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Entry No. <u>119704</u>	Book <u>M 120</u>
RECORDED <u>9-26-78</u>	at <u>3:01 P.M.</u> Page <u>367-79</u>
REQUEST of <u>Western States Title</u>	
FEE \$ <u>16.00</u>	WANDA Y. SPRIGGS, SUMMIT CO. RECORDER
INDEXED	By <u>Wanda Y. Spriggs</u>
ABSTRACT	

DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS
RACQUET CLUB VILLAGE NO. 3 SUBDIVISION
A PLANNED UNIT DEVELOPMENT

THIS DECLARATION is made and executed this 13th day
of September, 1978, by S & A COMPANY, a partnership, herein-
after referred to as "Developer".

RECITALS:

A. Developer is the record owner of that certain tract
of Property more particularly described in Article II of this De-
claration. Developer desires to create on said Property a resi-
dential development with permanent recreational areas, open spaces,
and other Common Areas.

B. Developer desires to provide for preservation of the
values and amenities in said development and for the maintenance
of the Common Areas. To this end and for the benefit of the Property
and of the Owners thereof, Developer desires to subject the Property
described in Article II of this Declaration to the covenants, res-
trictions, easements, charges and liens hereinafter set forth.

C. Developer deems it desirable, for the efficient pre-
servation of the values and amenities in the development, to create
an entity which possesses the power to maintain and administer the
Common Areas, to collect and disburse the assessments and charges
hereinafter provided for, and otherwise to administer and enforce
the provisions of this Declaration. For such purpose, Developer
has, in conjunction with recordation of this Declaration, caused
to be incorporated under the laws of the State of Utah, as a nonprofit
corporation, THE RACQUET CLUB VILLAGE NO. 3 HOMEOWNERS ASSOCIATION.

NOW, THEREFORE, for the foregoing purposes, Developer
declares that the Property described in Article II of this Declaration
is and shall be held, transferred, sold, conveyed, and occupied
subject to the covenants, restrictions, easements, charges, and liens
hereinafter set forth.

I. DEFINITIONS

When used in this Declaration (including in that portion
hereof headed "Recitals") the following terms shall have the meaning
indicated.

1. Declaration shall mean and refer to this Declaration
of Covenants, Conditions, and Restrictions.

2. Plat shall mean and refer to the subdivision plat
of the Racquet Club Village No. 3 Subdivision, a Planned Unit
Development, executed and acknowledged by Developer on the 13th day
of September, 1978, prepared and certified to by James G.
West (a duly registered Utah Land Surveyor holding Certificate No.
3082) and filed for record in the office of the County Recorder of
Summit County, Utah concurrently with the filing of this Declaration.

3. Property shall mean and refer to the entire tract
of real property covered by the Plat, a description of which is set
forth in Article II of this Declaration.

4. Lot shall mean and refer to any of the separately
numbered and individually described parcels of land shown on the
Plat.

5. Common Areas shall mean and refer to that part of the

*First Amendment to Declaration
311312 Dh 530 P. 749*

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Property which is not included within the Lots, including all improvements other than utility lines now or hereafter constructed or located thereon.

6. Limited Common Areas shall mean and refer to that part of the Common Areas identified and described on the Plat as Limited Common Areas.

7. Living Unit shall mean and refer to a structure or portion of a structure which is designed and intended for use and occupancy as a single-family residence, together with all improvements located on the Lot concerned which are used in conjunction with such residence.

8. Owner shall mean and refer to the person who or entity which is the owner of record (in the office of the County Recorder of Summit County, Utah) of a fee or an undivided fee interest in any Lot. Notwithstanding any applicable theory relating to a mortgage, deed of trust, or like instrument, the term, "Owner", shall not mean or include a mortgagee or a beneficiary or trustee under a deed of trust unless and until such party has acquired title pursuant to foreclosure or any arrangement or proceeding in lieu thereof.

9. Association shall mean and refer to THE RACQUET CLUB VILLAGE NO. 3 HOMEOWNERS ASSOCIATION, a Utah nonprofit corporation.

10. Member shall mean and refer to every person who or entity which holds membership in the Association.

II. PROPERTY DESCRIPTION

The Property which is and shall be held, transferred, sold, conveyed, and occupied subject to the provisions of this Declaration consists of the following described real property situated in Summit County, State of Utah:

Beginning at a point North 1581.43 feet and East 2231.82 feet from the Southwest corner of Section 4, Township 2 South, Range 4 East, Salt Lake Base and Meridian and running thence South 67°30' East 198.93 feet; thence East 325.67 feet; thence South 67°30' East 291.28 feet; thence South 85°13'09" East 133.75 feet to a point of a curve to the right, the radius point of which bears South 69°00' East 680.00 feet; thence Northeasterly along the arc of said curve 153.30 feet to the point of a reverse curve to the left, the radius point of which bears North 56°05' West 570.00 feet; thence Northeasterly along the arc of said reverse curve 198.97 feet to the point of a compound curve to the left, the radius point of which bears North 76°05' West 63.00 feet; thence Northwesterly and Southwesterly along the arc of said compound curve 145.23 feet to the point of tangency, thence South 61°50' West 50.00 feet; thence North 28°10' West 293.22 feet; thence South 80°10'42" West 523.71 feet; thence South 110.00 feet; thence West 195.51 feet; thence South 161.29 feet; thence South 51°00' West 100.00 feet to the point of beginning. Containing 9.369 acres.

RESERVING UNTO THE DEVELOPER for the granting to adjacent properties, a non-exclusive easement for ingress and egress and for vehicular and pedestrian traffic over Raquet Club Drive and those portions of the property graded and surfaced as roadways as shown on the recorded Plat of the Raquet Club Village No. 3 Subdivision.

EXCLUDING all presently existing or to be constructed or installed sewer lines, water mains, gas lines, electrical conduits, telephone lines and related facilities to the extent they are located outside the Lots included within the above-described tract.

RESERVING UNTO DEVELOPER, however, such easements and rights of ingress and egress over, across, through, and under the above-described tract and any improvements now or hereafter constructed thereon as may be reasonably necessary (in a manner not inconsistent with the provisions of this Declaration) to construct a Living Unit on each and every Lot and to improve the Common Areas with such structures and facilities designed for the use and enjoyment of the Members as Developer may reasonably determine to be appropriate (including, but not limited to, walkways, landscaping, and general parking facilities); and to further improve the Common Areas by constructing covered parking facilities constituting the Limited Common Areas, the use of which shall be limited as provided herein. If, pursuant to this reservation, the above-described tract or any improvement thereon is traversed or partially occupied by a permanent improvement or utility line, a perpetual easement for such improvement or utility line shall exist. With the exception of such perpetual easements, the reservation hereby effected shall, unless sooner terminated in accordance with its terms, expire 20 years after the date on which this Declaration is filed for record in the office of the County Recorder of Summit County, Utah.

ALL OF THE FOREGOING IS SUBJECT TO: all liens for current and future taxes, assessments, and charges imposed or levied by governmental or quasi-governmental authorities; all patent reservations and exclusions; all instruments of record which affect the above-described tract or any portion thereof, including, without limitation, any mortgage or deed of trust; all visible easements and rights-of-way; and all easements and rights-of-way of record.

III. MEMBERSHIP AND VOTING RIGHTS

1. Membership. Every Owner shall be a Member of the Association. Membership in the Association shall be mandatory, shall be appurtenant to the Lot in which the Owner has the necessary interest, and shall not be separated from the Lot to which it appertains.

2. Voting Rights. The Association shall have the following described two classes of voting membership:

Class A. Class A Members shall be all Owners, but excluding the Developer until the Class B membership ceases. Class A Members shall be entitled to one vote for each Lot in which the interest required for membership in the Association is held. In no event, however, shall more than one Class A vote exist with respect to any Lot.

Class B. The Class B Member shall be the Developer. The Class B Member shall be entitled to six (6) votes for each Lot in which it holds the interest required for membership in the Association. The Class B membership shall automatically cease and be converted to Class A membership on the first to occur of the following events:

(a) When the total number of votes held by all Class A Members equals or exceeds the total number of votes held by the Class B Member.

(b) The expiration of twenty (20) years after the date on which this Declaration is filed for record in the office of the County Recorder of Summit County, Utah.

3. Multiple Ownership Interests. In the event there is

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more than one Owner of a particular Lot, the vote relating to such Lot shall be exercised as such Owners may determine among themselves. A vote cast at any Association meeting by any of such Owners, whether in person or by proxy, shall be conclusively presumed to be the vote attributable to the Lot concerned unless an objection is immediately made by another Owner of the same Lot. In the event such an objection is made, the vote involved shall not be counted for any purpose whatsoever other than to determine whether a quorum exists.

IV. PROPERTY RIGHTS IN COMMON AREAS

1. Easement of Enjoyment. Except with respect to the Limited Common Areas, each Member shall have a right and easement of use and enjoyment in and to the Common Areas. Such right and easement shall be appurtenant to and shall pass with title to each Lot and in no event shall be separated therefrom. Any Member may delegate the right and easement of use and enjoyment described herein to any family member, household guest, tenant, lessee, contract purchaser, or other person who resides on such Member's Lot.

2. Limited Common Areas. Each Member shall have an exclusive right and easement of use and enjoyment in and to that portion of the Limited Common Areas that is identified on the Plat by the same number by which that Member's Lot is identified; such right of use shall be limited, however, to the parking and storage of motor vehicles, trailers, campers and the like, and activities reasonably incident thereto. Such right and easement shall be appurtenant to and shall pass with title to each Lot and in no event shall be separated therefrom. Any Member may delegate the right and easement of use and enjoyment described herein to any family member, household guest, tenant, lessee, contract purchaser, or other person who resides on such Member's Lot.

3. Form for Conveyancing. Any deed, lease, mortgage, deed of trust, or other instrument conveying or encumbering title to a Lot shall describe the interest or estate involved substantially as follows:

Lot No. _____ contained within The Racquet Club Village No. 3 Subdivision, a Planned Unit Development, as the same is identified in the Plat recorded on _____, 19____ as Entry No. _____ and in the "Declaration of Covenants, Conditions, and Restrictions of The Racquet Club Village No. 3 Subdivision, a Planned Unit Development", recorded in Book _____ at Page _____, both in the Official Records of Summit County, State of Utah. TOGETHER WITH an exclusive right and easement of use in the Limited Common parking structure identified with the same number as the Lot above referred and together with a right and easement of use and enjoyment in and to the Common Areas described, and as provided for, in said Declaration of Covenants, Conditions, and Restrictions.

Whether or not the description employed in any such instrument is in the above-specified form, however, all provisions of this Declaration shall be binding upon and shall inure to the benefit of any party who acquires any interest in a Lot.

4. Transfer of Title. Developer agrees that it shall, at or prior to the time the Class B membership is converted to Class A membership, convey to the Association title to the Common Areas free and clear of all liens (other than the lien of current general taxes and the lien of any assessments, charges, or taxes imposed by governmental or quasi-governmental authorities).

5. Limitation on Easement. A Member's right and easement of use and enjoyment concerning the Common Areas shall be subject to

the following:

(a) The right of the Association to suspend a Member's right to the use of any recreational facilities included in the Common Areas for any period during which an assessment on such Member's Lot remains unpaid and for a period not exceeding ninety (90) days for any infraction by such Member of the provisions of this Declaration or of any rule or regulation promulgated by the Association;

(b) The right of the Association to impose reasonable limitations on the number of guests per Member who at any given time are permitted to use the Common Areas;

(c) The right of Summit County and any other governmental or quasi-governmental body having jurisdiction over the Property to access and rights of ingress and egress over and across any street, parking area, walkway, or open area contained within the Property for purposes of providing police and fire protection, transporting school children, and providing any other governmental or municipal service; and

(d) The right of the Association to dedicate or transfer all or any part of the Common Areas to any public agency or authority for such purposes and subject to such conditions as may be agreed to by the Association. Any such dedication or transfer must, however, be assented to by two-thirds (2/3) of the vote of each class of membership which Members present in person or by proxy are entitled to cast at a meeting duly called for the purpose. Written or printed notice setting forth the purpose of the meeting and the action proposed shall be sent to all Members at least ten (10) but not more than thirty (30) days prior to the meeting date.

(e) No Member shall have the right to use any of the Limited Common Areas except that portion thereof that is identified on the Plat by the same number by which that Member's Lot is identified. No Member shall be allowed the use at any one time of more than one of the Common Area uncovered parking spaces.

V. ASSESSMENTS

1. Personal Obligation and Lien. Each Owner shall, by acquiring or in any way becoming vested with his interest in a Lot, be deemed to covenant and agree to pay to the Association the monthly and the special assessments described in this Article, together with the hereinafter provided for interest and costs of collection. All such amounts shall be, constitute, and remain: (i) a charge and continuing lien upon the Lot with respect to which such assessment is made; and (ii) the personal obligation of the person who is the Owner of such Lot at the time the assessment falls due. No Owner may exempt himself or his Lot from liability for payment of assessments by waiver of his rights concerning the Common Areas or by abandonment of his Lot.

2. Purpose of Assessments. Assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of residents of the Property. The use made by the Association of funds obtained from assessments may include payment of the cost of: taxes and insurance on the Common Areas; maintenance, repair, and improvement of the Common Areas; management and supervision of the Common Areas; establishing and funding a reserve to cover major repair or replacement of improvements within the Common Areas; and any expense necessary or desirable to enable the Association to perform or fulfill its obligations, functions, or purposes under this Declaration or its Articles of Incorporation.

3. Monthly Assessment. As of the date set under Section 7 of this Article, each Lot shall be subject to a monthly assessment. Written notice setting forth the purpose of any meeting of the Association to set the amount of monthly assessments shall be sent to all Members at least ten (10) but not more than thirty (30) days prior

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to the meeting date. Members of the Association may from time to time set the maximum amount of monthly assessment and give the Board of Directors of the Association the right to set the monthly assessment at any sum not in excess of the then applicable maximum amount.

4. Special Assessments. From and after the date set under Section 7 of this Article, the Association may levy special assessments for the purpose of defraying, in whole or in part; (i) any expense or expenses not reasonably capable of being fully paid with funds generated by monthly assessments; or (ii) the cost of any construction, reconstruction, or unexpectedly required repair or replacement of an improvement or of personal property upon the Common Areas. Any such special assessment must be assented to by sixty percent (60%) of the votes of each class of membership which Members present in person or represented by proxy are entitled to cast at a meeting duly called for the purpose. Written notice setting forth the purpose of the meeting shall be sent to all Members at least ten (10) but not more than thirty (30) days prior to the meeting date.

5. Quorum Requirements. The quorum required for any action authorized by Section 3 or 4 above shall be as follows: At the first meeting called the presence of Members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If a quorum is not present at the first meeting or any subsequent meeting, another meeting may be called (subject to the notice requirements set forth in Sections 3 and 4) at which a quorum shall be one-half of the quorum which was required at the immediately preceding meeting. No such subsequent meeting shall be held more than forty-five (45) days following the immediately preceding meeting.

6. Uniform Rate of Assessment. Both monthly and special assessments shall be fixed at a uniform rate for all Lots.

7. Monthly Assessment Due Dates. The monthly assessments provided for herein shall be due as to all Lots on the first day of the second month following conveyance of the Common Areas to the Association. At least fifteen (15) days prior to such commencement date and at least fifteen (15) days prior to the effective date of any change in amount of the monthly assessment, the Association shall give each Owner written notice of the amount and first due date of the assessment concerned. Monthly assessment on individual lots for insurance expense, taxes and other specifically attributable expenses shall commence as such expenses are incurred by the Association. The Association by vote of its Board of Directors shall have the power to waive the collection of the monthly assessment on a monthly basis and require its collection on a quarterly basis due (in the aggregate three month amount) on the first day of each calendar quarter. Notice of such election shall be provided to each Owner.

8. Certificate Regarding Payment. Upon the request of any Owner or prospective purchaser or encumbrancer of a Lot, the Association shall issue a certificate stating whether or not all assessments respecting such Lot are current and, if not, the amount of the delinquency. Such certificate shall be conclusive in favor of all persons who in good faith rely thereon.

9. Effect of Nonpayment -- Remedies. Any assessment not paid when due shall, together with the hereinafter provided for interest and costs of collection, be, constitute, and remain a continuing lien on the Lot. The person who is the Owner of the Lot at the time the assessment falls due shall be and remain personally liable for payment. Such personal liability shall not pass to the Owner's successors in title unless expressly assumed by them. If the assessment is not paid within thirty (30) days after the date on which it becomes delinquent, the amount thereof shall bear interest from the date of delinquency at the rate of eighteen percent (18%) per annum and the Association may bring an action either against the Owner who is personally liable or to foreclose the lien against the Lot. Any judgment obtained by the Association shall include reasonable attorneys' fees, court costs and each

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and every other expense incurred by the Association in enforcing its rights.

VI. OPERATION AND MAINTENANCE

1. Operation and Maintenance by Association. The Association shall provide for such maintenance and operation of the Common Areas as may be necessary or desirable to make them appropriately usable in conjunction with the Lots and to keep them clean, functional, attractive, and generally in good condition and repair. The Association shall also provide for maintenance and upkeep of any portion of a Lot which lies between the extremities of the Living Unit situated thereon and the boundaries of the Lot. In addition, the Association shall provide for such maintenance and repair of the exteriors of Living Units (including resurfacing of roofs and repainting but not including replacement of glass) as may be necessary or desirable to keep them attractive and generally in good condition and repair. In performing its obligations concerning maintenance of Living Unit exteriors, the Association shall employ materials of the same kind and quality, and colors the same, as those which were used in connection with original construction of the item concerned. The provisions of Section 2 of Article VIII ("Architectural Control") shall not apply to any maintenance or repair of Living Unit exteriors which is accomplished by the Association.

2. Utilities. The Association shall pay for all utility services furnished to each Lot except telephone and any other services which are separately billed or metered to individual Lots by the utility or other party furnishing such service.

3. Insurance. The Association shall secure and at all times maintain the following insurance coverages:

(i) A policy or policies of fire and casualty insurance with extended coverage endorsement, for the full insurable replacement value of all improvements existing on all lots in the subdivision and all improvements comprising a part of the Common Areas. The name of the insured under each such policy shall be in form and substance similar to: "The Racquet Club Village No. 3 Homeowners Association for the use and benefit of the individual Lot Owners and mortgagees, as their interests may appear."

(ii) A policy or policies insuring the Owners, the Association, and its directors, officers, agents, and employees against any liability incident to the ownership, use, or operation of the Common Areas which may arise among themselves, to the public, and to any invitees or tenants of the Property or of the Owners. Limits of liability under such insurance shall be not less than \$300,000.00 for any one person injured, \$300,000.00 for all persons injured in any one accident, and \$100,000.00 for property damage resulting from one occurrence. Such policies shall be issued on a comprehensive liability basis and shall provide a cross-liability endorsement pursuant to which the rights of the named insureds as between themselves are not prejudiced.

The following additional provisions shall apply with respect to insurance:

(a) In addition to the insurance described above, the Association shall secure and at all times maintain insurance against such risks as are or hereafter may be customarily insured against in connection with developments similar to the Property in construction, nature and use.

(b) All policies shall be written by a company holding a rating of "AA" or better from Best's Insurance Reports.

(c) The Association shall have the authority to adjust

losses.

(d) Insurance secured and maintained by the Association shall not be brought into contribution with insurance held by the individual Owners or their mortgagees.

(e) Each policy of insurance obtained by the Association shall, if reasonably possible, provide: A waiver of the insurer's subrogation rights with respect to the Association, the Owners, and their respective directors, officers, agents, employees, invitees, and tenants; that it cannot be cancelled, suspended, or invalidated due to the conduct of any particular Owner or Owners; that it cannot be cancelled, suspended, or invalidated due to the conduct of the Association or of any director, officer, agent, or employee of the Association without a prior written demand that the defect be cured; that any "no other insurance" clause therein shall not apply with respect to insurance held individually by the Owners.

4. Manager. The Association may carry out through a Property Manager any of its functions which are properly the subject of delegation. Any Manager so engaged shall be an independent contractor and not an agent or employee of the Association, shall be responsible for managing the Property for the benefit of the Association and the Owners, and shall, to the extent permitted by law and the terms of the agreement with the Association, be authorized to perform any of the functions or acts required or permitted to be performed by the Association itself.

VII. USE RESTRICTIONS

1. Use of Common Areas. The Common Areas shall be used only in a manner consistent with their community nature and with the use restrictions applicable to lots and Living Units. No admission fees, charges for use, leases, or other income-generating arrangement of any type shall be employed or entered into with respect to any portion of the Common Areas. Each Member shall be liable to the Association for any damage to or destruction of any part of the Common Areas caused, directly or indirectly, by the negligent, willful, or malicious act or omission of such Member or of any of Member's family, guests, lessees, servants or others who use the Common Areas with such Member's permission, whether express or implied.

2. Use of Lots and Living Units. All Lots are intended to be improved with Living Units and are restricted to such use. Each Living Unit shall be used only as a single-family residence. No Lot or Living Unit shall be used, occupied, or altered in violation of law, so as to jeopardize the support of any other Living Unit, so as to create a nuisance or interfere with the rights of any Owner, or in a way which would result in an increase in the cost of any insurance covering the Common Areas.

3. Recreational Vehicles. No boats, trailers, recreational vehicles, trucks or commercial vehicles belonging to Owners or other residents of the Property shall be parked or stored in or upon any of the Common Areas other than Limited Common Areas, except in such portions of the Common Areas as the Association may specify, and subject to such rules and regulations as the Association may from time to time promulgate.

4. Pets. No animals other than small household pets shall be kept or allowed on any Lot, in any Living Unit, or within any part of the Common Areas. Whenever a pet is allowed to leave a Living Unit, it shall be either on a leash or in a cage.

5. Exception for Developer. Notwithstanding the restrictions contained in this Article VII, for the twenty (20) year period following the date on which this Declaration is filed for record in the office of the County Recorder of Summit County, Utah,

Developer shall have the right to use any Lot or Living Unit owned by it, and any part of the Common Areas reasonably necessary or appropriate, in furtherance of any construction, marketing, sales, management, promotional, or other activities designed to accomplish or facilitate improvement of the Common Areas or improvement and/or sale of all Lots owned by Developer.

VIII. ARCHITECTURAL CONTROL

1. Architectural Control Committee. The Board of Directors of the Association shall appoint a three-member Committee, the function of which shall be to ensure that all improvements and landscaping within the property harmonize with existing surroundings and structures. The Committee need not be composed of Owners. If such a Committee is not appointed, the Board itself shall perform the duties required of the Committee.

2. Submission to Committee. No Living Unit, accessory or addition to a Living Unit which is visible from the Common Areas, or other improvement of a Lot which is visible from the Common Areas shall be constructed or maintained, and no alteration, repainting, or refurbishing of the exterior of any Living Unit shall be performed, unless complete plans and specifications therefor have first been submitted to and approved by the Architectural Control Committee.

3. Standard. In deciding whether to approve or disapprove plans and specifications submitted to it, the Committee shall use its best judgment to ensure that all improvements, construction, landscaping, and alterations on Lots within the Property conform to and harmonize with existing surroundings and structures.

4. Approval Procedure. Any plans and specifications submitted to the Committee shall be approved or disapproved by it in writing within thirty (30) days after submission. In the event the Committee fails to take any action within such period, it shall be deemed to have approved the material submitted.

5. Construction. Once begun, any improvements, construction, landscaping, or alterations approved by the Committee shall be diligently prosecuted to completion. If reasonably necessary to enable such improvement, construction, landscaping, or alteration, the person or persons carrying out the same shall be entitled to temporarily use and occupy unimproved portions of the Common Areas and of the Lots in the vicinity of the activity.

6. No Liability for Damages. The Committee shall not be held liable for damages by reason of any action, inaction, approval, or disapproval by it with respect to any request made pursuant to this Article VIII.

7. Exception for Developer. The foregoing provisions of this Article VIII shall not apply to any improvement, construction, landscaping, or alteration which is carried out by Developer on any Lot or on any part of the Common Areas and which occurs at any time during the twenty (20) year period following the date on which this Declaration is filed for record in the office of the County Recorder of Summit County, Utah.

8. Developer's Obligation. Developer hereby covenants in favor of each Owner: (i) that all Living Units erected by it and all improvement of the Common Areas accomplished by it shall be architecturally compatible with respect to one another; and (ii) that on or before two (2) years from the date on which this Declaration is filed for record in the office of the County Recorder of Summit County, Utah, the Common Areas, including walkways, landscaping and parking facilities, shall be completed and usable.

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IX. PARTY WALLS

1. General Principles. Each wall constructed as part of the original construction of the Living Units which is located on a boundary line common to two Lots shall constitute a party wall. Except as herein modified and expanded, all legal and equitable principles relating to party walls shall govern and apply to such walls.

2. Maintenance. The cost of reasonable maintenance and repair of a party wall shall be shared by the Owners who make use of the wall in proportion to such use. Costs associated with maintenance or repairs benefitting only one Owner (such as interior painting or redecorating) shall be borne solely by the Owner benefitted.

3. Destruction. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it. Any Owner thereafter making use of the wall shall contribute to the cost of restoration in proportion to such use; provided, however that the foregoing portion of this sentence shall not prejudice or limit any Owner's right to obtain a larger contribution under any legal or equitable principle regarding liability for negligent or willful acts or omissions.

4. Encroachments. If any portion of a Living Unit constructed by Developer, or if any portion of a Living Unit reconstructed so as to substantially duplicate the Living Unit originally constructed by Developer, encroaches upon an adjoining Lot or upon the Common Areas, there shall exist an easement for such encroachment.

X. MISCELLANEOUS

1. Notices. Any notice required or permitted to be given to any Owner or Member under the provisions of this Declaration shall be deemed to have been properly furnished if mailed postage prepaid to the person who appears as a Member or Owner, at the latest address for such person appearing in the records of the Association at the time of mailing.

2. Rules and Regulations. The Association shall have authority to promulgate and enforce such reasonable rules, regulations, and procedures as may be necessary or desirable to aid the Association in carrying out any of its functions or to ensure that the Property is maintained and used in a manner consistent with the interests of the Owners.

3. Amendment. Any amendment to this Declaration shall require: (i) the affirmative vote of at least two-thirds (2/3) of all Class A membership votes which Members present in person or represented by proxy are entitled to cast at a meeting duly called for such purpose; and, so long as the Class B membership exists, (ii) the written consent of Developer. Written notice setting forth the purpose of the meeting and the substance of the amendment proposed shall be sent to all Members at least ten (10) but not more than thirty (30) days prior to the meeting date. The quorum required for any such meeting shall be as follows: At the first meeting called, the presence of Members or of proxies entitled to cast sixty percent (60%) of all the votes of the Class A membership shall constitute a quorum. If a quorum is not present at the first meeting or any subsequent meeting, another meeting may be called (subject to the notice requirement set forth in the foregoing portion of this Section 3) at which a quorum shall be one-half of the quorum which was required at the immediately preceding meeting. No such subsequent meeting shall be held more than forty-five (45) days following the immediately preceding meeting. Any amendment authorized pursuant to this Section shall be accomplished through the recordation of an instrument executed by the Association and, if the Class B

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membership then exists, executed by the Developer. In such instrument an officer or director of the Association shall certify that the vote required by this Section for amendment has occurred.

4. Consent in Lieu of Vote. 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 Members entitled to cast at least the stated percentage of all membership votes outstanding in connection with the Class of membership concerned. The following additional provisions shall govern any application of this Section 4:

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

(b) The total number of votes required for authorization or approval under this Section 4 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 Members whose memberships are appurtenant to the same Lot are secured, the consent of none of such Members shall be effective.

5. Mortgage Protection. As used in this Section 5, the term "Mortgage" shall mean and include both a first mortgage on any Lot and a first deed of trust on any Lot and the term "Mortgagee" shall mean and include both a mortgagee under a first mortgage on any Lot and a beneficiary under a first deed of trust on any Lot.

From and after the time a Mortgagee makes written request to the Association therefor, the Association shall notify such Mortgagee in writing in the event that the Owner of the Lot encumbered by the Mortgage held by such Mortgagee neglects for a period of thirty (30) or more days to cure any failure on his part to perform any of his obligations under this Declaration.

The lien on a Lot for unpaid assessments provided for under Article V shall be subordinate to the Mortgage affecting such Lot, and the Mortgagee thereunder which comes into possession of the Lot shall take the same free of such lien for unpaid assessments, but only to the extent of assessments which accrue prior to foreclosure of the Mortgage, exercise of a power of sale available thereunder or deed or assignment in lieu of foreclosure (except for claims for a pro rata share of such prior assessments resulting from a pro rata reallocation thereof to all Lots including the Lot in which the Mortgagee is interested).

Unless at least ninety percent (90%) of the Mortgagees (based upon one vote for each Mortgage) of the individual Lots have given their prior written approval, neither the Association nor any other party shall be entitled, by act, omission or otherwise:

(a) To alter the provisions of Section 6 of Article V hereof (pertaining to uniform rate of assessments);

(b) To abandon, partition, subdivide, encumber, sell, dedicate, or transfer all or any part of the Common Areas (except

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for the transfer of title from Developer to the Association contemplated by Section 3 of Article IV hereof and except for the granting of easements for utilities and similar purposes consistent with the intended use of the Common Areas);

(c) To seek to abandon or materially alter the arrangement which is established by this Declaration;

(d) To change, waive, abandon, or cease enforcement of the arrangement created under this Declaration concerning architectural control, party walls, or maintenance of the exteriors of Living Units and of the Common Areas;

(e) To fail to maintain the fire, casualty, and extended coverage insurance provided for in Section 4(i) of Article VI hereof;

(f) To use proceeds of such insurance for purposes other than the repair, replacement or reconstruction of improvements comprising a part of the Common Areas; or

(g) To amend the provisions of this Section 5.

Any Mortgagee shall have the right, at its request and expense and upon reasonable notice, to examine the books and records of the Association.

In the event any taxes on the Common Areas are not timely paid, or in the event required fire, casualty, and extended coverage insurance on the Lots and Common Areas is not maintained or the premiums therefor are not paid when due, any Mortgagee or any combination of Mortgagees may, jointly or singly, pay such taxes or premiums or secure such insurance. Any Mortgagee which expends funds for any of such purposes shall be entitled to immediate reimbursement therefor from the Association, together with interest thereon from the date of expenditure at the rate of ten percent (10%) per annum.

6. Developer's Rights Assignable. The rights of Developer under this Declaration or in any way relating to the Property may be assigned.

7. Interpretation. The captions which precede the Articles and Sections of this Declaration are for convenience only and shall in no way affect the manner in which any provision hereof is construed. Whenever the context so requires, the singular shall include the plural, the plural shall include the singular, the whole shall include any part thereof, and any gender shall include both other genders. The invalidity or unenforceability of any portion of this Declaration shall not affect the validity or enforceability of the remainder hereof. This Declaration shall be liberally construed to effect all of its purposes.

8. Covenants to Run with Land. This Declaration and all the provisions hereof shall constitute covenants to run with the land or equitable servitudes, as the case may be, and shall be binding upon and shall inure to the benefit of Developer, all parties who hereafter acquire any interest in a Lot or in the Common Areas, and their respective grantees, transferees, heirs, devisees, personal representatives, successors, and assigns. Each Owner or occupant of a Lot or Living Unit shall comply with, and all interests in all Lots or in the Common Areas shall be subject to, the terms of this Declaration and the provisions of any rules, regulations, agreements, instruments, and determinations contemplated by this Declaration. By acquiring any interest in a Lot or in the Common Areas, the party acquiring such interest consents to, and agrees to be bound by, each and every provision of this Declaration.

9. Right to Consolidate. The Association shall have the authority to consolidate and/or join with the Racquet Club Village No. 1 Homeowners Association and/or Racquet Club Village No. 2 Homeowners Association for the conduct of any and all operations under these Declarations, the Association's Articles of Incorporation and/or the Bylaws. Said consolidation shall require (i) the affirmative vote of at least fifty percent (50%) of all Class A membership votes which Members present in person or represented by proxy are entitled to cast at a meeting duly called for such purpose; and, so long as the Class B membership exists (ii) the written consent of Developer. Written notice setting forth the purpose of the meeting and the substance of the amendment proposed shall be sent to all Members at least ten (10) but not more than thirty (30) days prior to the meeting date. The quorum required for any such meeting shall be as follows: At the first meeting called, the presence of Members or of proxies entitled to cast sixty percent (60%) of all the votes of the Class A membership shall constitute a quorum. If a quorum is not present at the first meeting or any subsequent meeting, another meeting may be called (subject to the notice requirement set forth in the foregoing portion of this paragraph) at which a quorum shall be one-half of the quorum which was required at the immediately preceding meeting. No such subsequent meeting shall be held more than forty-five (45) days following the immediately preceding meeting.

Authorization for consolidation may be had by way of consent in lieu of vote as set forth in paragraph 4 above.

10. Effective Date. This Declaration and any amendment hereof shall take effect upon its being filed for record in the Office of the County Recorder of Summit County, Utah.

EXECUTED the day and year first above written.

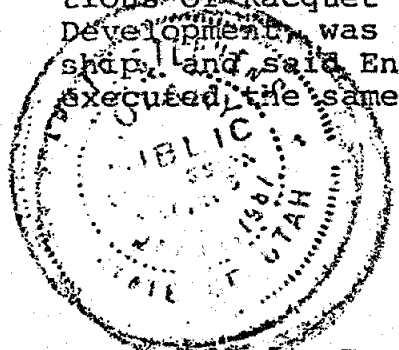
DEVELOPER:

S & A COMPANY

BY [Signature]

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

On this 13th day of September, 1978, personally appeared before me Enoch R. Smith, who being by me duly sworn, did say that he is a general partner of S & A Company, a partnership, and that the foregoing Declaration of Covenants, Conditions, and Restrictions of Racquet Club Village No. 3 Subdivision, a Planned Unit Development, was signed with authority and on behalf of said partnership, and said Enoch R. Smith acknowledged to me that said partnership executed the same.



Maizie Stephens
 NOTARY PUBLIC
 Residing at: Salt Lake County

My Commission Expires:
5-18-81

This Declaration of Covenants, Conditions, and Restrictions reviewed, approved and accepted by the Park City Council this 21st day of Sept, 1978.

By [Signature]
 Mayor

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