

ENABLING DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS OF
PARK WEST VILLAGE PLAT "B" PLANNED UNIT DEVELOPMENT

THIS ENABLING DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS is made and executed this 30th day of June, 1981, by PWV ASSOCIATES, A Utah Limited Partnership, hereinafter referred to as "DECLARANT."

W I T N E S S E T H:

WHEREAS, Declarant is the sole owner of that certain parcel of real property (herein sometimes referred to as the "subject property"), located in Summit County, Utah, and more particularly described in Article II hereafter.

WHEREAS, Declarant desires to construct upon the subject property a Planned Unit Development, consisting of various improvements, all of such construction and specifications contained in the Official Subdivision Plat Maps of the Planned Unit Development; and

WHEREAS, the Declarant desires, by recording this Declaration, to submit the subject property to the terms of this Declaration, and to provide for establishment of an incorporated homeowner's association; and

WHEREAS, Declarant has obtained the acknowledgement and consent to this Declaration of all record owners of said parcel of real property, as well as the consent of all parties possession liens affecting any portion of the subject property which, by their consents, on record with the Summit County Recorder, said third party owners and lien holders hereby join in the submission of this property to the terms of this Declaration; and

WHEREAS, Declarant intends to provide that the individual lots located within the said development, together with the undivided ownership interest in the common areas and facilities as specified herein, shall hereafter be subject to the covenants, restrictions, reservations, assessments, charges and liens herein set forth; and

Entry No. 181678 Book 22193
RECORDED 7-16-81 at 2:33M Page 318 41
REQUEST of Strickland v. Lusk
FEE \$ 27.00 By Wanda Y. Spriggs
INDEXED _____ ABS _____
WANDA Y. SPRIGGS, SUMMIT CO. RECORDER

See Amendment # 355543
BK 650 pg 795-824

Supplement to Declaration
251461 Bk. 385 P. 456-61

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WHEREAS, it is anticipated that other real properties adjacent to, or near, the subject property may be submitted to the terms and conditions hereof.

NOW, THEREFORE, Declarant hereby declares that that certain parcel of real property described in Article II, below, shall be held, sold and conveyed and occupied subject to the following easements, restrictions, covenants, conditions, assessments, charges and liens, which are for the purposes of protecting the value and desirability of the subject property and which shall be construed as covenants of equitable servitude and shall run with the subject property and be binding on all parties having any rights, title or interest in the subject property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

When used in this Declaration, including the recitals hereto, the following terms shall have the meaning indicated.

1.1 Declaration: This Enabling Declaration of Covenants, Conditions and Restrictions of Park West Village Plat "B" Planned Unit Development and all amendments thereto.

1.2 Declarant: PWV Associates, A Utah Limited Partnership, its successors-in-interest and specific assignees-in-interest to rights and obligations under this Declaration.

1.3 Project: Park West Village Plat "B" Planned Unit Development.

1.4 Association: Park West Village Plat "B" Homeowners, Inc., a Utah Non-Profit Corporation, formed for management of the Project and more fully described in Article IV, below.

1.5 Management Committee and Committee: The Board of Trustees of the Association, or a management committee specifically designated as such by the Board of Trustees of the Association. The committee shall have and exercise the rights, powers

and responsibilities designated and delegated in this Declaration and in the Articles of Incorporation, the By-Laws and rules and regulations of the Association.

1.6 Manager: The person or entity designated by the Association to manage the affairs of the Project.

1.7 Map: The official subdivision plat filed and recorded in the Official Records of the Summit County Recorder.

1.8 Mortgage: Deed of Trust as well as mortgage.

1.9 Mortgagee: Beneficiary or holder under Deed of Trust as well as mortgagees.

1.10 Owner: Any person with an ownership interest in a lot, together with the undivided interest in the common areas as defined herein.

1.11 Lot: Lot shall mean and refer to each individual lot within the Project, as shown on the official subdivision plat map, which may or may not be improved and which may or may not include improvements of the type designated on the map and/or authorized by Summit County, Utah.

1.12 Person: Legal entity as well as natural person.

ARTICLE II

GRANT AND SUBMISSION

Declarant hereby submits to the provisions of this Declaration, and to the covenants, conditions, restrictions, reservations, assessment charges and liens hereunder, that certain real property situated in Summit County, Utah, and more fully described as:

All of Lots 19 through 42, inclusive, of Park West Village Plat "B" Subdivision, according to the official plat thereof as recorded in the office of the Summit County Recorder.

ARTICLE III

COVENANTS, CONDITIONS AND RESTRICTIONS

The foregoing submission is made upon and under the following covenants, conditions and restrictions:

3.1 Name: The Project, as submitted to the provisions of this Declaration, shall be known as Park West Village Plat "B" Planned Unit Development.

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3.2 Description of Lots: The Project consists of individual lots, each of which may or may not be improved and may or may not include improvements authorized on the map and/or by Summit County, Utah. All improvements shall be constructed in a style and of materials architecturally compatible with the other improvements on the Project.

3.3 Description of Lots: The lots herein, their locations, and approximate dimensions are indicated on the map.

3.4 Common Areas and Facilities: The common areas and facilities of the Project shall be and are the grass and lawn areas, specifically designated recreational vehicle and public parking areas, and any and all other common areas and facilities designated as such on the map, and any other future interests in common areas as provided in paragraph 7.8, below.

3.5 Lots and Rights to Common Areas and Facilities Inseparable: The percentage of undivided interest in the common areas and facilities shall not be separated from the lot to which it appertains and, even though not specifically mentioned in the instrument of transfer, or conveyance, such percentage of undivided interest and such right of exclusive use shall automatically accompany the transfer and conveyance of the lot to which they relate.

3.6 Voting - Common Expense - Ownership in Common Areas and Facilities: The percentage of undivided ownership in the common areas and facilities is set forth in the attached Exhibit "A," and shall be used for all purposes including, but not limited to, voting and sharing of the common expenses in the proportionate area that each of the lots bears to the total area of the property within the Project. The Association shall be the record owner of all common areas and facilities.

3.7 Easements and Encroachments: In the event any portion of the common areas and facilities or any fences or walls adjacent to a lot boundary in the Project are partially or totally destroyed, and then rebuilt or improved, maintained, painted, or repaired, encroachments shall be permitted as may be

necessary, desirable or convenient upon the lots, and easements for such encroachments and for the maintenance of the same shall exist for such period of time as may be necessary, desirable or convenient. In addition, encroachments shall be permitted to the Association or its designate upon the lots and the common facilities as may be necessary, convenient or desirable for the installation within the Project, for the installation, placing, removal, inspection and maintenance of utility lines and utility service facilities, any emergency or necessary repairs, and lawn, trees, shrubbery and yard care or maintenance which the lot owner has failed to perform; and easements for such encroachments shall exist for such period of time as may be necessary, convenient or desirable.

3.8 Amendments: In addition to the amendment procedure provided by law and elsewhere in this Declaration, the lot owners shall have the right to amend this Declaration and/or the Map upon the approval and consent of two-thirds (2/3) of the undivided interests in the Project and, until the sale from Declarant of lots having ownership of at least sixty-seven percent (67%) of the common areas and facilities, with the written consent of Declarant, which consents and approvals shall be by duly executed and recorded instruments.

ARTICLE IV

PARK WEST VILLAGE PLAT "B" HOMEOWNERS, INC.

4.1 Owners Association: The administration of the Project shall be governed by this Declaration and the Articles of Incorporation and the By-Laws of Park West Village Plat "B" Homeowners, Inc., a Utah Non-Profit Corporation. An owner of a lot shall automatically become a member of the Association and shall remain a member for the period of his ownership.

4.2 Association Management: The Association shall conduct the general management, operation and maintenance of the Project and of the common areas and facilities and the enforcement of the provisions of this Declaration, the Articles of Incorporation and By-Laws of the Association, and rules and regulations adopted thereunder.

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4.3 Architectural Control: The Association, by and through the Committee, shall be charged and empowered with control of all construction, improvements, and landscaping on the Project to ensure consistency and compatibility of all improvements and landscaping on the Project.

ARTICLE V

LIMITATION OF USE OF LOTS AND COMMON AREAS

The lots and common areas shall be occupied and used as follows:

5.1 Purposes: The lots within the Project shall be used for single family residential living purposes, such purposes to be confined to approved residential buildings within the subject property. No lots within the Project shall be occupied or used for commercial or business purposes; provided, however, that nothing in this paragraph 5.1 shall be deemed to prevent (a) Declarant or its duly authorized agent from using any lot owned by Declarant as a sales office, sales model, property management office or rental office, or (b) any owner or his duly authorized agent from renting or leasing said owner's residential building from time to time, subject to all of the provisions of this Declaration, or (c) any owner or his duly authorized agent from using a portion of any residence as an office for professional services by a medical doctor, attorney, dentist, or certified public accountant, as long as the use thereof does not constitute that person's principal office, but merely as an ancillary office, and as long as the use thereof does not constitute a nuisance to other owners of portions of the subject property.

5.2 No Obstructions: Except for portions of the Project expressly designated on the map, there shall be no obstructions of the common areas, and nothing shall be stored in the common areas without the prior consent of the Management Committee.

5.3 Alterations and Additions: No building, fence, wall, tennis court, hot tub or similar structure, swimming pool, or other structure, shall be commenced, erected, altered, or placed on any portion of the Project, without the prior written approval of the Management Committee. All buildings, alterations, improvements, additions and maintenance on the subject property shall be made in a workmanlike manner and shall be architecturally compatible with the rest of the Project.

5.4 Easements: Easements shall exist on all lots and other portions of the Project for drainage facilities and for installation, maintenance, placing, removal, inspection, painting, repair and improvement of fences, utilities and common areas and facilities, for necessary or emergency repairs, and for maintenance and care of lawns, trees, shrubbery up to the edge of all building constructed in the Project; and such easements shall exist whether or not they are specified on the recorded map, and in accordance with paragraph 3.7 of Article III, above.

5.5 No Animals: No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any lot or in the common areas, except that dogs, cats and other household pets may be kept provided that they are not kept, bred, or maintained for any commercial purpose, and provided, further, that they do not become an annoyance or nuisance, for any reason, to any owner or resident of a lot. Such animals as are permitted shall be strictly controlled and kept pursuant to Summit County ordinances and regulations, and rules and regulations of the Management Committee.

5.6 No Offensive Activity: No noxious or offensive activity shall be carried on in any lot or in the common areas, nor shall anything be done therein which may be or become an annoyance or nuisance to the other owners.

5.7 Construction in Common Areas: Nothing shall be altered or constructed in or removed from the common areas, except upon the written consent of the Management Committee.

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5.8 Rules: The Management Committee is authorized to adopt rules for the use of the common areas, which rules shall be in writing and furnished to the owners.

5.9 Dumping of Garbage: Except in areas designated on the map or by the Management Committee, no lot or portion of the common areas shall be used or maintained as a dumping ground for rubbish, trash, garbage or other waste, nor shall any rubbish, trash, papers, junk or debris be burned within the Project. All trash, rubbish, garbage or other waste within the boundaries of the Project shall be kept only in sanitary containers. Each lot shall be kept free of trash and refuse by the owner of such lot. No person shall allow any unsightly, unsafe or dangerous conditions to exist on or in any lot.

5.10 Excavation: No excavation for stone, gravel or earth shall be made on the subject property unless such excavation is made in connection with the erection of a building, structure, landscaping or other improvement thereon.

5.11 Parking of Vehicles: No vehicles shall be parked overnight on any of the streets or roadways in the Project or on any common areas of the Project, nor on any lot outside of any enclosed garage, except such vehicles, and upon such portions of the Project, specifically designated for this purpose on the map or by the Management Committee. In addition, no boats, campers, trailers, large trucks, motorhomes, or similar large items shall be parked or stored on any lot, or in the common areas, except in accordance with rules and regulations adopted by the Management Committee.

ARTICLE VI

INSURANCE

6.1 Obtaining of Insurance Policies: The Management Committee shall obtain and maintain, at all times, a policy or policies insuring the Management Committee, the lot owners and

the Manager against any liability to the public or to the owners of lots and common areas, and their invitees or tenants, incident to the ownership and/or use of the common areas of the Project, issued by such insurance companies and with such limits of liability as determined by the Management Committee. Said policy or policies shall be issued on a comprehensive liability basis and shall provide cross-liability endorsement wherein the rights of named insureds under the policy or policies shall not be prejudiced as in respect to his, her or their action against another named insured.

6.2 Other Insurance: In addition, the Management Committee may obtain insurance for such other risks of a similar or dissimilar nature as are or shall hereafter customarily be covered with respect to common areas or other Projects similar in construction, design and use.

ARTICLE VII

COMMON ASSESSMENTS

7.1 Payment of Expenses: Each lot owner shall pay to the Management Committee his portion of the costs and expenses required and deemed necessary, and upon the terms of payment determined by the Management Committee, in connection with water and sewer services, if applicable, to the lots in the Project and costs and expenses deemed necessary to manage, maintain and operate the common areas and facilities of the Project, and may include, among other things, the cost of management; taxes; special assessments; fire, casualty and public liability insurance premiums; common lighting, if any; landscaping and the care of grounds, both of common areas and lawns and shrubbery on individual lots; repairs and renovations of common areas and facilities, recreational areas and facilities, if any; garbage collection, if any; road maintenance and repairs, if any; snow removal, if any; wages and charges; legal and accounting fees; sewer charges; cost of operating all gas-fired equipment and the cost of electricity; expenses and liabilities incurred by the Management Committee under or by reason of this Declaration, the

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Articles of Incorporation or By-Laws of the Association; the payment of any deficit remaining from a previous period; and the creation of a reasonable contingency or other reserve or surplus relating to this Project. Such payments shall be made upon the terms, at the time, and in the manner provided without deduction of any off-sets or claims which the owner may have against the Committee, and if any owner shall fail to pay any installment within one (1) month from the time when the same becomes due, the owner shall pay interest thereon at the rate of one and one-half percent (1-1/2%) per month from the date when such installment shall become due to the date of the payment thereof, and all costs and expenses, including reasonable attorney's fees, incurred by the Management Committee in collecting such unpaid assessments, whether or not formal legal proceedings have been commenced.

7.2 Collection of Assessments: The Management Committee may, from time to time, up to the close of the year for which such cash requirements have been so fixed or determined, increase or diminish the amount previously fixed or determined for such year. The assessment may include a pro-rata reallocation among the lots of any unpaid assessments on a lot which are not assessable against a lot owner, subject to the provisions of Article IX, below, and may include an assessment for all costs and expenses incurred by the Association for maintenance of lawns, trees and shrubs on that specific lot. The Committee may include in the cash requirements, for any year, any liabilities or items of expense which accrued or became payable in the previous year or which might have been included in the cash requirements for a previous year, but were not included therein, and also any sums which the Management Committee may deem necessary or prudent to provide a reserve against liabilities or expenses then accrued or thereafter to accrue although not payable in that year. In any year in which there is an excess of assessments received over amounts actually used for the purposes

described in this Declaration such excess may, upon written consent of all members, be applied against and reduce the subsequent year's assessment or be refunded to the members. The preceding sentence shall automatically be repealed upon the revocation of Rev. Rul. 70-604, 1970-2, CB 9 promulgated by the Internal Revenue Service or upon a court of competent appellate jurisdiction declaring such Rev. Rul. invalid or upon amendment of the Internal Revenue Code or the Treasury Regulations thereunder obviating the requirement of a membership vote to apply such excess to the subsequent year's assessments or to refund the same in order that such excess be excluded from gross income of the Association.

Notwithstanding any other provision herein to the contrary, assessments and any other charges shall include an adequate reserve fund for maintenance, repairs and replacement of those elements of the common areas and facilities that must be replaced on a periodic basis and are payable in regular installments rather than by special assessments.

7.3 Determination of Amounts: The pro-rata portion payable by the owner in and for each year or portion of year shall be that ratio, a sum within limits and on conditions hereinabove provided, calculated by multiplying the aggregate amount of such cash requirements for such year, or portion of year, by the owner's percentage of undivided interest in the common areas and facilities. All such assessments, together with any additional sums accruing under this Declaration, shall be payable monthly in advance, or in such payments and installments as shall be required by the Management Committee, and at such times as shall be provided by the Management Committee.

7.4 Unimproved Lots: It is the express intention of this Declaration, and this Declaration shall be so construed, that the entire pro-rata assessments payable to the Management Committee herein shall be made only to the extent so as to allow occupancy of such lots. Accordingly, notwithstanding any other provisions of this Declaration, the Management Committee shall

have discretionary powers to assess amounts less than the entire pro-rata assessments specified above with respect to any lot on which habitable improvements have not been completed on such lot.

7.5 Powers of Management Committee: The Management Committee shall have discretionary powers to provide in this Declaration and in the Articles of Incorporation and By-Laws of the Association, to prescribe the manner of maintaining the operation of the Project, and to determine the cash requirements of the Management Committee to be paid as aforesaid by the owners under this Declaration. Every such reasonable determination by the Committee within the bounds of this Declaration shall be final and conclusive as to the owners, and any expenditures made by the Committee within the bounds of this Declaration shall be deemed, as against the owners, necessary and properly made for such purpose.

7.6 Application of Lease Payments: If any owner shall, at any time, let or sublet any lot and shall default for a period of one (1) month in payment of any management assessments, the Management Committee may, at its option, so long as such default shall continue, demand and receive from any tenant or subtenant of such owner occupying the lot, the rent due or becoming due up to the amount of such assessment payable, together with all penalties provided herein. Such payment of rent to the Committee shall be sufficient payment and discharge of such tenant or subtenant as between such tenant or subtenant and such owner to the extent of the amount so paid.

7.7 Collection of Assessments: Each monthly assessment and each special assessment shall be separate, distinct and personal debts and obligations of the owner against whom the same are assessed at the time the assessment is made, and shall be collectible as such. Suit to recover a money judgment for unpaid common expenses may be maintained without foreclosing or waiving the lien securing the same. The amount of assessment, whether regular or special, assessed to the owner of any lot, plus interest at one and one-half percent (1-1/2%) per month and

costs, including reasonable attorney's fees, shall become a lien upon such lot upon recordation of notice of assessment. Said lien for non-payment of common expenses shall have priority over all other liens and encumbrances, recorded or unrecorded, except only:

(a) Tax and special assessment liens on the lot in favor of any assessment authority, or special district; and

(b) Encumbrances on the owner's lot and such owner's interest in the common areas recorded prior to the date such notice is recorded which by law would be a lien prior to subsequently recorded encumbrances.

A certificate executed and acknowledged by a majority of the Management Committee stating the indebtedness secured by the lien upon any lot in the Project hereunder shall be conclusive upon the Management Committee and the owners as to the amount of such indebtedness on the date of the certificate, in favor of all persons who rely thereon in good faith, and such certificate shall be furnished to any owner or any encumbrancers or prospective encumbrancer of a lot upon request at a reasonable fee, not to exceed Ten Dollars (\$10.00). Unless the request for a certificate of indebtedness shall be complied with within ten (10) days, all unpaid common expenses which become due prior to the date of the making of such request shall be subordinate to the lien held by the person making the request. Any encumbrancer holding a lien on the lot may pay any unpaid common expenses payable with respect to such lot and upon such payment such encumbrancer shall have a lien on such lot for the amounts paid of the same ranks as the lien of his encumbrance.

Upon payment of a delinquent assessment concerning which such a certificate has been so recorded, or other satisfaction thereof the Management Committee shall cause to be recorded, in the same manner as the certificate of indebtedness, a further certificate stating the satisfaction and the release of the lien thereof. Such lien for non-payment of assessment

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may be enforced by sale by the Management Committee or by a bank or trust company or title insurance company authorized by the Management Committee, such sale to be conducted in accordance with the provisions of law applicable to the exercise of powers of sale or foreclosure in deeds of trust or mortgages or in any manner permitted by law. In any foreclosure of sale, the owner shall be required to pay the costs and expenses of such proceedings and reasonable attorney's fees.

In case of foreclosure, the owner shall be required to pay a reasonable rental for the lot from the date the foreclosure action is filed with the Court having jurisdiction over the matter, and the Plaintiff in the foreclosure action shall be entitled to the appointment of a receiver, at the time such action is filed, to collect the rental without regard to the value of the mortgaged security. In any foreclosure or sale, the owner shall also be required to pay the costs and expenses of such proceedings and reasonable attorney's fees. The Management Committee or Manager shall have the power to bid on the lot at foreclosure or other sale and to hold, lease, mortgage and convey the lot.

7.8 Tennis Club and Park: It is anticipated that there will be constructed on real property near the subject property the following:

a. A private tennis club (upon all or a portion of that real property more fully listed and described on Exhibit "B," attached hereto and by this reference made a part hereof), consisting of tennis courts and related facilities, which tennis club will be owned by, and will be for the benefit of, individual members on a dues-paying basis; and

b. A park (upon all or a portion of that real property more fully listed and described on Exhibit "C," attached hereto and by this reference made a part hereof), consisting of grassy areas, playground areas, and related facilities, which park shall be owned by

various lot owners (including, but not limited to, lot owners within the Project) and shall be improved and maintained through assessments to the owners.

7.9 Participation in Tennis Club: Each lot owner in the Project shall be assessed an initial, one-time fee to be used for construction of the tennis club facilities; provided, that a membership in the tennis club will then be issued to that lot owner. Participation in the tennis club shall be in accordance with the following:

a. Each lot owner shall be entitled to a membership in the tennis club by the payment of such membership fees established by the governing body of the tennis club.

b. Lot owners, for purposes of membership in the tennis club, will be treated equally and comparably with other members of the tennis club.

c. Operation of, participation in, expulsion from, and other dealings regarding the tennis club shall be in accordance with the rules and regulations promulgated by the governing body of the tennis club.

7.3 Ownership In and Assessments for the Park: By agreement between the Declarant and the owners of other real properties, it has been, or will be, provided that each owner of a lot in the Project shall have an ownership interest in, and obligation for, the park described in subparagraph 7.8(b), above. With respect to that park, each lot within the Project will be subject to the following:

a. Each lot owner shall have an undivided ownership interest in the park, which ownership shall be appurtenant to the lot owned by the lot owner. Calculation of pro-rata ownership and assessments shall be based upon the total number of residential lots or units allowed use of and ownership of the park.

b. Title to the park may be held in such name or names as may be convenient, as determined by the

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owner's association responsible for operation and maintenance of the park.

c. Each lot owner shall pay his pro-rata portion of all assessments made for improvements and maintenance of the park.

d. The Management Committee of the Association as well as the owner's association responsible for operation and maintenance of the park, shall have the right to assess each lot owner his proportionate portion of all total assessments for the park.

e. Each assessment for the park shall be handled, assessed, and collected to the same extent as assessments for common areas and facilities hereunder including, but not limited to, the perfection and foreclosure of liens.

ARTICLE VIII

EXPANSION OF THE PROTECT

8.1 Right to Expand: Declarant hereby reserves the right to expand the Project to include additional lots and/or common areas in the Project. Notwithstanding any provision herein which might be construed to the contrary, such right may be exercised without then obtaining the consent or vote of any person and shall be limited only as herein specifically provided. Such additional lots and common areas shall or may include all or any portion of the real property more fully listed and described on Exhibit "D," attached hereto and by this reference is made a part hereof.

8.2 Procedure for Expansion: Such expansion may be accomplished by the filing for record by Declarant in the office of the County Recorder of Summit County, Utah, no later than ten (10) years from the date this Declaration is recorded in said office, a Supplement or Supplements to this Declaration containing a legal description of the site or sites for new lots and/or common areas and the property description of any additional real

property to be added to the Project, together with a supplemental Map or Maps containing the same information with respect to the new lots and common areas, as was required on the Map with respect to the lots described herein. The expansion may be accomplished in phases by successive supplements or in one (1) supplemental expansion. At the time of expansion, the Declarant may reallocate the percentage of undivided interests in the common areas, as specified herein, among all lots, including all additional lots added thereby in a manner reasonably necessary to allocate each lot a pro-rata undivided interest in and to the total common areas existing after such expansion. The allocations of common areas by the Declarant shall be final and binding upon all lot owners upon recording of the Supplemental Declaration specifying the percentage of undivided interests in the common areas allocable to each lot specified therein.

8.3 Expansion of Definitions: In the event of such expansion, the definitions used in this Declaration automatically shall be expanded to encompass and refer to the Project as so expanded, and reference to this Declaration shall refer to this Declaration as so supplemented. All conveyances of lots after such expansion shall be effective to transfer rights in the Project as described herein, with additional references to the Supplemental Declaration and the Supplemental Map. Such recordation shall also operate to vest in any then Mortgagee of any lot in the Project as encumbrance in the interest so acquired by the owner of the lot in the common areas of the Project as a result of such expansion.

8.4 Subject to Terms and Conditions: the new lots shall be subject to all the terms and conditions of this Declaration and of the Supplemental Declaration, and the lots therein shall be subject to ownership with all the incidents pertaining thereto as specified herein, upon recording of the Supplemental Map and Supplemental Declaration in the office of the Summit County Recorder.

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8.5 Appointing of Common Area Percentages: Each deed to a lot shall be deemed irrevocably to reserve to Declarant the power to appoint to lot owners, from time to time, the percentages in the common areas set forth in the Supplement or Amended Declarations. A power coupled with an interest is hereby granted to the Declarant, its successors and assigns, as attorney in fact, to shift percentages of the common areas in accordance with Supplemental or Amended Declarations recorded pursuant hereto, and each deed of a lot in the Project shall be deemed a grant of such power of said attorney in fact. Various provisions of this Declaration and deeds and mortgages of the lots may contain clauses designed to accomplish a shifting of the common areas. None of those provisions shall invalidate the other, but each shall be deemed supplementary to the other toward the end that a valid shifting of the common areas can be accomplished. Notwithstanding anything to the contrary herein, no change in the percentage of undivided interest in the common areas may be effected more than ten (10) years after the effective date of this Declaration.

Accordingly, upon the recordation of a Supplemental Declaration and Supplemental Map incident to any expansion, the revised schedule of undivided interests in the common areas contained therein shall automatically become effective for all purposes and shall fully supersede any similar schedule which was contained in any declaration associated with any prior phase. In the event the provisions of the separate instruments relating to the Project conflict, the terms of that instrument which was recorded most recently shall control.

ARTICLE IX

MORTGAGE PROTECTION

Notwithstanding all other provisions herein to the contrary:

9.1 Rights of First Refusal: Any "right of first refusal" which may be granted herein shall not impair the rights of the first mortgagee of a lot to:

(a) Foreclose or take title to a lot pursuant to the remedies provided in the mortgage, or

(b) Accept a deed (or assignment) in lieu of foreclosure in the event of default by a mortgagor, or

(c) To sell or lease a lot acquired by a mortgagee.

9.3 Title in Mortgagee: Any first mortgagee who obtains title to a lot pursuant to the remedies provided in the mortgage or foreclosure of the mortgage will not be liable for such lot's unpaid dues or charges which accrue prior to the acquisition of title of such lot by the mortgagee.

9.4 Consent of Mortgagees: Unless at least two-thirds (2/3) of the first mortgagees (based upon one vote for each first mortgage owned) or owners (other than the sponsor, developer or builder) of the individual lots in the Project have given their prior written approval, the Association or any corporation or trust established by the Association shall not be entitled to:

(a) By act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer any common areas or facilities owned, directly or indirectly, by the Association or any corporation or trust established by the Association, for the benefit of the lots in the Project (the granting of easements for public utilities or for other public purposes consistent with the intended use of such common areas and facilities by the Project shall not be deemed a transfer within the meaning of this clause);

(b) Change the method of determining the obligations, assessments, dues or other charges which may be levied against a lot owner;

(c) By act or omission, change, waive or abandon any scheme of regulations, or enforcement thereof, pertaining to the architectural design or the exterior appearance of lots, the exterior maintenance of lots,

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the maintenance of any common property party walls or common fences and driveways, or the upkeep of lawns and plantings in the Project;

(d) Fail to maintain fire and extended coverage on insurable common areas and facilities on a current replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value (based on current replacement cost).

(e) Use hazard insurance proceeds for losses to any common areas and facilities for other than the repair, replacement or reconstruction of such common areas and facilities.

9.5 Taxes and Expenses: First mortgagees of lots may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any common areas and facilities and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for such common areas and facilities, and first mortgagees making such payments shall be owed immediate reimbursement therefor from the Association.

9.6 Notice of Default by Individual Lot Borrower: A first mortgagee of a lot, upon request, shall be entitled to written notification from the Association of any default in the performance by the individual lot borrower of any obligation under this Declaration, or other constituent documents of this Planned Unit Development, which is not cured within sixty (60) days.

9.7 Management Agreements: Any agreement for professional management of the Project, or any other contract providing for services of the developer, sponsor or builder, may not exceed three (3) years. Any such agreement must provide for termination by either party without cause and without payment of a termination fee on ninety (90) days or less written notice.

9.8 No Priority: No provision herein is intended, nor shall it be construed, to give any lot owner, or any other party, priority over any rights of the first mortgagee of a lot pursuant to its mortgage in the case of a distribution to such lot owner of insurance proceeds or condemnation awards for losses to or a taking of common areas and facilities.

ARTICLE X

MISCELLANEOUS PROVISIONS

10.1 Interpretation: The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of a planned unit development. Failure to enforce any provision hereof shall not constitute a waiver of the rights to enforce said provision or any other provision hereof.

10.2 Severability: The provisions hereof shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion thereof shall not effect the validity or enforceability of any other provision hereof.

10.4 Counterparts: This Declaration may be executed simultaneously in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

10.5 Paragraph Numbers and Headings. Headings and paragraph numbers have been inserted herein solely for convenience and reference and shall not be construed to affect the meanings, construction or effect hereof.

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10.6 Effective Date: This Declaration shall take effect upon recording.

PWV ASSOCIATES,
A Utah Limited Partnership,

BY Raymond D. Fry
Its General Partner

Its _____

STATE OF UTAH,)
 : ss,

COUNTY OF SALT LAKE,)
On the 30th day of June, 1981, personally appeared before me Raymond D. Fry, who duly acknowledged to be that he is the General Partner of PWV Associates, a Utah Limited Partnership, and the foregoing instrument was executed on behalf of said partnership by authority vested tko him and said Raymond D. Fry acknowledged to me that said partnership executed the same.

Martha D. Dike
NOTARY PUBLIC
Residing at: Beaumont, Utah

My commission expires:
Dec. 15, 1987

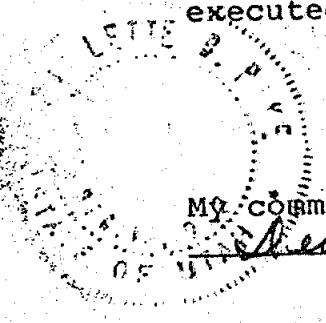


EXHIBIT "A"

<u>LOT</u>	<u>PERCENTAGE OF COMMON AREAS AND FACILITIES</u>
Lot 19	.04167
Lot 20	.04167
Lot 21	.04167
Lot 22	.04167
Lot 23	.04167
Lot 24	.04167
Lot 25	.04167
Lot 26	.04167
Lot 27	.04167
Lot 28	.04167
Lot 29	.04167
Lot 30	.04167
Lot 31	.04167
Lot 32	.04167
Lot 33	.04167
Lot 34	.04167
Lot 35	.04167
Lot 36	.04167
Lot 37	.04167
Lot 38	.04167
Lot 39	.04167
Lot 40	.04167
Lot 41	.04167
Lot 42	.04167
	<u>100%</u>

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CONSENT TO RECORDING
OF PROTECTIVE COVENANTS, CONDITIONS
AND RESTRICTIONS FOR PARK WEST VILLAGE
PLAT "B" SINGLE FAMILY LOTS

P. J. CORPORATION, a Utah Corporation, being the owner of the below-described real property, hereby consents to the recording by PWV ASSOCIATES, a Utah Limited Partnership, of those certain Protective Covenants, Conditions and Restrictions for Park West Village Plat "B" Single Family Lots (the "Declaration"), recorded concurrently herewith. The undersigned further submits the below-described real property to all of the provisions of the aforementioned Declaration.

The real property which is the subject hereof is situated in Summit County, Utah, and is more fully described as Lots 2 and 3, Park West Village Plat "B" Subdivision, according to the official plat thereof on file with the Summit County Recorder.

DATED this 9 day of July, 1981.

P. J. CORPORATION,
A Utah Corporation.

By: [Signature]
Its: President

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

On the 9 day of July, 1981, personally appeared before me John Preston Creer who being by me duly sworn, did say that he is the President of P. J. Corporation, a Utah Corporation, and that said instrument was signed in behalf of said Corporation by authority vested to him, and said John Preston Creer acknowledged to me the said Corporation executed the same.

[Signature]
NOTARY PUBLIC

Residing at: Salt Lake City

My Commission Expires:

10/19/81

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