Private Street as set forth on a Plat (herein referred to as the "Private Street Lots"). The Private Street Lots are designated on Exhibit "D" attached hereto and incorporated herein by reference. Such Exhibit shall be supplemented from time to time as Additional Land may be added to the Project. Each Private Street Lot's Annual Private Street Assessment shall be equal to the total budget for Private Street Expenses for the applicable Assessment Period, divided by the total number of Private Street Lots as may exist from time to time.

6.4.2 Beginning with the 2008 Assessment Period, the Board shall give notice of the Annual Private Street Assessment to each Owner subject to a Private Street Assessment at least thirty (30) days prior to the beginning of each Assessment Period, but the failure to give prior notice shall not affect the validity of the Annual Private Street Assessment established by the Board nor relieve any Owner subject to a Private Street Assessment from his, her, or its obligation to pay the Annual Private Street Assessment. If the Board determines during any Assessment Period that the funds budgeted for that Assessment Period are, or will become, inadequate to meet all Private Street Expenses for any reason, including, without limitation, nonpayment of Private Street Assessments by other Association Members required to pay the same, it may increase the Annual Private Street Assessment for that Assessment Period and the revised Annual Private Street Assessment shall commence on the date designated by the Board (provided, however, that the total Annual Private Street Assessment for such Assessment Period shall not exceed the maximum amount determined pursuant to Section 6.5).

6.5 Rate of Assessment - Annual Private Street Assessment.

6.5.1 The amount of the Annual Private Street Assessment against each Private Street Lot shall be determined as follows:

(a) The term "Association Private Street Assessment" shall mean (i) for the fiscal year ending December 31, 2008 (the 2008 Assessment Period), Four Hundred Fifty Dollars (\$450.00) [\$75.00 per month]; or (ii) for each subsequent fiscal year, the amount equal to the total budget of the Association for Private Street Expenses for the applicable Assessment Period, divided by (iii) the total number of Private Street Lots (subject to Subsection 6.5.1(b) below).

(b) Except for Private Street Lots owned by the Declarant which are exempt from assessment under paragraph (c) of this Subsection 6.5.1, each Private Street Lot shall be assessed an Annual Private Street Assessment in an amount equal to the Association Private Street Assessment as established according to the provisions of Subsection 6.5.1 (a) above. Notwithstanding any provision of this Declaration to the contrary, beginning with the 2008 Assessment Period (July 1, 2008, through December 31, 2008) and continuing for the 2009 Assessment Period (January 1, 2009, through December 31, 2009), the Private Street Assessment provided for herein shall not for any fiscal year of the Association exceed the Maximum Association Private Street Assessment of One Thousand Two Hundred Dollars (\$1,200.00). Thereafter, unless a greater increase is approved by the affirmative vote of two-thirds (2/3) of the votes of each class of Association Members holding Private Street Lots represented in person or by valid proxy at a meeting of Association Members duly called for such purpose, the Maximum Association Private Street Assessment for any fiscal year (the "New Year") shall be equal to the Maximum Association Private Street Assessment for the immediately preceding fiscal year (the "Prior Year") increased at a rate equal to ten percent (10%). Nothing herein shall obligate the Board to establish, in any



fiscal year, a budget which results in the Association Private Street Assessments, as calculated pursuant to paragraph (a) above, to be in the full amount of the Maximum Association Private Street Assessment for such fiscal year, and the election by the Board not to establish a budget which would result in the Association Private Street Assessment, as calculated pursuant to paragraph (a) above, to be in the full amount of the Maximum Association Private Street Assessment for any fiscal year shall not prevent the Board from establishing a budget in subsequent fiscal years such that the Association Private Street Assessment for such subsequent fiscal year, as calculated pursuant to paragraph (a) above, is in the full amount of the Maximum Association Private Street Assessment for such subsequent fiscal year (as determined in accordance with this paragraph (b)).

(c) Notwithstanding any other provision of this Declaration to the contrary, no Annual Private Street Assessment shall be levied against Lots and Parcels owned by the Declarant. During the Period of Declarant Control, the Declarant shall subsidize the Association for the amount by which (i) the cost of operating and administering the Private Streets and maintaining reasonable reserves for maintenance, replacement and repairs and for contingencies relative to the Private Streets exceeds (ii) the total amount of Private Street Assessments levied against Private Street Lots owned by Owners other than the Declarant. The subsidy required of Declarant under this paragraph (c) may be in the form of cash or in the form of "in-kind" contributions of goods or services, or in any combination of the foregoing, and any subsidies made by Declarant in the form of "in-kind" contributions of goods or services shall be valued at the fair market value of the goods or services contributed. Declarant shall make payments or contributions in respect of its subsidy obligations under this paragraph (c) at such times as the Board may reasonably request from time to time (but shall not be required to make such payments or contributions more often than monthly); at the end of each fiscal year of the Association, either: (1) Declarant shall pay or contribute to the Association such additional funds, goods or services (or any combination thereof) as may be necessary, when added to all other funds, goods and services paid or contributed by Declarant during such fiscal year, to satisfy in full Declarant's subsidy obligations under this paragraph (c) for such fiscal year; or (2) the Association shall pay to Declarant or credit against Declarant's subsidy obligation for the immediately following fiscal year, as Declarant may elect, the amount, if any, by which the total of all payments or contributions paid or made by Declarant during such fiscal year exceeded the total subsidy obligation of Declarant for such fiscal year under this paragraph (c).

6.5.2 Upon the transfer or conveyance of a Lot or Parcel by Declarant to any other Owner, the Annual Private Street Assessment attributable to such Lot or Parcel, shall be prorated over the Assessment Period with the amount thereof attributable to the balance of the Assessment Period to be payable in accordance with the further provisions of this Declaration.

6.5.3 If the rate of assessment for any Lot or Parcel changes during any Assessment Period pursuant to the provisions of Subsection 6.5.1, the Annual Private Street Assessment attributable to such Lot or Parcel shall be prorated between the applicable rates upon the basis of the number of days in the Assessment Period that the Lot or Parcel was assessed under each rate.

6.6 Special Assessments. The Association may levy against each Lot and Parcel which is Assessable Property, in any Assessment Period, a Special Assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of Improvements upon the Common Area, including fixtures and personal property related thereto, provided that any Special Assessment shall have the assent of two-thirds (2/3) of the votes entitled to be cast by Association Members who are voting in person or by proxy at a meeting duly called for such purpose. The Association may also levy against each Private Street Lot which is Assessable Property, in any Assessment Period, a Special Assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of the Private Streets, including fixtures and personal property related thereto, provided that any Special Assessment attributable to the Private Streets shall have the assent of two-thirds (2/3) of the

votes attributable to Private Street Lots and entitled to be cast by Association Members owning Private Street Lots who are voting in person or by proxy at a meeting duly called for such purpose.

6.7 Reimbursement Assessment on Specific Living Unit or Lot. In addition to the Assessments authorized pursuant to Sections 6.2, 6.4 and 6.6 above, the Board may levy at any time additional Assessments on each Lot, the Owner or Occupant pursuant to the provisions of Sections 7.3, 7.4, 7.5 or other provisions of this Declaration which provide for an Assessment not covered by Sections 6.2, 6.4 and/or 6.6 (the foregoing being sometimes referred to as "Reimbursement Assessment"). The aggregate amount of any such Reimbursement Assessment shall be determined by the cost of such improvements, repairs, maintenance or enforcement action, including all overhead and administrative costs and attorney's fees, and shall be allocated among the affected Lots or Lot according to the special benefit, cause of damage, maintenance, repair work, or enforcement action, as the case may be, and such assessment may be made in advance of the performance of work. If a special benefit arises to any Lot or Lots from any Improvement which is part of the general maintenance obligations of the Association, it shall not give rise to a Reimbursement Assessment against the Lots benefitted.

6.8 Assessment Period. The period for which the Annual Assessments and Annual Private Street Assessments are to be levied (the "Assessment Period") shall be the twelve (12) month period commencing January 1, with the first such partial year commencing July 1, 2008, and ending December 31, 2008, and for each subsequent year beginning January 1 and ending twelve (12) months thereafter on December 31 of each year. The Board in its sole discretion from time to time may change the Assessment Period.

6.9 Rules Regarding Billing and Collection Procedures. Annual Assessments and Annual Private Street Assessments shall be collected on a monthly basis or such other periodic basis as may be selected by the Board. Special Assessments may be collected as specified by the Board. The Board shall have the right to adopt rules and regulations setting forth procedures for the purpose of making Assessments and for the billing and collection of the Assessments provided that the procedures are not inconsistent with the provisions of this Declaration. The failure of the Association to send a bill to a Association Member shall not relieve any Association Member of his liability for any Assessment or charge under this Declaration, but the Assessment Lien therefor shall not be foreclosed or otherwise enforced until the Association Member has been given not less than thirty (30) days written notice prior to such foreclosure or enforcement that the Assessment or any installment thereof is or will be due and of the amount owing. Such notice may be given at any time prior to or after delinquency of such payment. The Association shall be under no duty to refund any payments received by it even though the ownership of a Lot or Parcel changes during an Assessment Period; successor Owners of Lots or Parcels shall be given credit for prepayments, on a prorated basis, made by prior Owners.

6.10 Effect of Nonpayment of Assessments: Remedies of the Association.

6.10.1 Any Assessment, or any installment of an Assessment, not paid within thirty (30) days after the Assessment or the installment of the Assessment first became due, shall bear interest from the due date at the rate of twelve percent (12%) per annum. In addition, the Board may establish a late fee to be charged to any Owner who has not paid any Assessment, or any installment of an Assessment, within thirty (30) days after such payment was due.

6.10.2 The Association shall have a lien on each Lot and Parcel for all Assessments levied against the Lot or Parcel and for all other fees and charges payable to the Association by the Owner of the Lot or Parcel pursuant to this Declaration. The Association shall Record a notice of lien setting forth the name of the delinquent Owner as shown in the records of the Association, the legal description or street address of the Lot or Parcel against which the notice of lien is Recorded and the amount claimed to be past due as of the date of the Recording of the notice, including interest, lien recording fees and reasonable attorneys' fees.

6.10.3 Upon Recording of the notice of lien, the Assessment Lien shall have priority over all liens or claims except for (a) tax liens for real property taxes; (b) assessments in favor of any special improvement district; (c) the lien of any encumbrance upon the Lot or Parcel Recorded prior

to the date of Recording the notice of lien; and (d) those liens, which by law, have a prior lien although subsequently recorded.

6.10.4 The Association shall not be obligated to release any Recorded notice of lien until all delinquent Assessments, interest, lien fees, reasonable attorneys' fees, court costs, collection costs and all other sums payable to the Association by the Owner of the Lot or Parcel have been paid in full.

6.10.5 The Association shall have the right, at its option, to enforce collection of any delinquent Assessments together with interest, lien fees, reasonable attorneys fees and any other sums due to the Association in any manner allowed by law including, but not limited to: (a) bringing an action at law against the Owner personally obligated to pay the delinquent Assessments and such action may be brought without waiving the Assessment Lien securing the delinquent Assessments; or (b) enforce the Assessment Lien against the applicable Lot or Parcel by sale or foreclosure conducted in accordance with the provisions of law applicable to the exercise of powers of sale or judicial foreclosure of deeds of trust or mortgages or in any other manner permitted by law. In order to facilitate the foreclosure of any such lien in the manner provided at law for the foreclosure of deeds of trust, Declarant hereby designates First American Title Insurance Company, as trustee and grants and conveys the Project, IN TRUST, to First American Title Insurance Company, as trustee, with full power of sale, to foreclose any such liens as directed by the Board. The Board may, at any time, designate one or more successor trustees, in the place of First American Title Insurance Company, in accordance with provisions of Utah law for the substitution of trustees under deeds of trust. Such trustee, and any successors, shall not have any other right, title or interest in the Project beyond those rights and interests necessary and appropriate to foreclose any liens against Lots or Parcels arising pursuant hereto. In any such foreclosure, the Owner of the Lot or Parcel being foreclosed shall be required to pay the costs and expenses of such proceeding (including reasonable attorneys' fees), and such costs and expenses shall be secured by the lien being foreclosed. The Association shall have the power to bid at any foreclosure sale and to purchase, acquire, hold, lease, mortgage and convey any and all Lots or Parcels purchased at such sale.

6.11 Evidence of Payment of Assessments. Upon receipt of a written request by an Association Member or any other Person, the Association, within a reasonable period of time thereafter, shall issue to such Association Member or other Person a written certificate stating: (a) that all Assessments, interest and other fees and charges have been paid with respect to any specified Lot or Parcel as of the date of such certificate; or (b) if all Assessments have not been paid, the amount of such Assessments, interest, fees and charges due and payable as of such date. The Association may make a reasonable charge for the issuance of such certificates, which charges must be paid at the time the request for any such certificate is made. Any such certificate, when duly issued as herein provided, shall be conclusive and binding with respect to any matters therein stated as against any bona fide Purchaser of, or lender on, the Lot or Parcel in question.

6.12 Purposes for Which Association's Funds May be Used. The Association shall apply all funds and property collected and received by it (including the Assessments, fees, loan proceeds, surplus funds and all funds and property received by it from any other source) for the common good and benefit of the Project and the Owners and Occupants by devoting said funds and property, among other things, to the acquisition, construction, alteration, maintenance, provision and operation, by any manner or method whatsoever, of any and all land, properties, improvements, facilities, services, projects, programs, studies and systems, within or without the Project, which may be necessary, desirable or beneficial to the general common interests of the Project, the Owners and the Occupants, and to the establishment and funding of reasonable reserves for replacements and contingencies; provided, however, that funds and property collected as a result of Private Street Assessments, including Special Assessments therefore, shall be expended in the acquisition, construction, alteration, maintenance, provision and operation of the Private Streets. The Association will be required to expend a portion of the funds collected by it to pay the annual or other periodic assessments attributable to shares of water which are directly or indirectly owned or allocated to the Association by the Weber Basin Water Conservancy District, which payments are necessary and a condition precedent to maintain ownership of such rights, including the right to receive culinary water from one or more water companies. The following are some, but not all, of the areas in which the Association may seek to aid,

promote and provide for such common benefit: social interaction among Association Members and Occupants, maintenance of landscaping on Common Area and public right-of-way and drainage areas within the Project, construction, operation and maintenance of recreational and other facilities on Common Area, operation, maintenance, replacement and repair of Common Area Improvements, recreation, insurance, communications, ownership and operation of vehicle storage areas, education, transportation, health, utilities, public services, safety, indemnification of officers, directors and committee members of the Association, employment of professional managers, and hiring professional consultants such as architects, engineers, attorneys and accountants.

6.13 Surplus Funds. The Association shall not be obligated to spend in any year all the Assessments and other sums received by it in such year, and may carry forward as surplus any balances remaining. The Association shall not be obligated to reduce the amount of the Annual Assessment or Private Street Assessment in the succeeding year if a surplus exists from a prior year, and the Association may carry forward from year to year such surplus as the Board in its discretion may determine to be desirable for the greater financial security of the Association and the accomplishment of its purposes.

6.14 Setup and Transfer Fee. Each Purchaser of a Lot or Parcel from the Declarant shall pay to the Declarant a fee of One Hundred Fifty Dollars (\$150.00) per lot purchased to establish an account in the name of the Association, which fee shall be payable solely to the Declarant. Thereafter each purchaser of a Lot or Parcel shall pay to the Association immediately upon becoming the Owner of the Lot or Parcel a transfer fee in the amount of One Hundred Fifty Dollars (\$150.00), or such other amount as the Association shall established from time to time by the Board. The amounts payable as provided above shall be due at the time of closing of each such purchase.

6.15 Notice and Quorum for Meetings to Consider Special Assessments and Certain Increases in Annual Assessments. Notwithstanding any other provision hereof or of the Articles, Bylaws or Association Rules, written notice of any meeting called for the purpose of: (a) approving the establishment of any Special Assessment, as required by Section 6.6 hereof; (b) approving any increase in the Maximum Association Membership Assessment greater than that permitted by Section 6.3.1(b); or (c) (b) approving any increase in the Maximum Association Private Street Assessment greater than that permitted by Section 6.5.1(b), shall be sent to all Association Members, or if applicable with respect to the Maximum Association Private Street Assessment, those owning Private Street Lots, not less than thirty (30) days nor more than sixty (60) days prior to the date of said meeting. At the first meeting thus called to consider the particular Special Assessment or increase in the Maximum Association Membership Assessment, a quorum shall consist of sixty percent (60%) of the votes in each class of Association Members (whether represented in person or by valid proxy), provided, however, that if a quorum, as so determined, is not present at said first meeting, a second meeting may be called (subject to the same notice requirements as set forth above) to consider the same issue, and a quorum at said second meeting shall be one-half (1/2) of the required quorum at the first meeting, as described above. Such second meeting may not be held more than sixty (60) days after the first meeting. At the first meeting thus called to consider the particular Special Assessment or increase in the Maximum Association Private Street Assessment, a quorum shall consist of sixty percent (60%) of the votes of Association Members who own Private Street Lots (whether represented in person or by valid proxy), provided, however, that if a quorum, as so determined, is not present at said first meeting, a second meeting may be called (subject to the same notice requirements as set forth above) to consider the same issue, and a quorum at said second meeting shall be one-half (1/2) of the required quorum at the first meeting, as described above. Such second meeting may not be held more than sixty (60) days after the first meeting.

## ARTICLE 7

### MAINTENANCE

#### 7.1 Common Area, Parkway and Utility Easements.

7.1.1 The Association, or its duly delegated representative, shall manage, maintain, repair and replace the Common Area and all Improvements located thereon, including those areas which

may be covered by one or more easements, license agreement, or lease (subject to Section 7.1.3), except the Association shall not be obligated to maintain areas which any governmental entity or any utility company is maintaining on a regular basis. If however, a utility company or private party has an easement through the Project and fails to restore Improvements and/or has no obligation to restore Improvements as a result of its installation, repair and/or replacement of utilities, the Association shall be obligated to restore such Improvements as a Common Area cost. Restoration of such Improvements shall not be deemed a waiver of any claim the Association may have, if any, for reimbursement for such costs of restoration. To the extent the Parkway Landscaping and the other improvements located within the Parkway (but not including the Landscape Exclusions) is not maintained by the County, the Association shall cause such improvements (including, but not limited to sidewalks and Trails) and the Parkway Landscaping to be maintained; provided, however, that the Landscape Exclusions which shall be maintained by each Owner of a Lot or Parcel as provided in Section 7.2 below. The Association shall also maintain the Trails notwithstanding that any portion thereof may be within a dedicated right-of-way. Note: Wells Robinson or his affiliates, and their successors and assigns, has been granted an easement to run a water line through the Project. Under the terms of such grant, such party has no obligation to restore improvements which may be damaged as a result of the repair, maintenance and/or replacement of such water line.

7.1.2 The Board shall be the sole judge as to the appropriate maintenance of all Common Area and other properties maintained by the Association. Any cooperative action necessary or appropriate to the proper maintenance and upkeep of said properties shall be taken by the Board or by its duly delegated representative.

7.1.3 In the event any subdivision plat, deed restriction or this Declaration permits the Board to determine whether or not Owners of certain Lots or Parcels will be responsible for maintenance of certain Common Area or public right-of-way areas, the Board shall have the sole discretion to determine whether or not it would be in the best interest of the Owners and Occupants for the Association or an individual Owner to be responsible for such maintenance, considering cost, uniformity of appearance, location and other factors deemed relevant by the Board. The Board may cause the Association to contract to provide maintenance service to Owners of Lots and Parcels having such responsibilities in exchange for the payment of such fees as the Association and Owners may agree upon.

7.2 Lots and Parcels. Each Owner of a Lot or Parcel shall be responsible for maintaining, repairing or replacing his, her or its Lot or Parcel, and all buildings, landscaping or other Improvements situated thereon, except for any portion of the Lot or Parcel which is Common Area (unless otherwise required by the Board pursuant to Section 7.1.3), which exclusion includes the Landscape Easement. All buildings, landscaping and other Improvements shall at all times be kept in good condition and repair and in accordance with the requirements of the Design Guidelines. Landscaping shall be maintained as required by Section 7.3. All Lots and Parcels upon which no Residence or other Improvements have been constructed shall be maintained in an attractive manner and in accordance with all rules, regulations and guidelines that may be adopted for vacant lots by the Board or the Design Review Committee. In addition to the foregoing requirements and subject to the rights of the Board as specified in Section 7.1 above, each Owner of a Lot or Parcel shall maintain, according to the requirements of this Section 7.2, the area of the Landscape Exclusions that exists between the boundaries of a Lot or Parcel and the road surface of the Parkway.

7.3 Maintenance of Landscaping. Each Owner of a Lot or Parcel shall properly maintain and keep properly cultivated, and free of trash, weeds and other unsightly material, and in strictly in accordance with the Design Guidelines, all shrubs, trees, hedges, grass and plantings of every kind (collectively, "Landscaping") located on: (a) his, her or its Lot or Parcel excluding areas located within a Landscape Easement; (b) any public right-of-way or easement area which abuts or adjoins the Owner's Lot or Parcel and which is located between the boundary line of his Lot or Parcel and the paved area of any street, sidewalk, bike-path or similar area (unless otherwise directed by the Board); and (c) any non-street public right-of-way or easement area adjacent to his Lot or Parcel (unless otherwise directed by the Board); provided, however, that such Owner shall not be responsible for maintenance of any area over which: (i) the Association assumes the responsibility in writing; or (ii) the County or any other municipality or other governmental

agency or entity having jurisdiction over such property assumes responsibility, for so long as the County or such other municipality or other governmental agency or entity assumes or has responsibility. For purposes of this Section 7.3, proper maintenance of Landscaping shall include, without limitation, removal and replacement of dead Landscaping, subject to the requirements of the Design Guidelines. In further explanation of the foregoing requirements, any area which has been restricted from improvement and is to be maintained in its natural condition, shall be so maintained and no modification thereof shall be made without the prior approval of the Design Review Committee.

7.4 Assessment of Certain Costs of Maintenance and Repair. In the event that the need for maintenance or repair of the Common Area or any other area maintained by the Association is caused through the willful or negligent act of any Association Member, his family, tenants, guests or invitees, the cost of such maintenance or repairs shall be added to and become a part of a Reimbursement Assessment to which such Association Member and the Association Member's Lot or Parcel is subject and shall be secured by a Reimbursement Assessment and Lien. Any charges or fees to be paid by the Owner of a Lot or Parcel pursuant to this Section in connection with a contract entered into by the Association with an Owner for the performance of an Owner's maintenance responsibilities shall also become a part of such Reimbursement Assessment and shall be secured by the Assessment Lien.

7.5 Improper Maintenance and Use of Lots and Parcels. In the event any portion of any Lot or Parcel is so maintained as to present a public or private nuisance, or as to substantially detract from the appearance or quality of the surrounding Lots and Parcels or other areas of the Project which are substantially affected thereby or related thereto, or in the event any portion of a Lot or Parcel is being used in a manner which violates this Declaration, or in the event the Owner of any Lot or Parcel is failing to perform any of its obligations under the Project Documents, the Board may make a finding to such effect, specifying the particular condition or conditions which exist, and pursuant thereto give notice thereof to the offending Owner that unless corrective action is taken within fourteen (14) days, the Board may cause such action to be taken at said Owner's cost. If at the expiration of said 14-day period the requisite corrective action has not been taken, the Board shall be authorized and empowered to cause such corrective action as it deems appropriate to be taken and the cost thereof shall be added to and become a part of a Reimbursement Assessment to which the offending Owner and the Owner's Lot or Parcel is subject and shall be secured by the Assessment Lien.

7.6 Walls and Fences. Walls and fences on a Lot shall be prohibited unless expressly authorized by the Design Review Committee in accordance with the Design Guidelines. In the event that any walls or Fences are allowed to be constructed on a Lot, they shall be maintained, repaired and replaced by the Owner of such Lot in accordance with such approvals.

7.7 Parks. The Association shall be responsible for the maintenance and upkeep of any park situated in the Common Area. The Association shall have the right to restrict the use of such parks by members of the public.

7.8 Street Signs. The Association shall be responsible for maintaining at its sole cost and expense all custom street signs, including but not limited to directional signs, street name signs and traffic control signs.

## ARTICLE 8

### INSURANCE

8.1 Scope of Coverage. Commencing not later than the time of the first conveyance of a Lot or Parcel to a Purchaser, the Association shall maintain, to the extent reasonably available, the following insurance coverage:

8.1.1 Property insurance on the Common Area insuring against all risk of direct physical loss, insured against in an amount equal to the maximum insurable replacement value of the

Common Area, as determined by the Board; provided however, that the total amount of insurance shall not be less than one hundred percent (100%) of the current replacement cost of the insured property (less reasonable deductibles), exclusive of the land, excavations, foundations and other items normally excluded from a property policy;

8.1.2 Comprehensive general liability insurance, including medical payments insurance, in an amount determined by the Board, but not less than \$1,000,000. Such insurance shall cover all occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of the Common Area and other portions of the Project which the Association is obligated to maintain under this Declaration, and shall also include hired automobile and non-owned automobile coverages with cost liability endorsements to cover liabilities of the Owners as a group to an Owner;

8.1.3 Workmen's compensation insurance to the extent necessary to meet the requirement of applicable law;

8.1.4 Such other insurance as the Board shall determine from time to time to be appropriate to protect the Association or the Owners;

8.1.5 Each insurance policy purchased by the Association shall, to the extent reasonably available, contain the following provisions:

(a) The insurer issuing such policy shall have no rights of subrogation with respect to claims against the Association or its agents, servants or employees, or with respect to claims against Owners or Occupants;

(b) No act or omission by any Owner, unless acting within the scope of his authority on behalf of the Association, will void the policy or adversely affect recovery on the policy;

(c) The coverage afforded by such policy shall not be brought into contribution or proration with any insurance which may be purchased by Owners, Occupants or Mortgagees;

(d) A "severability of interest" endorsement which shall preclude the insurer from denying the claim of an Owner or Occupant because of the negligent acts of the Association or other Owners or Occupants;

(e) Statement naming the Association as the insured;

(f) For policies of hazard insurance, a standard mortgagee clause providing that the insurance carrier shall notify any Mortgagee named in the policy at least ten (10) days in advance of the effective date of any substantial modification, reduction or cancellation of the policy.

8.2 Certificates of Insurance. An insurer which has issued an insurance policy under this Article shall issue a certificate or a memorandum of insurance to the Association and, upon request, to any Owner or Mortgagee. Any insurance obtained pursuant to this Article shall not be cancelled until thirty (30) days after notice of the proposed cancellation has been mailed to the Association and to each Owner and each Mortgagee to whom certificates of insurance have been issued.

8.3 Payment of Premiums. The premiums for any insurance obtained by the Association pursuant to this Declaration shall be included in the budget of the Association and shall be paid by the Association.

8.4 Payment of Insurance Proceeds. With respect to any loss to the Common Area covered by property insurance obtained by the Association, the loss shall be adjusted with the Association, and the insurance proceeds shall be payable to the Association and not to any Mortgagee. Subject to the provisions of Section 8.5, the proceeds shall be disbursed for the repair or restoration of the damage to the Common Area.

8.5 Repair and Replacement of Damaged or Destroyed Property. Any portion of the Common Area which is damaged or destroyed shall be repaired or replaced promptly by the Association unless (a) repair or replacement would be illegal under any state or local health or safety statute or ordinance, or (b) Owners representing at least eighty percent (80%) of the total votes in the Association vote not to rebuild. The cost of repair or replacement in excess of insurance proceeds and reserves shall be paid by the Association. If the entire Common Area is not repaired or replaced, insurance proceeds attributable to the damaged Common Area shall be used to restore the damaged area to a condition which is not in violation of any state or local health or safety statute or ordinance and the remainder of the proceeds shall either: (i) be retained by the Association as an additional capital reserve; or (ii) be used for payment of operating expenses of the Association if such action is approved by the affirmative vote or written consent, or any combination thereof, of Association Members representing more than fifty percent (50%) of the votes in the Association.

## ARTICLE 9

### GENERAL PROVISIONS

9.1 Enforcement. The Association or any Owner shall have the right to enforce the Project Documents.

9.2 Term Method of Termination. Unless terminated in accordance with this Section, this Declaration (as amended from time to time pursuant to the provisions of this Declaration, if applicable) shall continue in full force and effect for a term of fifty (50) years from the date this Declaration is Recorded, after which time this Declaration shall be automatically extended for successive periods of ten (10) years each. This Declaration may be terminated at any time if such termination is approved by the affirmative vote or written consent, or any combination thereof, of Association Members holding ninety percent (90%) or more of the votes in the Association. If the necessary votes and consents are obtained, the Board shall cause to be Recorded a Certificate of Termination, duly signed by the President or Vice President and attested by the Secretary or Assistant Secretary of the Association, with their signatures acknowledged. Thereupon this Declaration shall have no further force and effect, and the Association shall be dissolved pursuant to applicable law.

9.3 Amendments.

9.3.1 Subject to Subsection 9.3.6 of this Declaration, and except for amendments made pursuant to Subsections 9.3.2, 9.3.3 and 9.3.4 of this Declaration, this Declaration may only be amended by the written approval or the affirmative vote, or any combination thereof, of Association Members holding not less than sixty-seven percent (67%) of the votes in the Association.

9.3.2 Either the Board or the Declarant may amend this Declaration, without obtaining the approval or consent of any Owner, Mortgagee or other Person, in order to conform this Declaration to the requirements or guidelines of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Housing Administration, the Veterans Administration or any federal, state or local governmental agency whose approval of the Project or the Project Documents is required by law or requested by the Declarant.

9.3.3 Subject to Subsection 9.3.6 of this Declaration, so long as the Declarant or any Declarant Affiliate owns any Lot, Parcel or other portion of the Property, or any portion of the



Additional Land, the Declarant may amend this Declaration without the consent or approval of any other Owner or other Person.

9.3.4 So long as the Declarant or any Declarant Affiliate owns any Lot, Parcel or other portion of the Property, or any portion of the Additional Land, no amendment to this Declaration shall be effective unless approved in writing by the Declarant (or unless the Declarant expressly waives in writing its right to approve such amendments).

9.3.5 Any amendment approved pursuant to Subsection 9.3.1 of this Declaration or by the Board pursuant to Subsection 9.3.2 of this Declaration shall be signed by the President or Vice President of the Association and shall be Recorded. Any such amendment shall certify that the amendment has been approved as required by this Section. Any amendment made by the Declarant pursuant to Subsections 9.3.2 or 9.3.3 of this Declaration shall be executed by the Declarant only and shall be Recorded.

9.3.6 Notwithstanding anything to the contrary in this Section 9.3.6, no amendment may be made to this Declaration which violates the provisions of the Development Agreement without the written consent of the County.

9.4 Interpretation. Except for judicial construction, the Association shall have the exclusive right to construe and interpret the provisions of this Declaration. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Association's construction or interpretation of the provisions hereof shall be final, conclusive and binding as to all Persons and property benefitted or bound by this Declaration.

9.5 Severability. Any determination by any court of competent jurisdiction that any provision of this Declaration is invalid or unenforceable shall not affect the validity or enforceability of any of the other provisions hereof.

9.6 Perpetuities. If any of the covenants, conditions, restrictions or other provisions of this Declaration shall be unlawful, void or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of the person holding the office of President of the United States on the date this Declaration is Recorded.

9.7 Change of Circumstances. Except as otherwise expressly provided in this Declaration, no change of conditions of circumstances shall operate to extinguish, terminate or modify any of the provisions of this Declaration.

9.8 Rules and Regulations. In addition to the right to adopt rules and regulations on the matters expressly mentioned elsewhere in this Declaration, the Association shall have the right to adopt, as part of the Association Rules, additional rules and regulations with respect to any other aspects of the Association's rights, activities and duties, provided said additional rules and regulations are not inconsistent with the provisions of the other Project Documents.

9.9 Laws, Ordinances and Regulations.

9.9.1 The covenants, conditions and restrictions set forth in this Declaration and the provisions requiring Owners and other Persons to obtain the approval of the Board or the Architectural Review Committee with respect to certain actions are independent of the obligation of the Owners and other Persons to comply with all applicable laws, ordinances and regulations, and compliance with this Declaration shall not relieve an Owner or any other Person from the obligation also to comply with all applicable laws, ordinances and regulations.

9.9.2 Any violation of any state, municipal or local law, ordinance or regulation pertaining to the ownership, occupation or use of any property within the Property is hereby declared to be in violation of this Declaration and subject to any or all of the enforcement proceedings set forth herein.

9.10 References to this Declaration in Deeds. Deeds to and instruments affecting any Lot or Parcel or any other part of the Project may contain the covenants, conditions and restrictions herein set forth by reference to this Declaration; but regardless of whether any such reference is made in any deed or instrument, each and all of the provisions of this Declaration shall be binding upon the grantee-Owner or other Person claiming through any instrument and his, her or its heirs, executors, administrators, successors and assigns.

9.11 Gender and Number. Wherever the context of this Declaration so requires, any word used in the masculine, feminine or neuter genders shall include each of the other genders, words in the singular shall include the plural, and words in the plural shall include the singular.

9.12 Captions and Title: Section References; Exhibits. All captions, titles or headings of the Articles and Sections in this Declaration are for the purpose of reference and convenience only and are not to be deemed to limit, modify or otherwise affect any of the provisions hereof or to be used in determining the meaning or intent thereof. References in this Declaration to numbered Articles, Sections or Subsections, or to lettered Exhibits, shall be deemed to be references to those paragraphs or Exhibits so numbered or lettered in this Declaration, unless the context otherwise requires. Any Exhibits referred to in this Declaration are hereby incorporated herein by reference and fully made a part hereof.

9.13 Notices. If notice of any action or proposed action by the Board or any committee or of any meeting is required by applicable law, the Project Documents or resolution of the Board to be given to any Owner, Lessee or Resident then, unless otherwise specified in the Project Documents or in the resolution of the Board, or unless otherwise required by law, such notice requirement shall be deemed satisfied if notice of such action, proposed action or meeting is: (a) sent by United States mail to the last known mailing address of the Owner, Lessee or Resident (as applicable), as shown in the records of the Association; or (b) if no such mailing address is reflected on the records of the Association, then sent by United States mail to the mailing address of the Lot or Parcel (as applicable) if, at the title, there is a Residence situated thereon; or (c) if there is no such mailing address reflected in the records of the Association and there is then no Residence situated on the applicable Lot or Parcel, then sent or given in whatever reasonable manner the Board may elect, which may include, without limitation, publishing the same in any newspaper in general circulation within the County. This Section shall not be construed to require that any notice be given if not otherwise required and shall not prohibit satisfaction of any notice requirement in any other reasonable and appropriate manner.

9.14 Indemnification. The Association shall indemnify each and every trustee and officer of the Association, each and every member of the Design Review Committee, and each and every member of any committee appointed by the Board (including, for purposes of this Section, former officers and directors of the Association, former members of the Design Review Committee, and former members of committees appointed by the Board) (collectively, "Association Officials" and individually an "Association Official") against any and all expenses, including attorneys' fees, reasonably incurred by or imposed upon an Association Official in connection with any action, suit or other proceeding (including settlement of any suit or proceeding, if approved by the Board serving at the time of such settlement) to which he or she may be a party by reason of being or having been an Association Official, unless the liability for such expenses arises out of his or her own intentional misconduct. No Association Official shall have any personal liability with respect to any contract or other commitment made by them or action taken by them, in good faith, on behalf of the Association (except indirectly to the extent that such Association Official may also be a Association Member of the Association and therefore subject to Assessments hereunder to fund a liability of the Association), and the Association shall indemnify and forever hold each such Association Official free and harmless from and against any and all liability to others on account of any such contract, commitment or action. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any Association Official may be entitled. If the Board deems it appropriate, in its sole discretion, the Association may advance funds to or for the benefit of any Association Official who may be entitled to indemnification hereunder to enable such Association Official to meet on-going costs and expenses of defending himself or herself in any action or proceeding brought against such Association Official by reason of his or her being, or having been, an Association Official. In the event it is ultimately determined that an Association Official to whom, or for whose benefit, funds were advanced pursuant to the preceding sentence

does not qualify for indemnification pursuant to this Section 9.14 or otherwise under the Articles, Bylaws or applicable law, such Association Official shall promptly upon demand repay to the Association the total of such funds advanced by the Association to him or her, or for his or her benefit, with interest (should the Board so elect) at a rate not to exceed ten percent (10%) per annum from the date(s) advanced until paid.

9.15 No Partition. No Person acquiring any interest in the Property or any part thereof shall have a right to, nor shall any person seek, any judicial partition of the Common Area, nor shall any Owner sell, convey, transfer, assign, hypothecate or otherwise alienate all or any of such Owner's interest in the Common Area or any funds or other assets of the Association except in connection with the sale, conveyance or hypothecation of such Owner's Lot or Parcel (and only appurtenant thereto), or except as otherwise expressly permitted herein. This Section shall not be construed to prohibit the Board from acquiring and disposing of tangible personal property nor from acquiring or disposing of title to real property (other than disposition of title to the Common Area, which shall be subject to Section 4.1) which may or may not be subject to this Declaration.

9.16 Property Held in Trust. Except as otherwise expressly provided in this Declaration, any and all portions of the Property (and of the Additional Land) which are now or hereafter held in a subdivision or similar trust or trusts (or similar means of holding title to property), the beneficiary of which trust(s) is the Declarant or a Declarant Affiliate, shall be deemed for all purposes under this Declaration to be owned by the Declarant or such Declarant Affiliate, as applicable, and shall be treated for all purposes under this Declaration in the same manner as if such property were owned in fee by the Declarant or such Declarant Affiliate, as applicable. No conveyance, assignment or other transfer of any right, title or interest in or to any of such property by the Declarant or any such Declarant Affiliate to any such trust (or the trustee thereof) or to the Declarant or any such Declarant Affiliate by any such trust (or the trustee thereof) shall be deemed for purposes of this Declaration to be a sale of such property or any right, title or interest therein.

9.17 Number of Days. In computing the number of days for purposes of any provision of this Declaration or the Articles or Bylaws, all days shall be counted including Saturdays, Sundays and holidays; provided however, that if the final day of any time period falls on a Saturday, Sunday or legal holiday, then the final day shall be deemed to be the next day which is not a Saturday, Sunday or legal holiday.

9.18 Notice of Violation. The Association shall have the right to Record a written notice of a violation by any Owner or Occupant of any restriction or provision of the Project Documents. The notice shall be executed and acknowledged by an officer of the Association and shall contain substantially the following information: (a) the name of the Owner or Occupant; (b) the legal description of the Lot or Parcel against which the notice is being Recorded; (c) a brief description of the nature of the violation; (d) a statement that the notice is being Recorded by the Association pursuant to this Declaration; and (e) a statement of the specific steps which must be taken by the Owner or Occupant to cure the violation. Recordation of a notice of violation shall serve as a notice to the Owner and Occupant, and to any subsequent purchaser of the Lot or Parcel, that there is such a violation. If, after the Recordation of such notice, it is determined by the Association that the violation referred to in the notice does not exist or that the violation referred to in the notice has been cured, the Association shall Record a notice of compliance which shall state the legal description of the Lot or Parcel against which the notice of violation was recorded, the Recording data of the notice of violation, and shall state that the violation referred to in the notice of violation has been cured or, if such be the case, that it did not exist. Notwithstanding the foregoing, failure by the Association to Record a notice of violation shall not constitute a waiver of any existing violation or evidence that no violation exists.

9.19 Disclaimer of Representations. Notwithstanding anything to the contrary herein, neither the Declarant nor any Declarant Affiliate makes any warranties or representations whatsoever that the plans presently envisioned for the complete development of the Project can or will be carried out, or that any real property now owned or hereafter acquired by the Declarant or by any Declarant Affiliate is or will be subjected to this Declaration, or that any such real property (whether or not it has been subjected to this Declaration) is or will be committed to or developed for a particular (or any) use, or that if such real property is once used for a particular use, such use will continue in effect. While neither the Declarant nor any Declarant Affiliate believes that any of the restrictive covenants contained in this Declaration is or may be

invalid or unenforceable for any reason or to any extent, neither the Declarant nor any Declarant Affiliate makes any warranty or representation as to the present or future validity or enforceability of any such restrictive covenant. Any Owner acquiring a Lot or Parcel in reliance on one or more of such restrictive covenants shall assume all risks of the validity and enforceability thereof and by accepting a deed to the Lot or Parcel agrees to hold the Declarant and all Declarant Affiliates harmless therefrom.

9.20 Amendments Affecting Declarant Rights. Notwithstanding any other provision of this Declaration to the contrary, no provision of this Declaration (including but not limited to, this Section) which grants to or confers upon the Declarant or upon any Declarant Affiliate any rights, privileges, easements, benefits or exemptions (except for rights, privileges, easements, benefits, or exemptions granted to or conferred upon Owners generally) shall be modified, amended or revoked in any way, so long as the Declarant, any Declarant Affiliate or a trustee for the benefit of the Declarant or any Declarant Affiliate owns any portion of the Property, without the express written consent of the Declarant.

9.21 Bulk Service Agreements.

9.21.1 The Board, acting on behalf of the Association, shall have the right, power and authority to enter into one or more Bulk Service Agreements with one or more Bulk Providers (each of which terms is defined below), for such term(s), at such rate(s) and on such other terms and conditions as the Board deems appropriate, all with the primary goals of providing to Owners and Occupants of Lots, Parcels or both within the Property, or within one or more portions thereof, cable television, community satellite television, high speed Internet, security monitoring or other electronic entertainment, information, communication or security services, or any concierge or other personal services: (a) which might not otherwise be generally available to such Owners and Occupants; (b) at rates or charges lower than might otherwise generally be charged to Owners and Occupants for the same or similar services; (c) otherwise on terms and conditions which the Board believes to be in the interests of Owners and Occupants generally; or (d) any combination of the foregoing.

9.21.2 If all Lots and Parcels within the Property are to be served by a particular Bulk Service Agreement, the Board shall have the option either to: (a) include the Association's costs under such Bulk Service Agreement in the budget for each applicable fiscal year and thereby include such costs in the Annual Assessments for each such applicable year; or (b) separately bill to each Owner his, her or its proportionate share of the Association's costs under such Bulk Service Agreement (as reasonably determined by the Board, and with such frequency as may be determined by the Board, but no more often than monthly) (provided that such "separate billing" may be made as one or more separate line items on billings or invoices from the Association to the affected Owner(s) for Assessments or other charges). If not all Lots and Parcels within the Property will be served by a particular Bulk Service Agreement the Board shall have only the billing option described in clause (b) above.

9.21.3 The Declarant, for each Lot and Parcel, hereby covenants and agrees, and each Owner other than the Declarant, by becoming the Owner of a Lot or Parcel, is deemed to covenant and agree, to pay all amounts levied or charged against or to him, her or it (or his, her or its Lot or Parcel) by the Board pursuant to this Section 9.21, and all such amounts: (a) shall be deemed to be a part of the Assessments against the Lots or Parcels against or to which they are levied or charged (or against or to whose Owners they are levied or charged); (b) with interest, late charges and all costs, including but not limited to reasonable attorneys fees, incurred by the Association in collecting or attempting to collect delinquent amounts, shall be secured by the lien for Assessments established by this Declaration; and (c) as with other Assessments, shall also be the personal obligation of each Person who was an Owner of the Lot or Parcel at the time such amount became due (which personal obligation for delinquent amounts shall not pass to the successors in title of the Owner unless expressly assumed by them unless title is transferred to one or more such successors for purposes of avoiding payment of such amounts or other Assessments or is transferred to a Person controlling, controlled by or under common control with the Owner transferring title).

9.21.4 No Owner of a Lot or Parcel covered by a Bulk Service Agreement shall be entitled to avoid or withhold payment of amounts charged by the Board to such Owner or such Owner's Lot or Parcel under this Section 9.21, whether on the basis that such Owner does not use, accept or otherwise benefit from the services provided under such Bulk Service Agreement, or otherwise. However, the Board shall have the right, at its option, to exempt from payment of such amounts any Lot or Parcel upon which no Residence or other building has been completed.

9.21.5 "Bulk Provider" means a private, public or quasi-public utility or other company which provides, or proposes to provide, cable television, community satellite television, high speed Internet, security monitoring or other electronic entertainment, information, communication or security services, or concierge or other personal services, to Owners, Residents, Lots or Parcels within the Property, or within one or more portions thereof, pursuant to a "Bulk Service Agreement" (as defined below).

9.21.6 "Bulk Service Agreement" means an agreement between the Association and a Bulk Provider pursuant to which the Bulk Provider would provide cable television, community satellite television, high speed Internet, security monitoring or other electronic entertainment, information, communication or security services, or concierge or other personal services, to Owners, Residents, Lots or Parcels with the Property, or within one or more portions thereof.

9.21.7 During the Period of Declarant Control, the Board shall not, without the approval of Association Members holding at least fifty-one percent (51%) of all Class A votes represented in person or by proxy at an annual or special meeting of the Association Members of the Association, enter into a Bulk Service Agreement which imposes on the Association or its Association Members (other than Declarant or a Developer which, in either case, agrees in writing thereto) any obligation to pay the direct costs of construction of any cables, lines or other facilities or equipment for any cable television, community satellite television, high speed Internet, security monitoring or electronic entertainment, information, communication or security services, but nothing in this Section 9.21.7 shall prevent the Board from entering into, or require approval by the Association Members of, any Bulk Service Agreement which imposes on the Association or its Association Members installation, connection, service charge or similar charges or fees which do not exceed those generally prevailing at the time within the County, or which includes as a component of the monthly fee charged by the Bulk Provider amortization of some or all of its capital costs and related costs in providing services under the Bulk Service Agreement.

9.22 Consent in Lieu of Voting. In any case in which this Declaration requires for authorization or approval of a transaction the assent or affirmative vote of a stated percentage of the votes present or represented at a meeting, such requirement may be fully satisfied by obtaining, with or without a meeting, consents in writing to such transaction from Association Members entitled to cast at least the stated percentage of all votes outstanding in connection with the Class of membership considered. The following additional provisions shall govern any application of this Section 9.22:

(a) All necessary consents must be obtained prior to the expiration of ninety (90) days after the first consent is given by any Association Member.

(b) The total number of votes required for authorization or approval under this Section 9.22 shall be determined as of the date on which the last consent is signed.

(c) Except as provided in the following sentence, any change in ownership of a Lot which occurs after consent has been obtained from the Owner thereof shall not be considered or taken into account for any purpose. A change in ownership which would otherwise result in an increase in the total number of Class A votes outstanding shall, however, be effective in that regard and shall entitle the new Owner to give or withhold his consent.

(d) Unless the consent of all Association Members whose memberships are appurtenant to the same Lot are secured, the consent of none of such Members shall be effective.

## ARTICLE 10

### RIGHTS OF FIRST MORTGAGEES

10.1 Notice of Default. In the event an Owner neglects for a period of thirty (30) days or more to cure any failure on his part to perform his obligations under this Declaration, the Association shall give written notice of such fact to the holder of any first Mortgage who has made a written request to the Association for such notice.

10.2 Abandonment, Termination, Etc. Unless all of the holders of first Mortgages on the individual Lots have given their prior written approval, neither the Association nor the Owners acting as a group shall be entitled by act, omission or otherwise:

- (a) To abandon or terminate the project or to abandon or terminate the arrangement which was established by the Declarant and any Plat;
- (b) To partition or subdivide any Lot or the Common Areas;
- (c) To abandon, partition, subdivide, encumber, sell, hypothecate, transfer or otherwise encumber all or any part of the Common Areas except for the creating of easements and similar purposes consistent with the intended use of the Common Areas, and further provided that the transfer of Trails to a public agency or authority for administration shall not require the consent of the first Mortgages; or
- (d) To use hazard insurance proceeds resulting from damage to any part of the development for any purposes other than the repair, replacement, or reconstruction of such Improvements.

10.3 Notice of Substantial Damage or Destruction. The Association shall notify in writing all holders of any first Mortgage or equivalent security interest on a Lot, who have made written request for notice by the Association, in the event that there occurs any substantial damage to or destruction of any Residence or any part of the Common Areas involving an amount in excess of, or reasonably estimated to be in excess of \$25,000. Said notice shall be given within ten (10) days after the Association learns of such damage or destruction.

10.4 Condemnation or Eminent Domain Proceedings. The Association shall give written notice to all holders of any first Mortgage or equivalent security interest, who have made written request for notice by the Association, of any condemnation proceedings or proposed acquisition of a Residence or of any portion of the Common Areas within ten (10) days after the Association learns of the same.

10.5 Hazard Policy to Include Standard Mortgagee Clause. Each hazard policy of the insurance shall include the standard mortgagee clause which either shall be endorsed to provide that any proceeds shall be paid to the Association for the use and benefit of Mortgagees as their interests may appear, or shall be otherwise endorsed to fully protect the interest of Mortgagees. In addition, the Mortgagee clause shall provide that the insurance carrier shall notify each mortgagee, who has requested notice, at least ten (10) days in advance of the effective date of any reduction in or cancellation of the policy.

10.6 Mortgagees' Rights Concerning Amendments. No material amendment to this Declaration, the By-Laws or the Articles of Incorporation of the Association shall be accomplished or effective unless at least two-thirds (2/3) of the mortgagees (based on one vote for each mortgagee) of the individual Lots have given their prior written approval to such amendment.

10.7 Mortgagees' Rights to Inspect Association Records. The holders of first Mortgages shall have the right upon reasonable notice and during business hours to inspect and copy at their own expense all books and financial records of the Association.

ARTICLE 11

FHA/VA PROVISIONS

11.1 Approvals During Period of Declarant Control. Notwithstanding any other provision of this Declaration or of any of the other Project Documents to the contrary, during the period: (a) commencing with the earlier of: (i) the date FHA or VA first approves any subdivision in the Project for single family residential loan insurance or guarantee programs offered by FHA or VA; or (ii) the date FHA or VA first insures or guarantees a loan on any Lot within the Project; and (b) ending with the expiration or termination off the Period of Declarant Control:

11.1.1 Property which is not included within the Additional Land shall not be annexed to the Property without the prior approval of either FHA or VA (except to the extent such annexation involves only minor adjustments to boundaries of the Property);

11.1.2 Neither the Common Area nor any part thereof shall be dedicated without the prior approval of either FHA or VA except for: (a) minor adjustments to the boundaries of any Common Area or any other portion of the Property; (b) dedications or grants of easements to the public, to any municipal or other governmental agency or entity, or to any public, quasi-public or private utility company as permitted by Section 4.1.1(a); and (c) grants of easements pursuant to Section 4.2.

11.1.3 No amendment to this Declaration or to the Articles or Bylaws shall be effective without the prior approval of either FHA or VA (except to make clerical or technical corrections); and

11.1.4 The Association shall not be dissolved, or merged or consolidated with any other entity, without the prior approval of FHA or VA.

11.2 Obtaining Approvals. As to any action required by this Article 11 to be approved by FHA or VA before becoming effective or before being taken, such action shall be submitted to FHA or VA for approval, and if the agency whose approval is requested does not disapprove the same, by written notice to the Association, the Declarant or other Person requesting such approval within thirty (30) days after delivery to such agency of the request for approval, the action in question shall be deemed approved by such agency.

11.3 Definitions. For purposes of this Article 11, the term "FHA" means the Federal Housing Administration (or its successor federal agency), and the term "VA" means the Veterans Administration (or its successor federal agency).

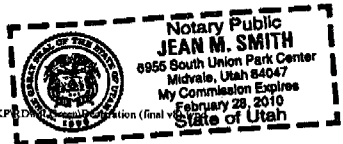
IN WITNESS WHEREOF, Declarant has executed this instrument as of the date first set forth above.

WHISPER RIDGE DEVELOPMENT, LLC, a Utah limited liability company

By: [Signature]  
David S. Tolman, Member

STATE OF UTAH )  
 ) : ss.  
COUNTY OF SALT LAKE )

The foregoing instrument was acknowledged before me this 24<sup>th</sup> day of June, 2008, by David S. Tolman, the Member of WHISPER RIDGE DEVELOPMENT, LLC, a Utah limited liability company.



[Signature]  
NOTARY PUBLIC

**EXHIBIT "A"**

Master Plan

(Attached)



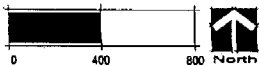
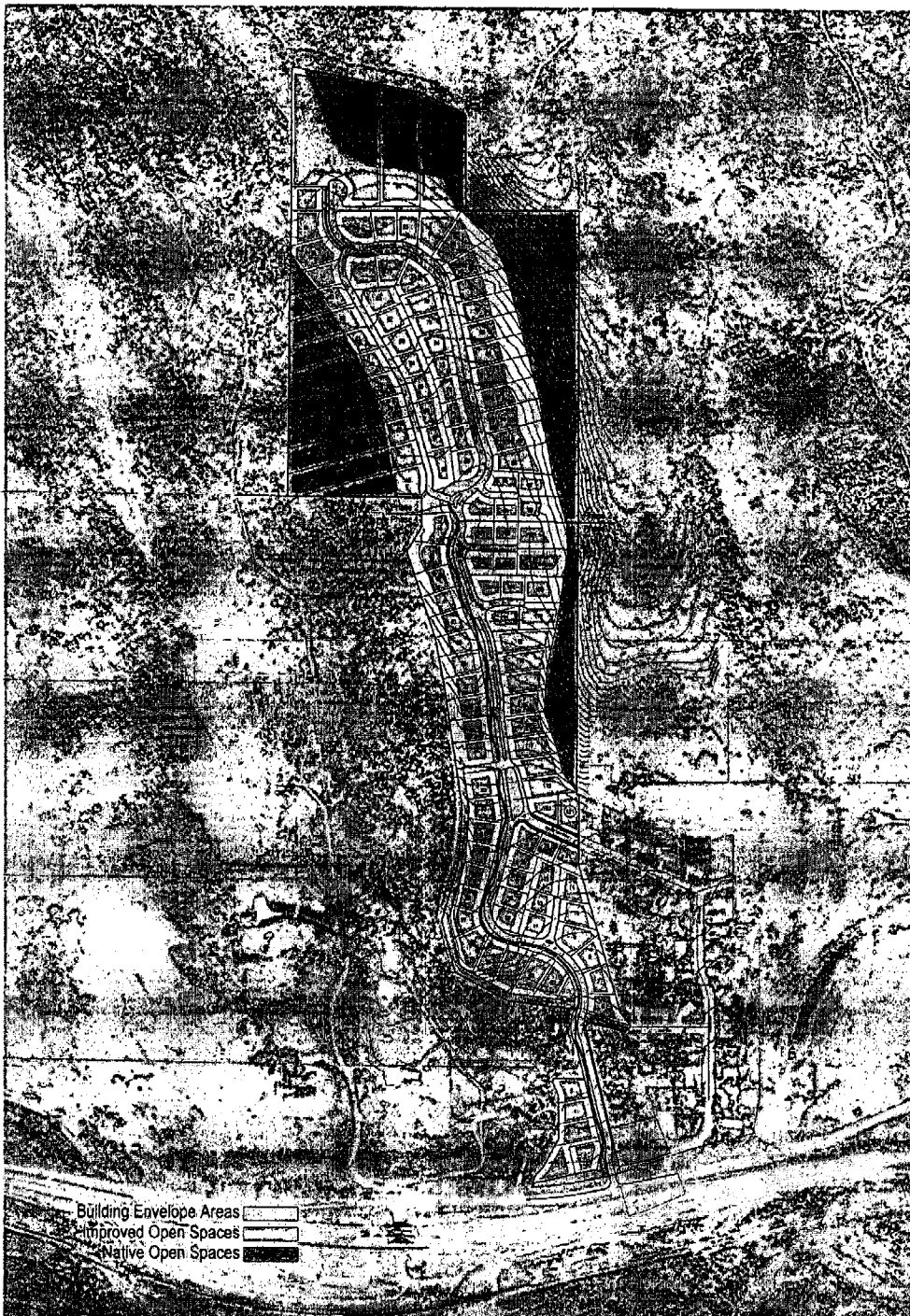


Figure 7.1  
Plan Proposal  
E 112595 B 265 P 910

**EXHIBIT "B "**

Escrow No. **301-5018564 (js)**

A.P.N.: **00-0075-1101 thru 1105, 1107-1164/03-WHRIDI-0101 THRU 0105, 03-WHRIDI-0107 THRU 0164, PARCEL A THRU F**

LOT 101 THROUGH 105 AND LOTS 107 THROUGH 164, PARCEL A THRU F, WHISPER RIDGE AT STONE CANYON PHASE 1 SUBDIVISION PRUD, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE AND OF RECORD IN THE MORGAN COUNTY RECORDER'S OFFICE.

**EXHIBIT "C "**

Escrow No. **301-5028729 (js)**

A.P.N.: **00-0073-8238 / Serial No. 03-005-017-10**

PROPOSED WHISPER RIDGE PHASE 2:

THIS PARCEL BEING LOCATED IN SECTION 22 AND SECTION 27, TOWNSHIP 5 NORTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTH QUARTER CORNER OF SECTION 22, TOWNSHIP 5 NORTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN; AND RUNNING THENCE SOUTH 00°13'58" WEST 109.98 FEET ALONG THE SECTION LINE; THENCE NORTH 89°11'57" WEST 515.44 FEET; THENCE NORTHWESTERLY 11.60 FEET ALONG THE ARC OF A 165.50 FOOT RADIUS CURVE TO THE LEFT, CHORD BEARS NORTH 09°10'55" WEST 11.59 FEET; THENCE NORTHWESTERLY 37.21 FEET ALONG THE ARC OF A 134.50 FOOT RADIUS CURVE TO THE RIGHT, CHORD BEARS NORTH 03°15'46" WEST 37.09 FEET; THENCE SOUTH 84°21'25" WEST 96.19 FEET; THENCE SOUTH 73°21'05" WEST 102.38 FEET; THENCE NORTH 00°35'27" EAST 100.43 FEET TO THE SECTION LINE; THENCE NORTH 89°24'33" WEST 607.26 FEET ALONG THE SECTION LINE; THENCE NORTH 00°35'27" EAST 1963.04 FEET; THENCE SOUTH 82°00'00" EAST 113.00 FEET; THENCE SOUTH 67°00'00" EAST 102.00 FEET; THENCE SOUTH 79°36'39" EAST 374.28 FEET; THENCE SOUTH 62°24'00" EAST 237.34 FEET; THENCE SOUTH 00°10'28" EAST 409.59 FEET; THENCE SOUTH 89°59'47" EAST 515.78 FEET TO THE SECTION LINE; THENCE SOUTH 00°04'30" WEST 1333.90 FEET ALONG THE SECTION LINE TO THE POINT OF BEGINNING.

ANY ADDITIONAL PROPERTIES WITHIN ONE MILE OF PHASES 1 AND 2 WHISPER RIDGE AT STONE CANYON.

**EXHIBIT "D "**

Escrow No. **301-5018564 (js)**  
A.P.N.: **03-005-067-04**

PRIVATE STREET LOTS AS FOLLOWS:

LOTS 128-138 AND LOTS 156-161 WHISPER RIDGE AT STONE CANYON PHASE 1.

**EXHIBIT "E"**

**North Lots Legal Description**

A parcel of land situate in the Southwest Quarter of Section 22, Township 5 North, Range 1 East, Salt Lake Base & Meridian, more particularly described as follows:

Beginning at a point which is N89°24'33"W along the section line 1319.86 feet and N00°35'27"E along the quarter section line 1425.75 feet from the South Quarter Corner of said Section 22, and running thence N00°35'27"E 537.29 feet; thence S82°00'00"E 113.00 feet; thence S67°00'00"E 102.00 feet; thence S79°36'39"E 374.28 feet; thence S62°24'00"E 237.34 feet; thence S00°10'28"E along said West line 409.59 feet; thence N89°59'47"W 589.88 feet; thence N0°00'56"W 11.11 feet to a point on a 25.00 foot radius curve to the right; thence northeasterly along the arc of said curve 29.66 feet through a central angle of 67°58'18" (chord bears N33°58'13"E 27.95 feet) to a point of reverse curvature on a 55.00 foot radius curve to the left; thence along the arc of said curve 217.45 feet through a central angle of 226°31'39" (chord bears N45°18'28"W 101.06 feet) to a point of non-tangency; thence S89°59'03"W 144.95 feet to the point of beginning.

Contains 9.293 acres

# Whisper Ridge

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AT STONE CANYON

...Design Guidelines...

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# WhisperRidge

1.

## THE DESIGN PHILOSOPHY

As the sun rises and illuminates the pristine Weber Canyon, a natural draw between two rolling hills sets the stage for a new beginning. An architecturally planned community that reflects the independent spirit of the west, combined with the historically proven concepts of America's Arts and Crafts movement. This place is home. This place is WhisperRidge.

The development of home sites at WhisperRidge begins with a respect and consideration for this natural environment. We intend WhisperRidge to be a large scale work of art where the subtle blending of people, structures, and the native landscape result in a harmonious and aesthetically pleasing community.

These Design Guidelines have been created to help our residents share in this philosophy. Particularly, the Design Guidelines are intended to provide direction to home site Owners for the design of their dwellings, and to ensure compatibility within the unique environment of WhisperRidge. It is not the purpose of these Guidelines to create look-alike dwellings or suggest that they all have identical colors and materials, but to create a harmonious architectural approach that is sympathetic to the incredible natural setting.

The Architectural Standards and Design Criteria set forth in Design Guidelines should be considered by each individual home site Owner as the instrument that will protect, preserve, and enhance this special environment over time.

It is expected that the design of each dwelling will be tailored to the unique features of each individual home site. As such, this Design Guideline addresses special character requirements for the differing topography of WhisperRidge's sloping hillsides and open meadowlands. Each home design must address the special needs of its site. **No preconceived designs suited for other environments or landscapes will be permitted.**

Each design must begin with a thorough site evaluation and take into account the site's topography, sun angles, view corridors, relationships to ridgelines, native landscape, and other homes. It is only after a complete understanding of these natural characteristics that a home site Owner and their Architect can begin a home site design. All designs must be completed by a licensed Architect registered in the State of Utah.

In order to assist each Owner in an environmentally sound and aesthetically compatible design of their dwelling, a comprehensive Design Review Process has been established pursuant to these Design Guidelines. This process provides each Owner the opportunity to draw upon the expertise and knowledge which has been acquired during the planning and development of WhisperRidge. Since the preservation and enhancement of the unique landscape at WhisperRidge are of primary concern, the Adopted by the Design Review Committee, 23 June 2008

Design Review Committee (DRC) has been established and charged with the responsibility of ensuring that these principles are adhered to throughout all phases of development. For this reason, the Design Review Process has been established, encompassing the following five phases:

1. **The Pre-Design Conference**, during which each home site Owner along with his or her Architect may review their ideas and the natural characteristics of the home site with a representative of DRC before any plans are prepared. It is required that these meetings take place at the home site and that the Owner's Architect is present.
2. **The Preliminary Submittal**, at which time DRC will review conceptual plans to ensure conformance with the Design Guidelines, before the Owner finalizes his design.
3. **The Final Submittal**, at which time DRC will review final construction documents to confirm that they are consistent with the previously approved preliminary plans.
4. **The Pre-Construction Conference**, during which each builder will review the construction regulations with a representative of DRC to ensure understanding of, and future compliance with, these regulations.
5. **The Final Inspection** of the improvements by a representative of the DRC, to determine whether actual construction has been completed in strict compliance with the approved plans and Design Guidelines. No certificate of occupancy will be issued by the county until DRC has granted final approval. **Therefore, it is of the utmost importance to the home site Owner to ensure that the dwelling is constructed in strict accordance with the approved design.**

The Design Review Process was developed to provide adequate checkpoints throughout the design and development phases, so that time and money are not wasted on plans and designs which do not adhere to these Design Guidelines or to the overall principles of WhisperRidge, or which may be inappropriate or of improper configuration for their specific home site setting. Therefore, it is extremely important that the design steps of the review process be followed in their entirety, and in correct sequence. This process is proven and streamlined, and will not result in time delays, provided each Owner adheres to the intended spirit of the Design Guidelines, namely, a site-sensitive approach to the development of his or her home site within the WhisperRidge community.

It is required that an Owner retain a licensed Architect registered in the State of Utah for planning and design to ensure a thorough analysis and understanding of a particular home site as well as the Owner's special needs and living patterns. Doing so also provides the ability for the owner to effectively communicate to DRC the concept and design of a proposed residence or improvement.

DRC specifically reserves the right to make subjective, as well as objective, determinations of whether the goals of the Architectural Standards and Design Criteria have been met by a particular site. These Design Guidelines may include requirements and limitations which are more restrictive than the

provisions of the Declaration of Covenants, Conditions and Restrictions for WhisperRidge, and the Notes which are included on the recorded plats for WhisperRidge. In such instances, the terms, provisions, restrictions and procedures of the Design Guidelines shall control.

The Design Review Process is intended to operate concurrently with the plan review process required by Morgan County for obtaining a building permit. The WhisperRidge Design Review Process is independent of the Morgan County technical plan review process and is solely intended to enforce certain covenants and obligations of the Declaration, including the Design Guidelines. Each home site Owner bears the responsibility for the proposed dwelling's adherence to WhisperRidge's Design Guidelines, and bears the additional responsibility for the proposed structure's adherence to county, zoning and building codes as well.

The ultimate goal is to create and maintain WhisperRidge as one of the finest communities of its time.

## 2. SITE PLANNING GUIDELINES

The climate, terrain and landscape at WhisperRidge are all important factors that must be considered in the design of any improvements to properties within the community. It is the intent of the following guidelines to ensure environmentally sound and aesthetically pleasing development at WhisperRidge for the mutual benefit and enjoyment of all its owners.

### 2.1 SITE ANALYSIS

Site planning for individual home site improvements at WhisperRidge relies heavily on site analysis efforts. The analysis is a method to evaluate the existing conditions on or near the home site through the use of a topographic survey prepared by a registered Civil Engineer or a licensed Land Surveyor and on-site verification by the Architect. The location and design of proposed structures must relate to existing terrain and preserve the natural features of the site.

The design process must take into account grade changes, slope, locations of both existing and planned trees, and orientation of the proposed improvements to sun, wind, and view sheds. Privacy, to and from, and the impact on adjacent neighbors, nearby rights-of-way, common open space areas and mountains should be considered, both in site planning and in designing the architectural elements of the structure.

A design that grows from the findings of a thorough Site Analysis helps to shape a building that is sensitive to its natural surroundings and will enhance the community.

Every project shall begin with a Site Analysis prepared by the Architect and landscape Architect. The Analysis is used at the Pre-Design Conference to aid in the establishment of the home location on the site. At a minimum, the following items must be identified and sketched onto a copy of the survey. Those with an asterisk (\*) will be given to the owner by WhisperRidge.

- Topography and landform \* (to be verified by Owner)
- Geotechnical Report
- Aspect and orientation (sun and shadow patterns)
- Property boundaries \*
- Required setbacks from all boundaries \*
- Impacts on the use of the site due to snow removal and storage
- Location of utilities serving the site \*
- Views both onto the site and from the site
- Wind patterns
- Contextual setting (neighboring land uses and Approximate Building Locations) \*

The analysis of each of these elements should be further evaluated in terms of design opportunities and design constraints. Design opportunities are those situations where the element in question will positively contribute to the overall project, while design constraints are situations where a specific

element will detract or conflict with the overall vision for WhisperRidge. The opportunities and constraints identified in the Site Analysis should be used as design determinants in the design and development stages of the home site.

## 2.2 THE APPROXIMATE BUILDING LOCATION

The promotion of varied setbacks among adjacent lots will be highly encouraged. DRC shall determine the actual setbacks of lots on a case by case basis. As some lots have sensitive areas due to grading, some lots will be pre-developed to address those challenges. These sensitive areas will be identified in Appendix D. Review of encroachment into sensitive areas will be addressed on a case-by-case basis by DRC.

Approximate Building Locations may be adjusted only by authorization from DRC and only for the purpose of integrating the house better with the natural contours of the site or other appropriate issues as determined by the DRC.

Should a homeowner purchase two or more lots, the Approximate Building Locations shall be relocated with the approval of DRC and any other required governmental authorities.

## 2.3 SITE WORK

A very limited amount of excavation or fill will be permitted on any home sites except where specifically allowed by DRC due to terrain considerations; every attempt should be made to minimize the use of engineered building pads.

Removal of vegetation within any Approximate Building Location will be permitted on a limited basis; however, it is understood that some selective pruning or removal of trees and shrubs will be necessary for the development of any home site. Owners are strongly encouraged to transplant all significant vegetation on their home site that is in the building area. Your Landscape Architect can advise you on this process. DRC must first approve any cutting of trees or vegetation.

Great care must be taken in designing the site improvements around the existing vegetation so the root system remains intact and that its supply of water is maintained.

## 2.4 GRADING AND DRAINAGE

Site grading and drainage must occur with minimum disruption to the home site and mountains, without altering natural drainage patterns as runoff leaves the home site, and without creating conditions that could lead to soil erosion. Transition across property lines must occur at natural grade. Downhill elevation should have strong, primarily single story composition. Sheet drainage and or cross-property

drainage is strictly prohibited.

In some cases, the DRC may allow the re-routing of a portion of a drainage way within the boundaries of the Approximate Building Location. This will be considered on a case-by-case basis, and it should not be assumed it will be allowed in all cases. In order to be approved, the relocated drainage way must take into account the possible loss of vegetation, the visual quality of the drainage way, and the master drainage plan.

Surface drainage upon and across any home site must be addressed through the implementation of sound construction and grading practices. Any improvement which creates an obstruction to surface flows, snow melt, or groundwater discharge resulting in a back-up of storm waters or an increasing or moving of predevelopment flow onto a neighboring home site or common area parcel is strictly prohibited.

Ground floor levels should be established at a vertical elevation such that the final placement of backfill, walks, drives, and porches will produce a positive drainage away from the structure in all directions. The inclusion of foundation waterproofing and a perforated pipe foundation drainage system is recommended.

Where necessary to produce the desired results and in accordance with Morgan County requirements, the DRC may approve minimal grading as well as the use of multiple small retaining walls. However, grading that produces awkward or steep slopes that are not natural in their final appearance will not be approved. Cut and fill slopes may have a maximum ratio of 2:1 horizontal to vertical unless supported by an approved retaining wall.

In addition to basic grading, sloping sites should employ designs that take up the full impact of grading within the dwelling's footprint; the location and design of the proposed structures must relate to the existing terrain. Grade transitions from Approximate Building Locations to setbacks must appear natural. All home site grading must be limited to construction of driveways and other grading necessary for authorized construction. Due to predevelopment grading on some home sites, corrective grading will be allowed. Except for driveway access, erosion control, special landscape conditions, or utilities, no other grading is allowed outside the Approximate Building Location of any home site.

No excessive excavation or fill will be permitted on any home site. On some sensitive sites, grading may not be allowed at all. Every attempt must be made to minimize cut and fill necessary for the construction of a home. Excess fill may not be placed on a home site; it must be legally disposed of outside of WhisperRidge. Retaining walls and level building pads may be utilized only where necessary. Grading must be limited to that reasonably necessary for the construction of a home. Pad grading for the intention of providing concrete slab foundations is prohibited except for garages, terraces, outbuildings and basements.

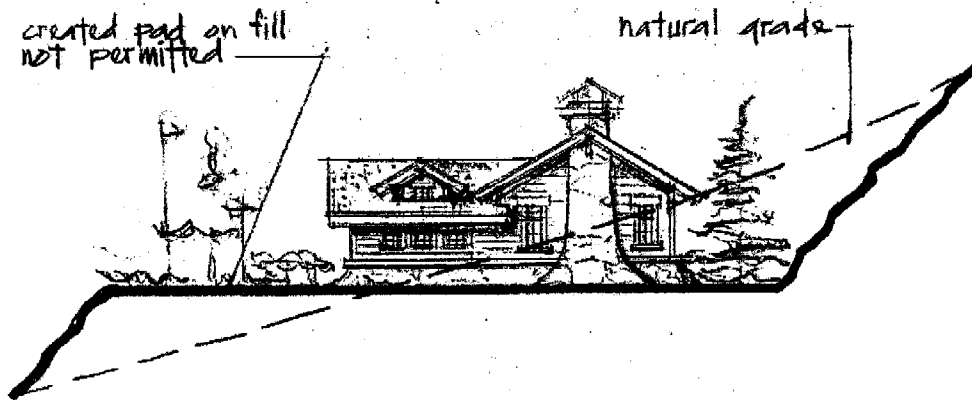


Figure 1.  
Pad Grading

Excavation or fill must be limited to 4 feet vertically outside of structure where exposed to view. However, the DRC reserves the authority to disapprove of any exposed excavation or fill transition that is abrupt, awkward or unnatural in appearance.

All cut and filled areas must be re-vegetated with approved plant material or seed mix. Retaining systems are required at vertical cuts. No excavation, fill, or removal of trees and other vegetation will be permitted until the applicant's final Construction Documents have been approved in writing by the DRC and the Pre-Construction requirements have been fulfilled.

Actual wall heights and ground slopes will vary by location. Multiple retaining wall systems with intermediate landscaping must be used wherever a single wall would exceed six feet or otherwise appear excessively high. In some special cases high retaining walls may reduce the amount of disturbance to native vegetation and may be preferred. When constructing vertical retaining walls, consider sloping the base about 15 degrees from vertical to soften the impact of an otherwise vertical wall. Grading near the setbacks may not result in abrupt transitions to adjacent home sites or streets. No structures may be constructed on portions of a home site where the slope exceeds 25 percent.

When cuts and fills are required, the maximum slope must be 2 to 1 to allow for natural vegetation, anything steeper than that will require an approved retaining wall unless special conditions exist on the site. Some special soil conditions may require a shallower slope such as 4 to 1.

## 2.5 DRIVEWAY ACCESS

A single driveway only may access each home site. This access point should be resolved in the pre-design conference. Access drives shall be located to preserve and avoid important natural features, such as large or significant plant materials, drainage ways, rock outcroppings, and to minimize disruption of the existing landscape. Additionally, homeowners need to consult Morgan County Ordinances that

govern driveways.

The graded or paved surface of an access drive shall not exceed 14'-0" feet in width starting at the road right-of-way for a distance of 10'-0" from the front property line. Driveways may widen once inside the Approximate Building Location to allow for proper maneuvering space.

Driveway surfaces and certain landscaping are the only improvements allowed outside the Approximate Building Location with the exception of underground utilities servicing the home site. Some limited encroachment may be considered where unique terrain, vegetation constraints, or limited home site width may warrant. The proposed driving surface is subject to approval by the DRC.

Driveways are encouraged to be colored concrete, pavers, stamped colored concrete, natural stone, or other pattern and texture methods. Asphalt drives are not permitted. No uncolored concrete is permitted. If a heavy broom finish is selected, driveway must be wrapped with a textured concrete border to avoid a monotonous expanse of concrete.

Certain lots will contain a driveway control zone which will run through the trail easement that crosses some driveways. In an effort to assure consistency and continuity through the trail easement, the owner shall install a temporary asphalt driveway during construction through the trail easement in such a way as to avoid impediment to the trail. The owner shall replace the temporary asphalt driveway with their final choice of driveway. The developer shall maintain control of the trail easement, which shall not be altered upon completion of driveway. The owner shall ensure strict accordance to 20'-0" limit of disturbance (LOD) area as listed in Construction Regulations, any disturbance outside the 20'-0" LOD shall be repaired immediately at the cost of the owner.

## 2.6 GARAGE LOCATION

Driveway access and garage location lend significant shape to the design and placement of the home. One of the greatest contributors to negative feelings about residential subdivisions is the often-present row of garage doors aligned along the street with oversized driveways leading to them. Every effort must be made to keep this view from being prevalent at WhisperRidge. In order to minimize the impact on the community, garage doors may not face the street. Two exceptions to this would be if a side entry garage would require grading that may have more impact than a front facing garage or if height or setback restrictions limit building orientation. This issue needs to be resolved during the Pre-design Meeting. Where possible, locate the driveway where it requires the least amount of cut or fill.

DRC will encourage side loading entries. The garage may be placed in a separate structure with or without an enclosed connection to the main house.



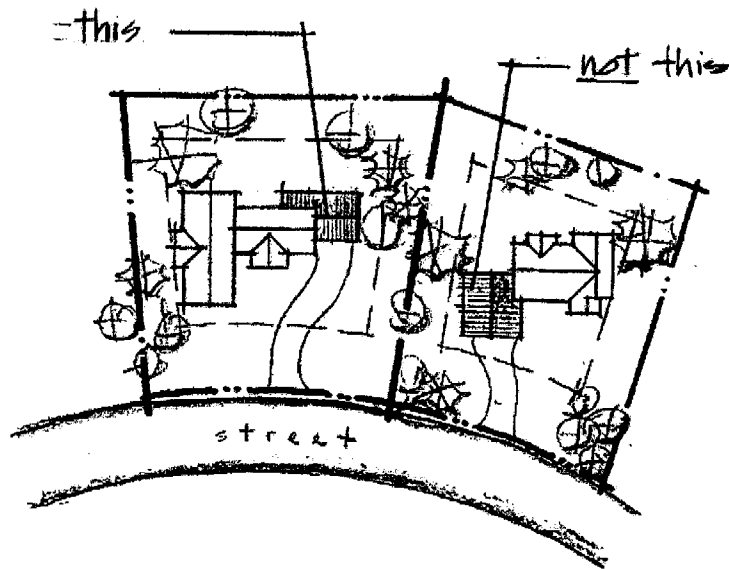


Figure 2.  
Garage Massing

An exception to this rule may be made on home sites with insurmountable obstacles and for home sites that can accommodate a garage in the rear portion of the property. In these cases, the intent is to recall a carriage house behind the main house. Only those designs that clearly place the mass of the home significantly closer to the street, with the garage set back a minimum of 10'-0" from the façade will be considered. The front entry or entry for people should appear dominant over the entry for vehicles, but never appear excessive in height. Overhangs above the doors and significant architectural detailing also must mitigate the visual impact of the garage doors.

The intent of these requirements is to minimize and direct views from community areas away from vehicular components of the home. Home sites in prominent locations may have additional requirements on garage door placement. These requirements will be communicated to the Architect at the Pre-Design Conference.

## 2.7 ON-SITE PARKING

Each home site must have an area for the parking of two guest automobiles within the Approximate Building Location. Homeowners who possess trucks, buses, motor homes, campers, boats, trailers, motorcycles, or any other motorized vehicle other than a conventional automobile, must store or park such vehicles within an enclosed garage so as to be completely hidden from view. However a maximum garage door height of 10'-0" will be enforced. Any vehicles not able to be sufficiently housed in an enclosed structure with this condition must be stored outside the community of WhisperRidge.

## UTILITIES

Utility services are generally stubbed to the front property line of each home site. In some cases, on downhill lots, sewer may be located at one of the rear corners of the lot within a utility easement. Sewer, gas, electricity, telephone and cable television service locations are clustered (usually with those of one adjacent home site) in a utility easement located on one of the front corners of each home site. The extension of services from these stub locations to the residence shall be the responsibility of each Owner, and shall be routed to minimize disruption to the natural landscape. Utility trenches may not encroach into any required setback except where they cross the front natural area of the home site between the service tap and the Approximate Building Location. All disturbed areas of the site must be restored to their natural condition as nearly as possible. Information regarding connection procedures may be obtained by contacting the respective utility companies.

Natural gas service is available at WhisperRidge. As such, no propane tanks are allowed except for barbecue grills.

## WALLS AND FENCING

Site walls or fences must appear as a visual extension of the residence, using similar materials and finishes. In no case will site walls or fences be permitted to arbitrarily delineate the Approximate Building Location. It is understood that such walls or fences may define pet runs or small yards, courtyards or terraces in close proximity to the residence for the purpose of privacy. *No fence may outline the property line.*

Privacy or screen walls must not exceed six feet in height, measured from existing natural grade, and they may not encroach outside the Approximate Building Location. Fencing material must be of wood or stone. The use of ornamental iron or other metal fencing is subject to approval by the DRC. Chainlink, metal, vinyl, plain non-textured concrete block, (unless veneered with stone) or wire fencing is prohibited.

Structural retaining walls may not exceed an above natural grade height of six feet unless otherwise approved. Multiple terraced retaining walls must be utilized where the overall height of retained earth exceeds six feet. Where multiple retaining walls are used, a four-foot planting area unless otherwise approved must separate each tier.

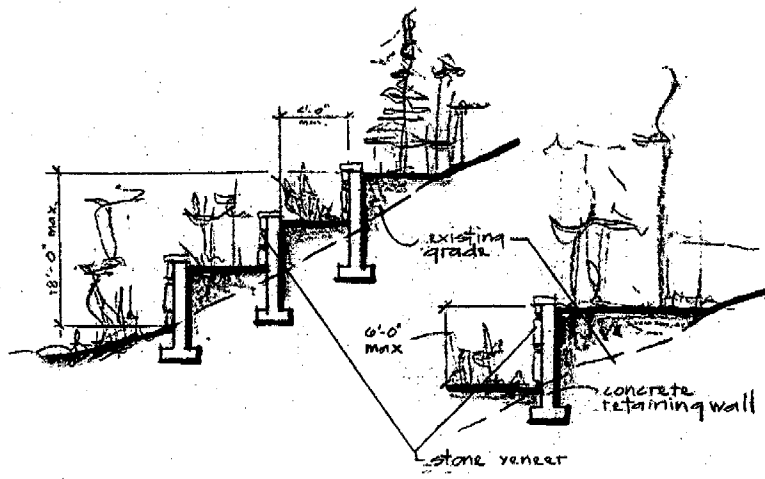


Figure 3a.  
Tiered Retaining Wall

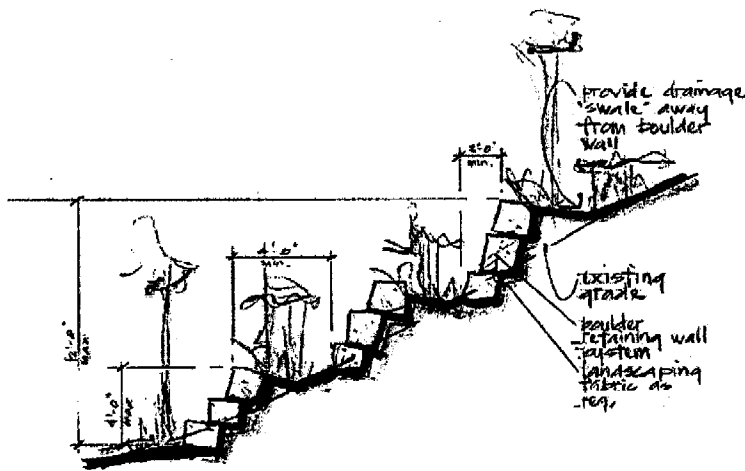


Figure 3b.  
Rock Retaining Wall

Tiered retaining walls cannot exceed 18'-0" feet above natural grade. Exception to this would be in the case of uphill rear terraces where a cut is necessary. If the wall is fully screened by the house, the wall may not need to be terraced. This will be resolved on a case by case basis. Retaining walls may be constructed of cast concrete or concrete masonry units; however, all exposed surfaces and edges must be stone veneer, or stacked rock so as to blend unobtrusively with its natural surroundings and appear to grow out of the ground in an authentic way. The retaining wall must not have a veneered look. Maximum height of stack rock walls is 4'-0" feet above finish grade unless otherwise approved by a licensed engineer.

2.10

## OUTDOOR STORAGE AND TRASH RECEPTACLES

Outdoor areas housing trash receptacles, firewood storage, maintenance or service equipment such as snow blowers, etc., or overflow storage shall be screened or concealed from all adjacent properties by a wall or fence conforming to Section 2.9. Firewood may be stored in an unscreened area provided it is neatly stacked in an inconspicuous location.

2.11

## MECHANICAL AND ELECTRICAL METER EQUIPMENT

No roof mounted or wall mounted mechanical equipment will be permitted. Any exterior mechanical equipment utilized must be ground mounted adjacent to the residence and hidden from view by walls of sufficient height to fully screen it and buffer sound as well. The equipment and enclosure must be contained within the Approximate Building Location. Equipment must be placed with consideration to the adjacent home site, so as to minimize noise intrusion on the outdoor living spaces. All electrical meters must be screened from the street, mountains, and adjacent home site with a wall of sufficient height. Power panels must be recessed and a foundation sleeve must be used so the power feed is within the wall. Contact the utility companies for requirements concerning placement of the screen wall. All utilities must be located underground thus no overhead power lines are permitted.

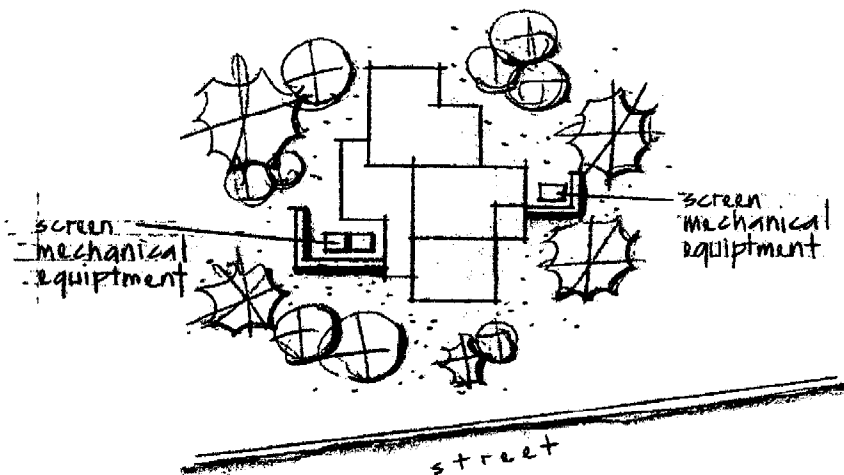


Figure 4.  
Meter screening

2.12

## ANTENNAE AND SATELLITE DISHES

No satellite dishes, television or radio aerials or antennas may be installed that are not fully screened from the road, adjacent home sites, mountains, or public areas. No satellite dish may be installed that is

Adopted by the Design Review Committee, 23 June 2008

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larger than 24" in diameter. This includes screening from view from anywhere within WhisperRidge. Removal of trees to improve reception is prohibited.

The screen wall is subject to Design Review approval and must be an integral component of the house design. In some cases, the enclosure may not be approved due to the location on the home site and its visual effect on the overall street scene or as viewed from adjacent home sites or the mountains. Umbrella covers over satellite dishes are prohibited.

## 2.13 SIGNAGE AND ADDRESS IDENTIFICATION

All address identification will be standardized at WhisperRidge. A detail of the standard address identification device can be found on Addendum One. This will need to be built at the Owner's expense.

A standard sign detail will be provided to each builder should they choose to have a sign. A standardized "For Sale" design will also be provided, to be built at the owner's expense. The detail for standardized real estate signage can be found on Addendum Two.

No additional signage of any kind will be permitted, except approved temporary construction signs by each builder and directional signs provided by the developer.

## 2.14 SITE LIGHTING

The developer has designed a low level uniform street lighting scheme. In order to maintain a dark sky, no additional lighting by an Owner may occur adjacent to the right-of-way.

Additional site lighting is permitted within an Approximate Building Location, provided such lighting does not result in excessive glare toward the street or neighboring properties. All exterior lighting must be of a low level subdued intensity with the source of light fully shielded and directed downward, and is subject to approval by the DRC. Security lighting must also comply with the shielding requirement and be connected to a timed motion detector. Harsh interior light such as created by lighted skylights or garage fluorescent lights when the garage has windows is prohibited due to its affect on the dark sky.

## 2.15 SWIMMING POOLS, SPAS, OR HOT TUBS

Swimming pools, spas, or hot tubs, if any, must be designed as a visual extension of the residence through the use of walls or decks and must be shielded from view. All pools and spas must be constructed according to Morgan County regulations. All pumps, motors, and heaters must be fully screened from view from the street, adjacent home sites, the mountains, or public areas. Additionally the noise must be dampened so as to be quiet from adjacent home sites, the mountains, and public areas.

2.16

## TENNIS, SPORT COURTS, AND BASKETBALL HOOPS

Due to the extensive clearing required by tennis courts, they will not be permitted. Sport courts will only be allowed when measures to minimize their impacts are included in the plan. Wall-mounted or freestanding basketball hoops may be allowed subject to DRC approval. Support posts of a freestanding basketball hoop shall be painted to blend unobtrusively with its visual backdrop surrounding, and the backboard must be clear. Portable basketball hoops are not allowed.

2.17

## PLAY STRUCTURES

Play structures, trampolines, swing sets, slides, or other such devices are allowed only when the application is made in advance with the DRC. Approval for such equipment may be granted when it is proposed to be placed inconspicuously within rear yard areas; is constructed and finished with materials which are complementary to the structure; is limited in height to eight feet or less, and for which the colors of the equipment are in keeping with the intent of these guidelines. Such structures will not be allowed in front yard areas. Generally, timber and dark-colored, powder coated, steel structural components are allowed, plastic (especially brightly colored plastic) is not.

2.18

## HOME SITE RESTRICTIONS

No more than one residence may be constructed on any home site. When two or more lots are purchased together, one new Approximate Building Locations shall be established by the DRC. The height and visual impact of larger houses on combined lots will be assessed by DRC on a case-by-case basis and may result in special restrictions. This will be resolved during the Pre-Design Conference. Additionally, Morgan County may require a visual impact study on larger homes on combined lots.

Other outbuildings such as detached garages may be constructed, provided they are a visual extension of the main residence. Such "complexes" are subject to approval by DRC and any other required governmental authorities.

3.

## ARCHITECTURAL DESIGN

The first aesthetic objective of every home at WhisperRidge should be to allow the buildings to fit quietly into the existing landscape. The goal is to create appealing and interesting structures that are subtle and complementary to the dominant beauty of the mountain setting and not overpower it. The second aesthetic objective should be to design all structures so that they relate to human scale; homes must be designed to not be overwhelming.

There is no one "WhisperRidge style"; however, there is a unifying philosophy of design. Homes should reflect regional traditions and respond to the unique character design requirements of the mountain climate. Rather than prescribing a specific formula, the guidelines and requirements are intended to foster a thoughtful and comprehensive approach to creating an uncommonly well-designed community.

Development of spaces for the enjoyment of outdoor living is encouraged. Porches, overhangs, trellises, and the softness of shade and shadow as a result of articulated massing and details are all desirable features. Any architectural element too massive or without well-designed proportions and appropriate functional detailing will not be approved. The DRC will be the final determiner of said proportion questions.

The desire is for as much subtle expression as imagination, topography, and continuity will allow. At the same time, the play of light and shadow should be used to enrich the built environment.

3.1

### DIVERSITY AND CONTINUITY

The principal objective of the Community Design Guidelines is to add elements of architectural richness and variety to individual dwellings without allowing exceedingly flashy, ostentatious or attention-grabbing designs.

The world's most admired neighborhoods enjoy the unique character created by a patina of time that has been lacking within the dynamic growth patterns of the west. Where houses have been built individually or changed over the years by their respective owners, the resulting diversity moves beyond that normally achieved with standard plans and elevations. To recreate this richness, DRC anticipates a complex harmony in the design and construction of houses to be built within each area of the WhisperRidge Community.

In order to build with a distinct and legible identity, architectural continuity with other homes in WhisperRidge must be considered by the Architect and will be examined by DRC when reviewing applications. Homes that have well-developed outdoor spaces and use neutral colors for all materials will be considered as the basis from which to provide continuity. Design continuity can be achieved through form, height, massing, materials, colors and other design patterns. The goal is to create subtle homes that complement their surroundings, allowing the mountain setting to remain the dominant image.

BUILDING SIZE

The minimum size requirement for WhisperRidge homes is two thousand (2,000) square feet, exclusive of basement and garage. The upper level cannot exceed sixty percent (60%) of the floor directly below. The basement is excluded as long as more than fifty percent (50%) is below grade. One of the first goals of all Owners and their Architects should be to create the highest-quality home within the smallest possible volume consistent with the satisfaction of the Owner's need for space. The intent is that the natural landscape currently dominant at WhisperRidge, remain the dominant visual image. The existing quiet repose and harmony can only be maintained if the built homes and landscape remain subservient and blend into the natural landforms and existing landscape. There is no maximum home size.

PREFABRICATED BUILDINGS

No building that is constructed off-site and requires transportation to any home site, whole or in partial assembly will be permitted; this includes mobile homes, stock modular buildings, or any other structure requiring transportation and set up in a partially completed state. However, structures that are assembled off-site and completely disassembled for transportation, including log structures or custom designed modular buildings, may be permitted. The aesthetic merits of any such structures are subject to review and approval by the DRC.

HEIGHT OF STRUCTURES

Morgan County ordinances and the WhisperRidge Community Design Guidelines limit allowable heights. While the building height restrictions may help protect views, this is not their purpose. The overall full development appearance of the Community is the overriding concern. With that end goal in mind, the following height restrictions will apply:

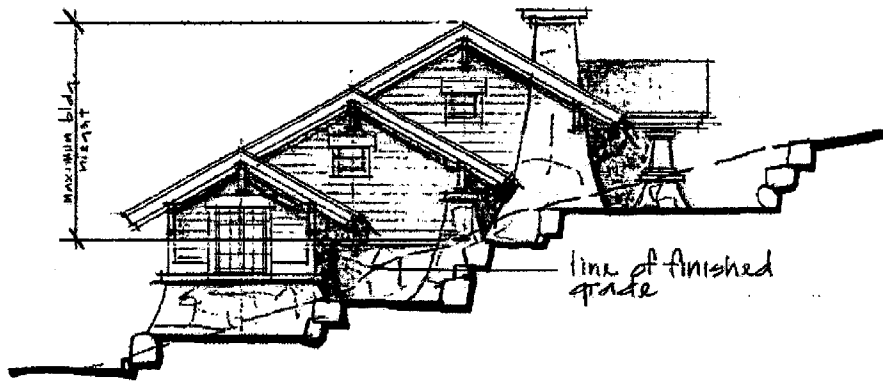
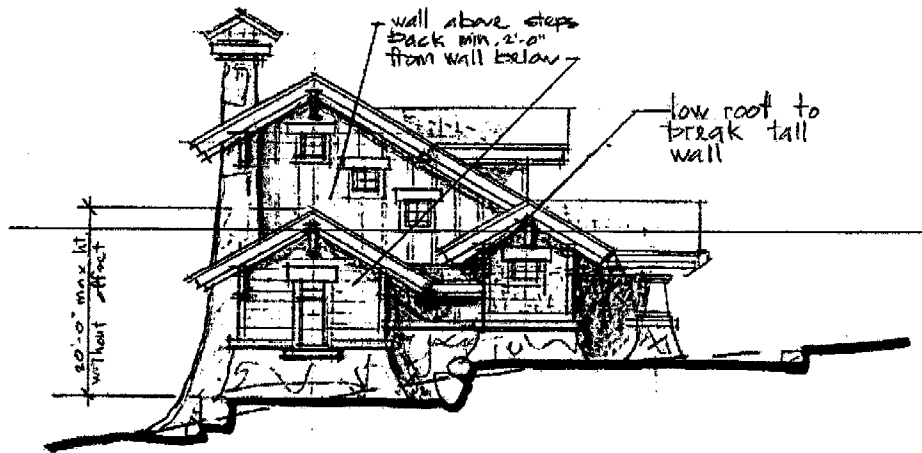


Figure 5a.  
Height Measurement



1. **No roof of any structure will be permitted to exceed 35 feet above natural grade at any point directly below said roofline condition.**
2. Chimneys may exceed these heights only with approval by the DRC.
3. No wall may extend past the 20'-0" height above finished grade without a minimum 2'-0" offset.



**Figure 5b.  
Height Measurement**

It is the intent of the Design Guidelines that roof forms for homes on sloping sites step down with the grade to integrate with the natural setting. The height criteria are to avoid construction of houses that are out of scale. Beyond the height criteria, DRC will render individual judgments with respect to the overall scale of the proposed design in relation to its location and all surrounding uses. The process does not seek to impose generalized criteria where more specific insights can be demonstrated to result in a better solution. The Committee has the right to impose a height restriction less than what is stated herein, if it believes it is necessary due to specific site conditions.

It is also the intent of the height limitations that roof forms for homes on sloping home sites step up or down with the grade to integrate the massing of the structure with the natural setting.

Building masses are required to step down to lower heights at the perimeter of the structure. If used at all, two-story wall massing should be minimized.

Architects who propose structures with more than one level should be certain that there is a difference in the areas contained on each level. Due to their usually boxy, massive appearance, homes with similar floor area on two levels will usually be disapproved by DRC. Although small, cantilevered elements may be considered, significant volumes over negative space must be avoided. Homes that favor the lower floor area will be more successful in meeting the requirement that lower masses occur toward the outside edges of the home.

Adopted by the Design Review Committee, 23 June 2008

Ultimately, DRC judgments will take into account the more specific character of both the site and the proposed architectural response.

Offsets or indentations in wall planes create visual interest and add depth via shadow lines. No building wall may extend more than 20'-0" in height without an offset in the vertical plane of at least two feet.

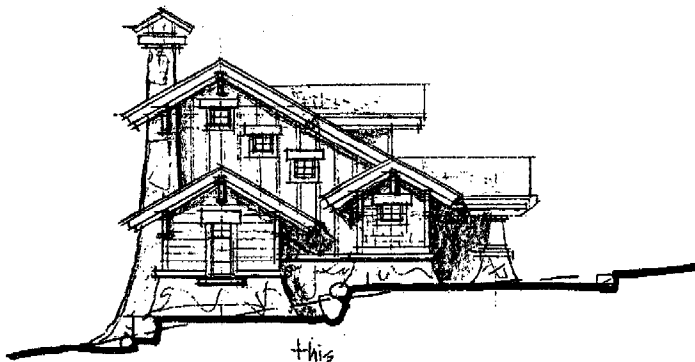
No single-story building wall may extend more than 30'-0" in length, without an offset of at least two feet. No two-story building wall may extend more than 20'-0" in length without an offset of at least two feet.

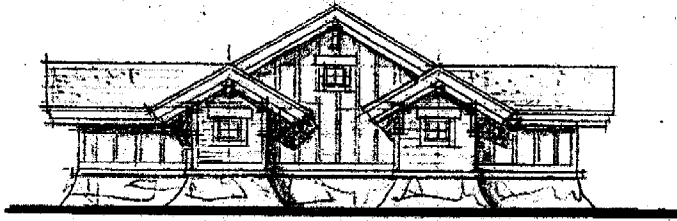
Special care should be taken in deeply recessed windows so as to keep them in a shaded relief to minimize any possible reflectivity. All exterior materials used on these lots should be judged to help in the blending of the homes into the hillside.

### 3.5 ASYMMETRY AND ORGANIC COMPOSITION

Although pattern and rhythm are encouraged, large areas of symmetrical massing are discouraged. Gable ends are an example of a portion of a building that might tolerate symmetry; however the masses about either side of that gable need to be substantially differentiated from each other. A smaller gable end centered on a large gable will generally not be approved. Larger homes are particularly discouraged from the use of symmetry as an organizing principle of design because this symmetry can lead to the creation of a home that appears formal or institutional, rather than residential.

Although historical precedent provides some symmetrical examples, it is important to keep in mind that the home sites at WhisperRidge are not to be developed independently of their neighbors, and therefore may not be designed as stand-alone monuments. For this reason, a more organic composition is preferred; one that can coexist within view of other conscientiously designed residences.





not this  
Figure 6.  
Asymmetry of Composition

### 3.6 FOUNDATIONS

All visible surfaces of foundation walls must be covered with stone or approved material. Foundation walls step down with the grade change so that its exposed surface does not exceed a vertical height of 6" above finish grade at its greatest exposure. Material covering the foundation wall must be in the same plane as the wall above. Unless the material is acting as an architectural base, such as stone, in which case the offset should be at least six inches. Where the vertical distance from the underside of a ground floor wood deck structure (along its perimeter edge) exceeds 30 inches above finished grade below, the deck edge must be skirted with wood siding to screen the cavity beneath the deck, or have a special quality that would allow viewing the structure acceptable. Foundation walls that occur under a skirted deck such that they are no longer visible are exempt from the facing requirements stated above.

### 3.7 EXTERIOR MATERIALS

There exist many traditions in high country Architecture that will be encouraged at WhisperRidge, along with certain regional adaptations.

Exterior material should generally be natural material that blend and are compatible with the native landscape. The predominant exterior materials should consist of wood or native stone, including wood shakes and shingles (prohibited on roofs), beveled or tongue-in-groove board siding, board-on-board, board and batt, native stone, or logs.

Plywood siding is prohibited unless the applicant can demonstrate to the DRC that the specific proposed application would result in a finished appearance indistinguishable from an individual board siding application.

The use of metal siding including aluminum, fiberglass siding, vinyl siding, or asbestos siding is prohibited. All exterior surfaces including gutters, chimneys and their covers, and window frames are to be finished or painted. Unfinished metallic exterior surfaces are not permitted unless they are copper or

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COR-TEN™ (i.e. rusting steel). The use of stucco will only be allowed in very limited quantities and only when it is integrated into the design. Hardiplank® will be permitted upon individual approval by DRC.

The use of textured masonry block as an exterior finish material will be considered on a case-by-case basis, and shall be limited to accent segments of the building facade. Brick will not be allowed. The use of cultured stone is limited to the designated styles approved by DRC. The aesthetic merits of any combination of exterior materials are subject to review and approval by the DRC, in order to maintain the architectural integrity and consistent visual experience of WhisperRidge.

### 3.8 ROOFS

The roofline of each house must create its own pleasing relationship to the street, other common areas, and to its adjacent structures when viewed from all directions. The overall profile and articulation of the roof should be sufficiently irregular to break up anything that would otherwise appear too boxy or discordant with the landscape or neighboring structures. Expansive roof structures shall be articulated by way of gable or shed dormers. Overhangs shall be provided at all roof edges and must be 3'-0" or more. Asymmetrical roofs are preferable to those that are obviously symmetrical. Covered terraces or porches must be fully integrated into the design of the house.

#### ROOF DESIGN

The roofs of all two-story homes should include single-story elements that help scale the two story elements back to the ground. For both one and two-story residences, the roof profile should be richly varied, including individual masses of sufficient size, in plan and elevation to convey the desired result. The higher masses should generally occur toward the center, with the lower profiles occurring toward the outer portions of the house. At no time can the highest point of the roof be at any of the outside walls.

All residences at WhisperRidge should predominately be pitched/gabled roofs. Flat roofs, with very shallow pitches will be allowed when combined with pitched roofs. No mansard will be allowed. The dominant roof form must have a minimum pitch of five feet by twelve and a maximum pitch of twelve feet by twelve. In some cases portions of the roof may be less to achieve the desired Architecture.

Preferred roof materials include slate, flat concrete tiles, non-reflective raised-seam metal roofs, or heavyweight three-dimensional thick-butt asphalt shingles, with a weight of 325 pounds per square or more. Wood shakes and shingles are prohibited on roofs. Most pre-finished metal roofs are considered too reflective and will be prohibited.

COR-TEN™ or copper roofing is encouraged as metal roofs of choice. Copper roofs must be allowed to turn brown or patina. No permanent shiny copper will be allowed. If asphalt shingles are used, a metal drip edge detail must be used to finish the edge appearance.

The use of asphalt shingles of standard or medium thickness, any types of barrel or "S" tiles, asphalt roll

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roofing, or reflective metal surfaces is prohibited.

All roof vents for mechanical equipment, water heaters, or attic venting is encouraged to be incorporated into a chimney. If not incorporated in the chimney then they must be on the rear side of the roof.

### 3.9 ENTRANCES

Entrances proportioned to convey a sense of human scale are more appropriate than those with exaggerated dimensions. Any grandeur should be experienced upon entering the house, not worn on its exterior facade. The clean lines of restrained and understated entries are more appropriate. Entries that are too ornate, monumental, or imposing will not be approved. Entrances that are a part of covered front terrace or porch are preferred.

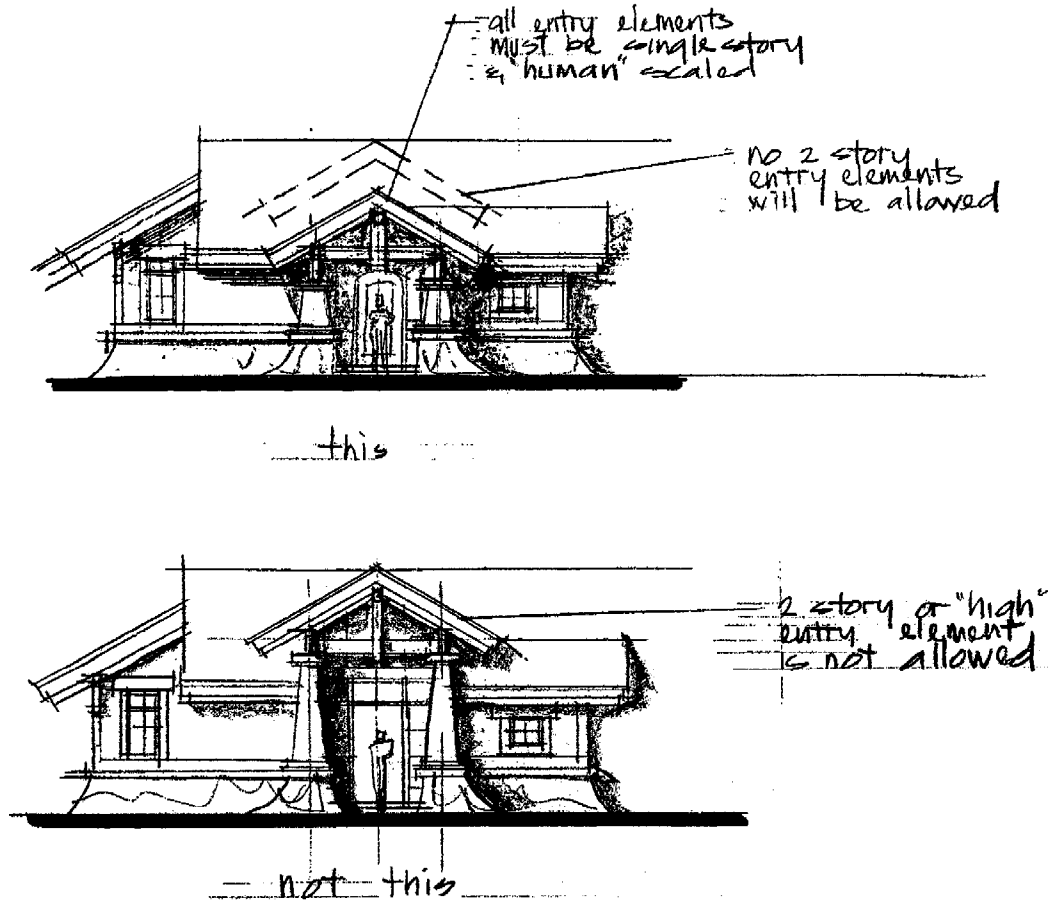


Figure 7.  
Single Story Entry Elements

### 3.10 PORCHES, TERRACES AND DECKS

A core element of the WhisperRidge concept is the utilization of the covered front porch or front-facing terrace. Properly designed, this can augment the traditional, more private use of the backyard. The historic front porch or landscape terrace assists this effort in four ways:

1. The focal point of the house becomes the people-oriented entrance, rather than the more typical garage-dominated streetscape.
2. An enhanced sense of entry is achieved without being monumental.
3. There are often excellent views from the front of the house. A space for limited seating, with the benefit of a low wall and an overhanging roof, facilitates being able to take advantage of views.
4. The living area of the house is made to feel larger by opening up to the front yard and street with an indoor/outdoor space.

Although not required, front porches are strongly encouraged.

### 3.11 AWNINGS AND ROLL DOWN EXTERIOR WINDOW COVERINGS

The use of awnings, canvas or other similar materials, are not allowed. Additionally, roll down exterior window coverings are also not allowed.

### 3.12 CHIMNEYS AND OUTDOOR FIRES

Well-proportioned chimney masses can be used as sculptural features complimenting the overall qualities of the house. Exposed metal flues will not be approved.

The area (measured in plan view) of any one chimney should be no less than 12 square feet. Chimneys lend themselves to a variety of angular and rounded forms that can enliven the three-dimensional quality and profile of the overall design.

To preserve the high quality air at WhisperRidge, all residences are encouraged to utilize natural gas log fireplaces, rather than standard wood burning fireplaces or stoves.

Due to the extreme fire danger usually present in this high desert and mountain region, all chimneys, must be equipped with a U.L. or I.C.B.O. approved spark arrestor. Spark arrestors must be fully concealed by the use of a chimney cap detail.

Outdoor fire pits or fireplaces are prohibited unless they are natural gas and surrounded by non-combustible materials. No wood burning is allowed.

The DRC must approve permanently installed barbecues.

### 3.13 EXTERIOR COLORS

The color of exterior materials must generally be subdued to blend with the natural landscape. Earth tones are recommended, although accent colors that are used judiciously may be permitted.

In no case will colors approaching the primary range (red, blue, white and yellow) be permitted, nor will drastic contrasts in value (light to dark) be allowed. This applies to both paint and stain. White may only be used as an accent or "trim" color; "light-gray" siding stains that approach white or off-white in appearance will not be allowed. Garage and exterior doors are not considered "trim".

Proposed colors must be demonstrated to DRC in a sample format that adequately depicts the hue, tone and shade of the proposed color in its final application. Sample swatches on the structure itself are preferred; as an alternative, stained or painted sample boards of the actual siding to be used would also be accepted. Small color samples, printed on paper, may not accurately depict how a finished color will appear on an expansive wall of real construction materials, and are therefore discouraged. The DRC may require the color selection to be applied to an area of the house prior to approval.

A series of appropriate color palettes have been prepared as a tool to help determine individual color proposals. All colors must be within a Light Reflectance Range (LRV) of 15-35.

It is the intent at WhisperRidge to preserve the appearance of the natural landscape and preclude the use of colors that would appear out of place and, therefore, offensive to the eye.

### 3.14 WINDOWS, SKYLIGHTS, DRAPERIES, AND SHUTTERS

Windows should not appear as openings cut into the side of a box, but rather as architectural features recessed, projected, or bordered by projections that provide a shadow pattern and reduce reflectivity. While the elevations will differ on various sides of the house, windows on all sides must be treated with the same attention to detail given to the front or street elevation. All facades shall contain some degree of doors, windows, or other openings in the walls. Octagons, circles, hexagons, and triangles insensitively placed, will not be approved. Window heads must be shaped to match rooflines or remain level. No scissor truss windows will be permitted with slopes not matching the roofline. Scissor trusses can only be used if not visible from outside.

#### WINDOW HEAD

The glass of windows must not be highly reflective. The window frames must not be white or off-white.

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The dome of skylights must be clear, gray or bronze. No white domes are allowed, nor may their frames consist of reflective material that is left unfinished. Aluminum frames must be anodized or finished with baked enamel. Skylights must be placed on the roof in an organized pattern that blends with and compliments the roof design. Skylights that are placed wherever desired inside the home can create a chaotic appearance outside. All skylights must have a low-profile. Bubble type skylights are prohibited.

### 3.15 BUILDING PROJECTIONS

All projections from a residence or other structure including, but not limited to, chimney flues, vents, flashing, louvers, gutters, downspouts, utility boxes, porches, railings and exterior stairways shall match or compliment the surface from which they project, or must be painted or stained an approved color to blend unobtrusively with adjacent materials. All building projections must be contained within the Approximate Building Location.

### 3.16 GARAGES AND GARAGE DOORS

One of the greatest contributors to negative feelings about residential communities is the often-present row of garage doors aligned along the street with oversized driveways leading to them. Every effort must be made to keep this view from being prevalent at WhisperRidge. Effective measures to minimize the dominance of garage doors include side entries out of direct view from the street and overhangs or piers that add the softness of shade and shadow by way of recessing the doors. Garages for each residence are required, either attached or detached, accommodating at least two automobiles; carports are prohibited unless first approved by the DRC. Unless deemed necessary by the DRC, design submittals with the garage door(s) as a primary focal point from the street will be rejected.

The garage should be placed in a separate structure with or without an enclosed connection to the main house or with the entrance to the garage away from the street view. When this is not possible due to topography or other site constraints, the garage doors shall be placed further away from the street than the house façade—at a minimum of 10'-0", leaving the house form as the main focal point from the street. Overhangs above the doors and significant architectural detailing can also mitigate the visual impact of the garage entrance.

Garage doors must relate to the remainder of the house's design elements. Garages must not present closed or unarticulated facades. Glazing in garage doors should be provided to reduce the impact of the doors on the rest of the community. Large or unbroken masses above garage doors will not be approved. This is where detailing and a change in the plane of the surface can be beneficial.

The garage doors should be either the same color as the body of the house; or a slightly darker shade of the same color. In either case, the difference in color should not be so drastic as to call attention to the garage doors.



Other design features that shall be provided include the use of single-bay doors in lieu of double-width doors. Single garage doors divided by a substantial pier or column are encouraged over double doors. No door should exceed 10'-0" feet in width and in most cases should be 9'-0" feet. DRC requires single-bay doors, so as to present a smaller-scale appearance relative to the rest of the structure. Some exceptions to the single bay door requirement may be granted when the applicant can demonstrate that it is not physically possible to use a single bay door.

Where three or more garage bays are planned, care must be taken in the design of the garage door plane. More than two doors are not allowed in the same plane. The third (and fourth) door(s) must occur in a secondary building plane, offset by a minimum of 32" from the primary front wall of the garage, to avoid a continuous uninterrupted wall of three or more garage doors. All garage doors must be recessed a minimum of 12" with a minimum of 24" between garage doors.

The use of fluorescent or other highly visible lighting may be precluded in areas where the expanse of an open garage door might cause excessive glare, particularly when visible from neighboring residences and public rights-of-way or when windows are used in the garage or garage door.

3.17

### SOLAR APPLICATIONS AND OTHER STRUCTURES

Passive solar design is encouraged. Active solar applications can result in excessive glare and reflection, and would only be approved by DRC if the hardware is integrated in the structure or landscaping of a home site and is not visible from any other home site or common area. The DRC must approve doghouses, runs, and permanently installed recreational equipment.

## LANDSCAPE GUIDELINES

The landscape guidelines for WhisperRidge are an integral component of the overall character of the project and are intrinsically tied to the Site Planning and Design Guidelines. Homes that are designed and built within WhisperRidge must be mindful of preserving the rugged natural beauty intrinsic to this site. The native vegetation and unique site features are the fabric that weaves together a cohesive and distinct character for the community.

Landscaping desires should be taken into account at the Site Planning Phase.

It is the intent of the Landscape Guidelines to foster the creation of a naturalized setting in the development of individual properties as well as the wise use of water to assist the plant materials in their growth and well being. To emphasize and preserve this natural setting, careful attention will be given to parcel edges where lots butt each other, and existing native areas.

The WhisperRidge Design Review Committee must approve any pond or water feature.

Other major landscape considerations shall include the following:

- Plant materials shall be compatible with the native vegetation and selected based on their adaptability to the physical and climatic characteristics of the site.
- Individual lots shall be landscaped to create a cohesive "flowing" relationship between lots. Designs emphasizing and delineating lot lines will be discouraged.
- The parkway will be landscaped with informal groupings of trees to blend with the adjacent Gambel Oak thickets.
- The existing Gambel Oak forest shall be preserved whenever, and to the greatest extent possible adjacent to and surrounding lot parcel areas.

Builders and residents are urged to utilize drought tolerant plant materials, and irrigation systems and maintenance practices that conserve water.

Where applicable, drought tolerant turf grasses, such as fescue, are encouraged to provide a lush green look that requires less water and maintenance.

The following sections provide general guidelines and specific requirements associated with the landscape development for each lot. These sections are not to be considered singular practices, but are to be integrated with the other elements found in these guidelines; such as grading and drainage. Appendix A lists the recommended and required plant materials. Please note that as with other sections, certain landscape elements may be modified from these requirements only as approved by DRC on a case by case basis.

by deer, which includes a list of plant materials and their susceptibility to deer browsing is included.

#### 4.4 MINIMUM TREE PLANTING REQUIREMENT

Each lot within WhisperRidge must develop a quality landscape design that enhances the character of the existing native Scrub Oak zone through the use of smaller height trees in larger groupings. The effect is to soften the views of homes while retaining views of the adjoining mountains. Specific requirements include:

- 5 trees minimum per each front yard (front plane of home to street right-of-way.) – minimum size 1 ¾" cal. for deciduous trees and 6'-0" to 7'-0" for evergreen trees
- 3 trees minimum per each side yard (front plane to rear plane of home) – minimum size 1 ¾" cal. for deciduous trees and 6'-0" to 7'-0" for evergreen trees
- 3 trees minimum per each rear side yard (the 12'-0" area adjacent to side property line from the rear plane of home to rear lot line) located within the limits of disturbance – minimum size 1 ¾" cal. for deciduous trees and 6'-0" to 7'-0" for evergreen trees
- Due to site line and safety concerns, consideration should be given when planting evergreen trees within 8'-0" of any roadway, driveway, or sidewalk.

#### 4.5 IRRIGATION

All irrigation systems shall be designed to minimize overspray and water-waste. Overhead spray irrigation should be limited to turf and flowering groundcover areas. All other landscape areas should utilize drip type irrigation. Specific requirements include:

- Underground sprinkler system using pop-up spray/rotor heads (in-line emitters, or drip) for all disturbed yard areas with separate valve zones for sprinkler type (head vs. drip, etc), lawn and planter areas
- Individual valve zone controller with multiple station and time capability

#### 4.6 LANDSCAPE REVIEW PROCESS

##### Preliminary Submittal:

Landscape plan drawn to a scale of 1" = 20'-0" delineating existing trees and or undisturbed native areas to remain, proposed trees, planter bed and lawn areas as well as proposed home delineating outside doors, walkways, driveway, outside features (patios, decks, water features, etc.), walls, and existing and proposed grades (2' contour interval).

##### Final Submittal:

Landscape plan drawn to a scale of 1" = 20'-0" delineating existing trees and/or undisturbed native areas to remain, all proposed plant materials (trees, shrubs, ornamental grasses, groundcovers, and perennials), their locations, quantities, and sizes, listing their botanical and common name and lawn areas. The plans shall also include the location of the homes, outside access doors, walkways, driveway, outside features

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4.1

## NATURAL AREA

Some lots may contain areas designated on the legal Plat as Undisturbed Natural Area. These areas must remain as natural area to the standards outlined in this section. Permanent irrigation of the Natural Area on home sites with existing vegetation is not permitted, since the indigenous vegetation does not require additional water. Permanent irrigation of the Natural Area can lead to disease and death of the native plants, and aid in the spread of undesirable plant species or weeds. Temporary irrigation of all revegetation in the Natural Areas is allowed. Permanent irrigation for newly planted trees is permitted.

4.2

## PRIVATE AREA

The General Guidelines of the Private Area are to enhance the mountain character by expanding the use of planter beds while reducing expansive front yard lawns. The use of curvilinear planter bed edges that have boulders incorporated into the design are highly encouraged to enhance the naturalized image of plantings. Specific requirements include:

- 6'-0" minimum front yard home foundation planter -- minimum 2 rows of plants
- 4'-0" minimum side yard home foundation planter
- 2'-0" minimum planter at the top and bottom of site retaining walls
- 50% min. planter area in front yard exclusive of walkways and driveway is suggested
- 3'-0" minimum planter adjacent to front yard stairs
- 4'-0" minimum planter at front yard side lot line (both sides) is suggested
- Planter beds to contain live plant materials which will achieve 90% coverage of planter bed area within 3 - 5 years.
- All planter beds to contain organic mulch material to a minimum depth of 2"

4.3

## APPROVED PLANT LIST

The Design Review Committee has approved a list of plants and trees deemed to be inherently compatible with the natural WhisperRidge landscape, including indigenous and non indigenous species. Such plants are listed in Appendix A of the Design Guidelines, and landscaping of any transitional area is expressly limited to these species. Turf, when used, must not be a dominant component of the landscape.

The general guideline is to reduce expansive front yard lawn areas. Specific requirements include:

- 50% suggested lawn area in front yard exclusive of walkways and driveway
- 25% (4:1) maximum lawn slope

Please note that other trees may be specified and planted within the rear yard area exclusive of the rear side yard and Natural Area.

In addition to the list of recommended plant materials, plant material selection should also consider the potential impact of wildlife and minimizing browsing damage by deer, which utilize much of the site and foothills region, especially in winter months. An article on the subject of minimizing browsing damage

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(patios, decks, water features, etc.), walls and existing and proposed grade (2' contour interval).

#### 4.7 LANDSCAPE INSTALLATION TIMING

All landscaping and irrigation shall be installed according to the following schedule:

- Front and corner side yard landscaping shall be installed within 90 days of closing to a homeowner, weather permitting. If closing occurs between the months of October and March, landscaping must be completed by the following July 1<sup>st</sup>.
- Rear and side yard landscaping when visible from streets shall be installed within 90 days of closing to a homeowner, weather permitting. If closing occurs between the months of October and March, landscaping must be completed by the following July 1<sup>st</sup>.
- Interior and rear yard landscaping shall be installed within one year of closing to a homeowner, weather permitting. If closing occurs between the months of October and March, landscaping must be completed by the following July 1<sup>st</sup>.

5.

## CONSTRUCTION REGULATIONS

The preservation of the natural areas of WhisperRidge is critical to the community. In order to ensure that the natural area of each home site is preserved to the maximum extent possible and the nuisances inherent to any construction process are kept to a minimum, the following regulations shall be strictly enforced during the construction period of all improvements at WhisperRidge. The Owner of a home site shall be responsible for violations of the Design Guidelines, including construction regulations contained therein, by any contractor, subcontractor, agent, or employee performing any activities on behalf of the Owner within WhisperRidge, whether located on the home site or elsewhere within WhisperRidge. To ensure compliance with the Construction Regulations, a cash bond in the amount of five thousand dollars (\$5,000) will be required to cover any on- or off-site damage. Please see section 5.18 for more detailed regulations.

### 5.1 APPROXIMATE BUILDING LOCATION AND FENCING REQUIREMENT

The Approximate Building Location, which is the limit of development on each home site, is also the area within which all construction activities related to the improvements must be confined. To this end, the approved area of disturbance must be staked and fenced with black LOD fencing at a minimum four-foot height during the full duration of construction. Construction fencing enclosing the Approximate Building Location must extend for the full street frontage so no contractors or suppliers park in the natural area. Construction fence must be installed prior to any work being done. When a utility trench does not follow the driveway, the trench area must have a construction fence no wider than 8 feet along the route, on each side, and be fully re-vegetated wherever the natural area is disturbed.

### 5.2 OSHA COMPLIANCE

All applicable Occupational Safety and Health Act (OSHA) regulations and guidelines must be observed at all times.

### 5.3 CONSTRUCTION SITE PLAN AND CONSTRUCTION TRAILERS

As part of the Final Submission, a construction site plan must be prepared and approved which indicates construction access, parking areas off of the street, sanitary facilities, concrete wash out area, trash drum, material storage, and approved access drives, for construction activities on any home site.

Upon approval of the Construction Site Plan a construction trailer or portable field office may be located on the building site within the Approximate Building Location, clear of all setbacks. The type, size and color of any portable office must be approved by a representative of the DRC as part of the construction

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site plan. The field office may not be placed on-site earlier than two weeks prior to the actual onset of continuous construction activity. At the same time, the provision of temporary power and telephone may be installed. A construction trailer may not remain on site for a period of time exceeding six months without written approval of the DRC.

5.4 CONSTRUCTION TRASH RECEPTACLES AND DEBRIS REMOVAL

Owners and builders shall clean up all trash and debris at the end of each day; an approved trash receptacle must remain on the site at all times for this purpose to contain all lightweight materials or packaging. The receptacle must be positioned on the site alongside the access drive, clear of side and rear setbacks, adjacent road right(s)-of-way and neighboring properties. Trash receptacles must be emptied on a timely basis to avoid overflow of refuse; disposal shall be at a suitable off-site facility. Owners and builders are prohibited from dumping, burying, or burning trash anywhere on the home site or in WhisperRidge. Heavy debris, such as broken stone, wood scrap, or the like must be removed from the site immediately upon completion of the work of each trade that has generated the debris.

All concrete washout, from both trucks and mixers, must occur within a contained area of the Approximate Building Location of the home site in a location where it will be ultimately concealed by structure or covered by backfill. Concrete washout in road rights-of-way, setbacks or on adjacent properties is strictly prohibited.

During the construction period, each construction site shall be kept neat and shall be properly policed to prevent it from becoming a public eyesore or detriment to other home sites or open space. Any clean-up costs incurred by DRC or the Association in enforcing these requirements shall be payable by the Owner/Contractor. Dirt, mud, or debris resulting from activity on each construction site shall be promptly removed from public or private roads, open spaces and driveways or other portions of WhisperRidge.

5.5 SANITARY FACILITIES

Each Owner or builder shall be responsible for providing adequate sanitary facilities for construction workers. Portable toilets must be located within the Approximate Building Location, clear of all setbacks and in a discreet location approved on site by the DRC.

5.6 CONSTRUCTION ACCESS

The access drive approved by DRC will be the only construction access to any home site. No construction access is allowed through the Monte Verde Subdivision. All construction access must be coordinated with DRC. The speed limit within WhisperRidge is 20 mph, for all roads.

5.7

## VEHICLES AND PARKING AREAS

Construction crews will not park on, or otherwise use, undeveloped portions of home sites or open space, **this includes road shoulders**. All vehicles shall be parked within an agreed upon area by the DRC. During very busy construction periods involving multiple trades such that all construction vehicles cannot be confined to the site proper, the overflow vehicles may be temporarily parked along the roadway; in locations and for time periods solely as approved by the DRC. During these periods the road must allow continual unconstrained access by normal traffic and emergency vehicles, including fire trucks. **No overnight parking is allowed, this includes trailers**. Where parking on the shoulder occurs, all damage to the shoulder and landscape must be repaired by the contractor continually and not left for the end of construction. Vehicles may not be parked on neighboring home sites, in nearby driveways or on open space. Changing oil or other vehicle maintenance is prohibited. All trailers shall be removed from property after unloading.

5.8

## CONSERVATION OF NATIVE LANDSCAPE

Trees and all natural areas that are to be preserved must be marked and protected by flagging, fencing, or barriers. The DRC shall have the right to flag major terrain features or plants which are to be fenced for protection. Any trees or branches removed during construction must be promptly cleaned up and removed from the construction site.

5.9

## EROSION CONTROL

During construction, measures must be taken to eliminate erosion. The following outlines the required, in-the-field construction methods that must be performed by the contractor. All measures utilized must comply with Morgan County ordinances, which all contractors should familiarize themselves with.

5.10

## EXCAVATION MATERIALS AND BLASTING

If any blasting is to occur, DRC must be notified two weeks in advance and appropriate approvals must be obtained from Morgan County. Blasting may only be done by licensed demolition personnel, with all requisite insurance coverages as mandated by county and state statutes, specific to their blasting activity at WhisperRidge. DRC shall have the authority to require in writing documentation of anticipated seismic effects, with confirmation, such effects will not be injurious to other persons or properties, public or private, and that all appropriate protection measures have been utilized. DRC may require additional insurance to cover potential damages from blasting to subdivision improvements and common areas.

All excess material resulting from blasting, as well as all other excess excavation materials, must be promptly removed from WhisperRidge.



5.11

### DUST AND NOISE CONTROL

The contractor shall be responsible for controlling dust and noise from the construction site, including the removal of dirt and mud from public or private roads that is the result of construction activity on the site, each day.

The sounds of radios or any other audio equipment used by construction personnel must not be audible beyond the property perimeter of any home site; repeated violations of this provision will precipitate a total prohibition of any on-site use of radios or audio equipment during construction.

5.12

### MATERIAL DELIVERIES

All building materials, equipment and machinery required to construct a residence on any home site at WhisperRidge must be delivered to and remain within the Approximate Building Location of each home site, clear of all setbacks. This includes all building materials, earth-moving equipment, trailers, generators, mixers, cranes and any other equipment or machinery that will remain at WhisperRidge overnight. Material delivery vehicles may not drive across adjacent home sites or common area parcels to access a construction site.

5.13

### FIREARMS

The possession or discharge of any type of firearm by construction personnel on any construction site, home site, common area parcel or right-of-way at WhisperRidge is prohibited.

5.14

### ALCOHOL AND CONTROLLED SUBSTANCES

The consumption of alcohol or use of any controlled substance by construction personnel on any construction site, home site, common area parcel or right-of-way at WhisperRidge is prohibited.

5.15

### FIRES AND FLAMMABLE MATERIALS

Careless disposition of cigarettes and other flammable materials, as well as the build-up of potentially flammable materials constituting a fire hazard, are prohibited. At least two 20-pound ABC-Rated Dry Chemical Fire Extinguishers shall be present and available in a conspicuous place on the construction site at all times.

No on-site fires are allowed, except for small, confined, attended fires for the purposes of heating masonry water.

5.16 PETS

No member of any construction crew may bring pets, particularly dogs, into WhisperRidge.

5.17 PRESERVATION OF PROPERTY

The use of or transit over any other home site, common area or amenity, including the mountains, is prohibited. Similarly, the use of or transit over the natural area or setbacks outside the Approximate Building Location of any home site is prohibited. Construction personnel shall refrain from parking, eating, depositing of rubbish or scrap materials (including concrete washout) on any neighboring home site, common area parcel, or right-of-way.

5.18 PROTECTION OF SUBDIVISION IMPROVEMENTS AND RESTORATION OF PROPERTY

Each Owner shall be responsible for the protection of all subdivision improvements, roadways, common areas, or improvements of any other home site which may be damaged by the activities of such Owner's contractor, subcontractor, agents, or employees. To ensure compliance with the Construction Regulations a cash bond in the amount of five thousand dollars (\$5000.00) will be required at the Final Design Review.

Upon completion of construction, each Owner and builder shall clean his construction site and repair all property which has been damaged, including but not limited to, restoring grades, planting shrubs and trees as approved or required by the DRC, and repair of streets, driveways, pathways, drains, culverts, ditches, signs, lighting and fencing.

In addition, the Owner and general contractor shall be held financially responsible for site restoration/ re-vegetation and refuse removal necessitated on any and all adjacent properties as a result of trespass or negligence by their employees on sub-contracted agents. Any damage and or clean-up, on- or off-site, not dealt with in a timely manner will be at the cost of the owner, and will be deducted from the cash bond.

5.19 CONSTRUCTION AND REAL ESTATE SIGNAGE

Temporary construction signs shall be limited to one standardized sign per site. The standardized sign requirements can be found on Addendum 2. This sign is intended for job site identification only; therefore, it must be located within the Approximate Building Location, facing the street frontage of the home site.

The construction sign may not be erected on a site earlier than two weeks prior to the onset of continuing

construction activity and must be removed within two weeks of the issuance of a certificate of occupancy by the County, or immediately upon the passage of 30 calendar days without significant construction activity.

5.20 DAILY OPERATION

Daily working hours for each construction site shall be from 30 minutes before sunrise to 30 minutes after sunset. Construction activity which generates noise audible from the boundaries of any home site, such as hammering, sawing, excavation work, concrete delivery, etc., must be confined to the hours of 7:00 a.m. to 7:00 p.m., Monday through Friday, and 8:00 a.m. to 7:00 p.m. on Saturday. Noisy activity is prohibited on Sunday of each week, particularly during the summer period of high Owner/visitor occupancy.

5.21 SITE VISITATIONS

Due to the inherent danger associated with an active construction site, visitors to any site should be limited to those persons with official business relating to the construction activity, such as construction workers and tradesmen, building officials, security staff, Design Review observers, sales personnel, and the Owner. Construction personnel should not invite or bring family members or friends, especially children, to the job site.

5.22 CONSTRUCTION INSURANCE REQUIREMENTS

All contractors and sub-contractors must post evidence of insurance with their home site Owner, prior to entering the construction premises. Confirmation shall be evidenced in the form of a valid Certificate of Insurance naming both the home site Owner and WhisperRidge Community Association, Inc. The required insurance must provide coverage not less than the applicable limits of coverage relating to comprehensive general liability, automobile liability and workmen's compensation. The minimum limits of liability shall not be less than one million dollars (\$1,000,000) each for general liability and automobile liability. General liability coverage shall contain provisions for contractual liability and broad form property damage. The certificate shall provide for 30-day notice to the certificate holders in the event of cancellation or material change in the limits of coverage.

6.

## DESIGN REVIEW PROCEDURES

Site sensitive, site-specific design shall be fundamental at WhisperRidge. Design drawings should evolve from the careful and thorough analysis of a site's specific setting and features. Therefore, Owners and/or their designers should refrain from approaching a site with a predetermined design expecting to "make it fit", with little regard to natural constraints. WhisperRidge has established this review procedure to assist the applicant through the design process in its appropriate sequence.

Plans and specifications shall be submitted to DRC in accordance with the following conference and submittal requirements and review procedures.

6.1

### PRE-DESIGN CONFERENCE

Prior to preparing preliminary plans for any proposed improvement, it is mandatory that the Owner and the Architect meet with a representative of the DRC to discuss proposed plans and to resolve any questions regarding building requirements at WhisperRidge. This informal review is to offer guidance prior to initiating preliminary design, and should occur on site. In some cases this may occur by conference call at the discretion of the DRC.

The parameters and directives identified at each Pre-Design Conference remain valid for one year only. If the submittal of a preliminary design does not occur within twelve months of a Pre-Design Conference, a supplementary Pre-Design Conference is in order to review any changes in site conditions or revisions to the Design Guidelines which may have transpired.

6.2

### PRELIMINARY DESIGN SUBMITTAL

A Preliminary Design Submittal must follow within twelve months of the fulfillment of the requisite Pre-Design Conference. When the Preliminary Design is complete, its submittal for consideration must include all of the following exhibits. Review by DRC will not commence until the submittal is complete.

A. Site plan (scale at 1" = 10'-0" or 1/8" = 1'-0"), showing the entire property, location of the proposed Approximate Building Location, the residence and all buildings, driveway, parking area, existing and proposed topography, proposed finished floor elevations, all trees, all clusters of native shrubs, and special terrain features to be preserved.

B. Survey (scale at 1" = 10'-0" or 1/8" = 1'-0"), by a registered land surveyor or licensed civil engineer showing home site boundaries and dimensions, topography (2 feet contours or less), major terrain features, all trees, edge of pavement or curb, and utility locations.

C. Floor plans (scale 1/4" or 1/8" = 1'-0") showing proposed finished floor elevations.

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D. All exterior elevations (scale 1/4" or 1/8" = 1'-0") showing both existing and proposed grade lines, plate heights, ridge heights, roof pitch and a preliminary indication of all exterior materials and colors.

E. Any other drawings, materials or samples requested by the DRC.

F. A Design Review fee shall be due at the time of preliminary submittal in the amount of one thousand dollars (\$1000.00)

The submittal shall consist of one set of prints, which shall be retained by the DRC.

### 6.3 PRELIMINARY DESIGN REVIEW

The DRC will review the plans and respond in writing no later than 30 days after a submittal is complete.

Members of the DRC will not discuss results of reviews over the telephone with an owner or his Architect or Builder.

Any response an Owner may wish to make regarding the results of a Design review must be addressed to the DRC in writing.

The DRC's approval of a preliminary design is valid for twelve months.

### 6.4 FINAL DESIGN SUBMITTAL

A Final Design Submittal must follow within twelve months of the DRC's granting of approval for a preliminary design. When the final design is complete, its submittal for consideration must include the following exhibits. Review by the Committee will not commence until the submittal is complete.

A. Site plan (scale at 1" = 10'-0" or 1/8" = 1'-0"), showing the entire property, the Approximate Building Location, the residence and all buildings, driveway, culverts, drainage channels, parking area, existing and proposed topography, finished floor elevations, all protected plants or special terrain features to be preserved, trees to be removed, all utility sources and connections, and site walls.

B. Floor plans (scale 1/4" = 1'-0") showing finished floor elevations.

C. Roof plan (scale 1/4" = 1'-0") showing all roof pitches.

D. Building section (scale 1/4" = 1'-0" or larger), indicating existing and proposed grade lines.

- E. All exterior elevations (scale 1/4" = 1'-0") showing both existing and proposed grade lines, plat heights, roof pitch and an indication of exterior materials and colors.
- F. Paint chips and literature as requested by the DRC depicting and describing all exterior materials.
- G. Complete landscape plan (scale 1" = 10'-0" or 1/8" = 1'-0"), showing size and type of all proposed plants, irrigation system, all decorative materials or borders, and all retained plants.
- H. On-site staking of all building corner and other improvements, if requested by the DRC.
- I. Construction site plan as described in paragraph 5.3.

The submittal shall consist of three sets of prints, which shall be retained by the DRC.

A Final Design Submittal must be received at the designated address of the DRC (see Section 7.2 of these Standards) by noon of the Friday preceding a scheduled meeting of the DRC, in order to be included on the agenda for consideration.

#### 6.5 DEFERRAL OF MATERIAL OR COLOR SELECTION

An applicant may wish to delay the confirmation of landscaping intentions (if any) and final color or stonework selections until some point in time after the start of construction, in order to better visualize landscape considerations, or to test an assortment of potential colors with actual material intended for use. The DRC will cooperate with the applicant in this regard, provided that no landscape work may be started, nor color or material applied, until such time as the Committee has had the opportunity to review and consent to the final selections. We advise that the resubmittal occur before the placement of any orders for materials to avoid potential restocking costs in the event of denial of the submitted item(s). Further, the provision stated here shall be a condition of Final Design Approval; therefore application of any material, coating or finish without the requisite resubmittal to the DRC shall have the effect of voiding the approval in its entirety.

#### 6.6 SITE INSPECTION

As soon as the submission of final plans is complete, a representative of the DRC will inspect the home site to determine that the conditions as depicted in the final submittal are accurate and complete.

#### 6.7 FINAL DESIGN REVIEW

The DRC will review the plans and respond in writing no later than 30 days after a submittal is complete.

Members of the DRC will not discuss results of reviews over the telephone with an Owner or his

Architect or Builder, and no Owner, Architect or Builder shall have the right to attend any meeting of the DRC unless specifically requested by the DRC.

Any response an Owner may wish to make regarding the results of a Design Review must be addressed in writing. The DRC's approval of the final design is valid for twelve months.

In the event of any disapproval by the DRC of either a Preliminary or Final Submittal, a resubmission of plans should follow the same procedure as an original submittal. An additional Design Review fee shall accompany each such submittal as required by the DRC.

Design approvals for each review step remain valid for one year only. Therefore, if an application lags the fulfillment of a preceding review phase by more than twelve months, that prerequisite step must be repeated, unless waived by the DRC.

#### 6.8 PRE-CONSTRUCTION CONFERENCE

Prior to commencing construction, the builder must meet with a representative of the DRC to review construction procedures and coordinate his activities in WhisperRidge.

#### 6.9 COMMENCEMENT OF CONSTRUCTION

Upon receipt of final approval from the DRC, and having satisfied all Morgan County review processes, the Owner shall satisfy all conditions and commence the construction or any work pursuant to the approved plans within one year from the date of such approval.

If the Owner fails to begin construction within this time period, any approval given shall be deemed revoked.

The Owner shall, in any event, complete the construction of any improvement on his home site within one year after commencing construction thereof, except and for so long as such completion is rendered impossible or would result in greater hardship to the Owner due to labor strikes, fires, national emergencies or natural calamities.

If the Owner fails to comply with this schedule, the DRC shall have the right to either have the exterior of the improvement completed in accordance with approved plans or remove the improvement, with all expenses incurred, to be reimbursed to the DRC by the Owner.

#### 6.10 INSPECTIONS OF WORK IN PROCESS

The DRC may inspect all work in progress and give notice of noncompliance. Absence of such inspection or notification during the construction period does not constitute an approval by the DRC of

work in progress or compliance with this Design Guidelines.

6.11 SUBSEQUENT CHANGES

Additional construction or other improvements to a residence or home site, changes during construction or after completion of an approved structure, including landscaping and color modification, must be submitted to the DRC for approval prior to making such changes or additions.

6.12 FINAL RELEASE

Upon completion of any residence or other improvement, the Owner shall give written notice of completion to the DRC. Within ten (10) days of such notification, a representative of the DRC shall inspect the residence or other improvement for compliance. If all improvements comply with these Design Guidelines, and the Declaration, the DRC shall, in recordable form, issue a written approval to the Owner, constituting a final release of the improvements by the DRC, said release to be issued within 30 days of the Final Inspection. If it is found that the work was not done in strict compliance with approved plans or any portion of this Design Guidelines, the DRC may issue a written notice of noncompliance to the Owner, specifying the particulars of noncompliance, said notice to be issued within 30 days of the Final Inspection.

The Owner shall have thirty (30) days from the date of notice of noncompliance within which to remedy the noncompliance portions of his improvement. If, by the end of this time period the Owner has failed to remedy the noncompliance, the DRC may take action to remove the noncompliance improvements as provided for in this Design Guidelines, including, without limitation, injunctive relief or the imposition of a fine.

6.13 NON-WAIVER

The approval by the DRC of any plans, drawings or specifications for any work done or proposed shall not be deemed to constitute a waiver of any right to withhold approval of any similar plan, drawing or specification subsequently or additionally submitted for approval. Failure to enforce any of this Design Guidelines shall not constitute a waiver of same.

6.14 RIGHT OF WAIVER

The DRC reserves the right to waive or vary any of the procedures set forth herein at its discretion, for good cause shown.



6.15

### EXEMPTIONS

Utility and maintenance buildings, structures, and cabinets located on non-residential tracts are exempted from this Design Guidelines. However, the DRC will endeavor to attain as high a level of conformance with these standards as is practical for these types of facilities.

6.16

### ADDITIONAL DESIGN REVIEW FEE

Additional Design Reviews outside the preliminary proposal will be at a cost of two hundred and fifty dollars (\$250.00). The full Design Review fee must be paid at the time of the Preliminary Submittal.

7. DESIGN REVIEW COMMITTEE

7.1 ADDRESS OF DESIGN REVIEW COMMITTEE

The address of the DRC shall be the address established for giving notice to the Association, unless otherwise specified by the Committee. Such address shall be the place for the submittal of plans and specifications, and the place where the current Design Guidelines shall be kept.

*The present address for the Design Review Committee:*

---

7.2 RESIGNATION OF MEMBERS

Any member of the DRC may, at any time, resign from the DRC upon written notice delivered to the Board.

7.3 DUTIES

It shall be the duty of the DRC to consider and act upon such proposals or plans related to the development of WhisperRidge that are submitted pursuant to this Design Guidelines to enforce the Design Guidelines, and to amend this Design Guidelines when, and in a manner deemed appropriate by, the DRC.

7.4 MEETINGS

The DRC shall meet from time to time as necessary to properly perform its duties. The vote of a majority of the members shall constitute an act by the DRC.

The DRC shall keep on file all submittals and copies of all written responses to Owners to serve as record of all actions taken.

7.5 COMPENSATION

Unless authorized by the Association, the members of the DRC shall not receive any compensation for services rendered.

All members shall be entitled to reimbursement for reasonable expenses incurred by them in connection with the performance of their duties. Professional consultants and representatives of the DRC retained for assistance in the review process shall be paid such compensation as the DRC determines.

Adopted by the Design Review Committee, 23 June 2008

7.6 AMENDMENT OF DESIGN GUIDELINES

The DRC may, from time to time and at its sole discretion, amend or revise any portion of the Design Guidelines. All such amendments or revisions shall be appended to and made a part of the Design Guidelines. Administrative changes may be made in like manner by the DRC.

7.7 NON-LIABILITY

Neither the DRC, any member thereof, nor the developer, shall be liable to the Association or to any Owner or other person for any loss or damage claimed on account of any of the following:

1. The approval or disapproval of any plans, drawing and specifications, whether or not defective.
2. The construction or performance of any work, whether or not pursuant to approved plans, drawings, and specifications regardless of any inspections by the DRC during the course of construction.
3. The development or manner of development of any property within WhisperRidge.

Every Owner or other person, by submission of plans and specifications to the DRC for approval, agrees that he will not bring any action or suit against the DRC, any of its members, nor the developer, regarding any action taken by the DRC.

Approval by the DRC of any improvement at WhisperRidge only refers to the WhisperRidge Design Guidelines and in no way implies conformance with local government regulations. It shall be the sole responsibility of the Owner to comply with all applicable government ordinances or regulations, including but not limited to zoning ordinances and local building codes.

7.8 ENFORCEMENT

The DRC may, at any time, inspect a home site or improvement and, upon discovering a violation of this Design Guidelines, provide a written notice of non-compliance to the Owner, including a reasonable time limit within which to correct the violation. The DRC may also record a notice of violation after the expirations of the time limit. If an Owner fails to comply within this time period, the DRC or its authorized agents may enter the home site and correct the violation at the expense of the Owner of such home site; said expense to be secured by a lien upon such home site enforceable in accordance with the Declaration.

In the event of any violation of this Design Guidelines, the DRC may, at its sole discretion and in addition to restoration expenses, impose without limitation a punitive fine, commensurate with the

Adopted by the Design Review Committee, 23 June 2008

severity of the violation. In the event the DRC deems it necessary to retain legal counsel in connection with the enforcement of this Design Guidelines, the Owner against whom such enforcement is sought shall be liable for all legal fees and other out-of-pocket expenses incurred by the DRC or the WhisperRidge Community Association, Inc. in enforcing the Design Guidelines.

7.9 SEVERABILITY

If any provision of the Design Guidelines, or any section, clause, sentence, phrase or word, or the application thereof in any circumstance, is held invalid, or unenforceable, the validity of the remainder of this Design Guidelines, and of the application of any such provision, section, sentence, clause, phrase or word in any other circumstances, shall not be affected thereby, and the remainder of the Design Guidelines shall be construed as if such invalid or unenforceable part were never included therein.

7.10 DELEGATION OF AUTHORITY

The DRC may delegate any or all of its design Review responsibilities to one or more of its members, acting as a subcommittee of the DRC, and/or a professional design consultant(s) retained by the DRC on behalf of the Association. Upon such delegation, the actions of such members or consultant(s) shall be equivalent to action by the Committee as a whole.

7.11 DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

This Design Guidelines is promulgated pursuant to the terms and conditions of the Declaration of Covenants, Conditions, and Restrictions for WhisperRidge. However, in the event of any inconsistency between the provisions of this Design Guidelines and the provisions of such Declaration, the provisions of the Design Guidelines shall apply.

# APPENDIX A

## APPROVED FRONT & SIDE YARD TREES

Abies lasiocarpa	Sub-Alpine Fir
Acer ginnala	Amur Maple
Acer glabrum	Rocky Mountain Maple
Acer grandidentatum	Big Tooth Mountain Maple
Acer tatarica	Tatarian Maple
Acer truncatum x A. platanoides 'Warrenred'	Pacific Sunset Maple
Crataegus phaenopyrum	Washington Hawthorn
Malus species	Crabapple species
Picea glauca varieties	White Spruce
Picea pungens	Colorado Spruce
Pinus aristata	Bristlecone Pine
Pinus densiflora	Japanese Pine
Pinus flexilis	Limber Pine
Pinus leucodermis "Heldreichii"	Bosnian Dwarf Austrian Pine
Pinus nigra compacta	Wells Green Temple Austrian Pine
Populus tremuloides	Quaking Aspen
Prunus maackii	Amur Chokecherry
Prunus padus varieties	Mayday Tree
Prunus virginiana	Chokecherry
Prunus virginiana "Canada Red"	Canada Red Chokecherry
Quercus gambelii	Scrub Oak
Salix x Flame	Flame Willow
Sorbus aucuparia varieties	European Mountain Ash
Syringa reticulata	Japanese Tree Lilac

## RECOMMENDED SHRUBS

The following is a list of suitable plants for planter beds that provide a complement to the approved tree list, the surrounding environment, and design review guidelines. Other species of plant life may be allowed with DRC approval.

Cercocarpus	Mountain Mahogany
Cornus alba varieties	Dogwood
Cornus sericea varieties	Red Osier Dogwood
Cotoneaster species	Cotoneaster
Cytisus / Genista species	Broom
Diervilla lonicera	False Honeysuckle

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Juniperus species	Juniper
Mahonia aquilifolium varieties	Oregon Grape
Pinus mugo mugo varieties	Dwarf Mugo Pine
Pinus sylvestris 'Hillside Creeper'	Creeping Scotch
Potentilla fruticosa varieties	Shrubby Cinquefoil
Prunus beseyi	Sand Cherry
Prunus x cistena	Cistena Plum
Prunus tomentosa	Nanking Cherry
Rhus species	Sumac
Ribes species	Currant
Rosa	Native Rose
Salix purpurea nana	Blue Arctic Willow
Spiraea species	Spirea
Symphoricarpos species	Snowberry
Viburnum species	Cranberry

## PERENNIAL GROUNDCOVERS & ORNAMENTAL GRASSES

Due to the large quantity, variety, and changing availability of these plants, please consult you local nursery.

# APPENDIX B

## DESIGN REVIEW SUBMITTAL CHECKLIST

### **STEP 1      PRE-DESIGN CONFERENCE (Before any design begins)**

- Review Guidelines.
- Discuss Driveway Configuration.
- Answer all questions related to process.

### **STEP 2      PRELIMINARY DESIGN SUBMITTAL**

- Site Plan Survey with Topography
- Floor Plans
- All Exterior Buildings Elevations
- Supplemental Drawings Requested in Pre-Design
- Design Review Fee Check & Application
- Preliminary Approval from Committee

### **STEP 3      FINAL DESIGN SUBMITTAL**

- Complete Construction Documents
- Time Schedule for Construction
- Sample of all Exterior Materials, Colors, and Glass Specifications
- Landscaping Plan
- Exterior Lighting Plan and Lighting Cuts
- Final Approval by Committee
- Remit Bond Amount

### **STEP 4      COUNTY BUILDING PERMIT**

### **STEP 5      PRE-CONSTRUCTION CONFERENCE**

- Builder Must Meet with a Representative of the Committee Prior to Commencement of Construction.
- Approval From the Committee Must Be Obtained Prior to Bringing in Any Construction Trailer, Field Office, Etc.
- Agreed Upon Area Must Be Fenced with Black Vinyl LOD Fencing
- Final Inspection by Committee

### **CERTIFICATE OF FINAL CONSTRUCTION APPROVAL**

- Issued by the Design Review Committee upon Completion of Construction and all Required Inspections.

APPENDIX C  
**WHISPERRIDGE**  
 DESIGN SUBMITTAL APPLICATION

*Applicant to Complete the Information Below*

**Project Location**

HOME SITE # \_\_\_\_\_  
 STREET ADDRESS \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**Owner**

NAME \_\_\_\_\_  
 MAILING ADDRESS \_\_\_\_\_  
 \_\_\_\_\_  
 CITY STATE ZIP \_\_\_\_\_  
 PHONE \_\_\_\_\_  
 FAX E-MAIL \_\_\_\_\_

**Architect**

FIRM / ARCHITECT \_\_\_\_\_  
 MAILING ADDRESS \_\_\_\_\_  
 \_\_\_\_\_  
 CITY STATE ZIP \_\_\_\_\_  
 PHONE \_\_\_\_\_  
 FAX E-MAIL \_\_\_\_\_

**Contractor/Builder**

FIRM \_\_\_\_\_  
 MAILING ADDRESS \_\_\_\_\_  
 \_\_\_\_\_  
 CITY STATE ZIP \_\_\_\_\_  
 PHONE \_\_\_\_\_  
 FAX E-MAIL \_\_\_\_\_

**House Information**

Enclosed Livable: \_\_\_\_\_ Sq. ft.  
 Enclosed Total: \_\_\_\_\_ Sq. ft.  
 Covered/ Under Roof Total: \_\_\_\_\_ Sq. ft.  
 Building Color: \_\_\_\_\_  
 NAME NUMBER

**Description of Submittal**

*Attach all necessary drawings and information*

MFQ LVR

**Applicant**

As Applicant, either as Owner or Owner's Agent, I have read and understand the Design Guidelines and the CGBR's concerning design and construction in WhisperRidge. I also acknowledge that the Design Review Fee is non-refundable.

APPLICANT'S SIGNATURE \_\_\_\_\_ PRINT NAME \_\_\_\_\_ DATE \_\_\_\_\_

**For Committee Use Only**

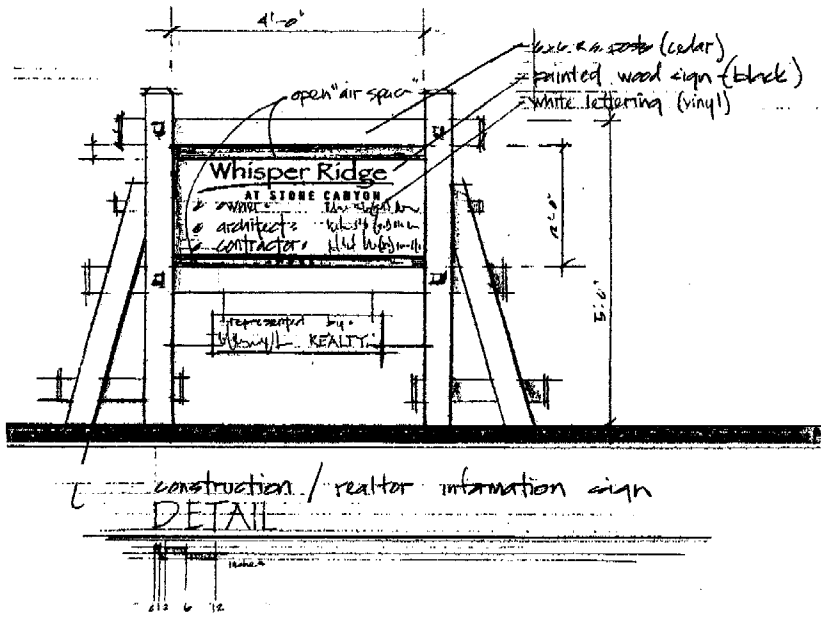
REVIEWED BY: \_\_\_\_\_  Preliminary  Approved  
 DATE: \_\_\_\_\_  Final  Approved w/ Signs  
 SCHEDULED MEETING DATE: \_\_\_\_\_ PRELIMINARY APPROVAL DATE: \_\_\_\_\_  
 PRE-DESIGN MEETING DATE: \_\_\_\_\_ FINAL APPROVAL DATE: \_\_\_\_\_

Adopted by the Design Review Committee, 23 June 2008

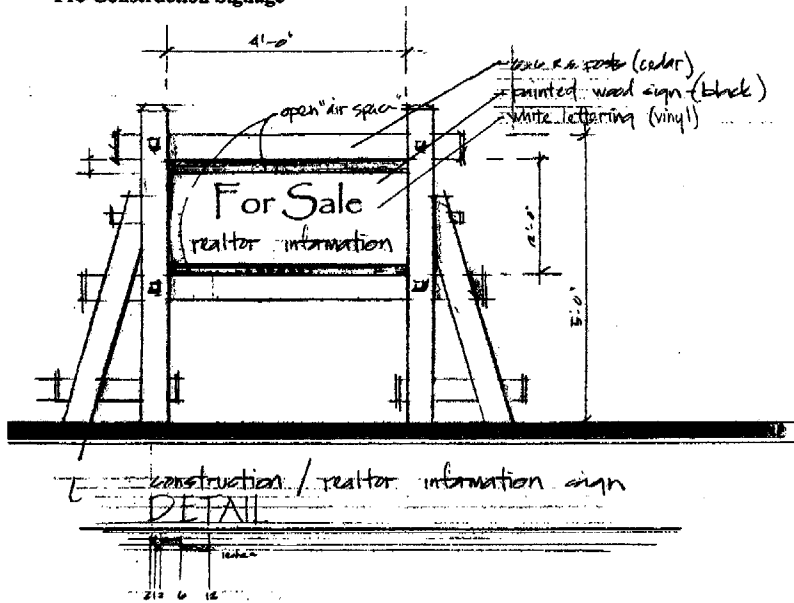
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## ADDENDUM 2



**Figure A.**  
Pre-Construction Signage



**Figure B.**  
Post-Construction Signage