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SALT LAKE CITY 84117

3326193

ENABLING DECLARATIONS
OF
BRIARCREEK CONDOMINIUMS

1980
AUG 22 3 20 PM '79
KATIE L. DIXON
RECORDER
SALT LAKE COUNTY,
UTAH
GADSDEN-JENSEN
REF. OF
DAVID DORR

THIS DECLARATION is made and executed this day of July, 1979 by GRANITE SCHOOL DISTRICT (herein referred to as "Declarant"), pursuant to the provisions of the Utah Condominium Ownership Act (Sections 57-8-1 through 57-8-35, as amended, Utah Code Annotated (1953), herein referred to as the Act.

Recitals

A. Declarant is the owner and in possession of that certain parcel of real property in Salt Lake County, Utah hereinafter described.

B. Declarant has constructed upon said parcel four duplex type residential structures, including certain other improvements. Such construction has been performed in accordance with the plans and specifications contained in the Record of Survey Map.

C. Declarant desires, by filing this Declaration and its Record of Survey Map, to submit said parcel and all improvements now or hereafter constructed thereon to the provisions of the Act as a Condominium Project to be known as BRIARCREEK CONDOMINIUMS (sometimes herein referred to as "Briarcreek").

D. Declarant intends to sell to various purchasers the title to the eight individual Units contained in Briarcreek, together with the undivided ownership interests in the Common Areas and Facilities appurtenant to such Units, subject to the covenants, restrictions and the limitations herein set forth.

E. Declarant anticipates that the Project created hereby may be but one phase of a larger Project which may come into existence ultimately. Accordingly, Declarant reserves the right to expand by adding another Project

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to the east of similar type and style at a later date.

NOW, THEREFORE, for the foregoing purposes, Declarant hereby makes the following Condominium Declaration:

1. DEFINITIONS

When used in this Declaration, the following terms shall have the meanings indicated and those ascribed by the Act.

1. Declaration -- shall mean and refer to this Enabling Declaration.

2. Record of Survey Map -- shall mean and refer to the Record of Survey Map filed herewith, dated the day of July, 1979 consisting of ___ sheets and prepared and certified by Aposhian Consulting Engineers, Inc., a duly registered Utah Land Surveyor.

3. Common areas and Facilities - shall mean and refer to:

a. The real property and the interests in real property which by this Declaration have been submitted to the terms of the Act.

b. All Common Areas and Facilities designated as such in the Survey Map.

c. All foundations, columns, girders, beams, supports, perimeter walls and roofs constituting a portion of or included in the improvements which comprise a part of the Project.

d. All installations for and all equipment connected with the furnishing of central services to the Project such as water, gas and electricity.

e. All roadways necessary for ingress and egress to deeded units as shown on the Survey Map.

f. All portions of the Project not specifically included within the individual Units.

g. All other parts of the Project normally in common use or necessary or convenient to its use, existence, maintenance, safety or management.

4. Management Committee and Committee -- shall mean and refer to the Management Committee of Briarcreek.

5. Unit -- shall mean and refer to one of the home units and its adjacent garage, which is designated as a Unit by a number on the Record of Survey Map. Unless a wall on the perimeter of a Unit separates and is common to two units, such perimeter wall shall, except for the finished surface thereof which is on the interior of a Unit, constitute a part of the Common Areas and Facilities. Such finished surface shall be a part of the Unit to which it relates. A wall on the perimeter of a Unit which separates such Unit from, and is common to, another Unit shall, from and to the surface of such wall to its center, constitute a part of the Unit to which it relates. A Unit shall include any walls or partitions which are wholly contained within its perimeters and the surfaces of any floors and ceilings which bound it. A Unit shall not include pipes, wires, conduits and other utility lines running through it which are utilized for or which serve more than one Unit.

Unit Number -- shall mean and refer to the number, letter or combination thereof which designates a Unit in the Record of Survey Map.

7. Unit Owner or Owner -- shall mean and refer to the owner of the fee in a Unit and the percentage of undivided interest in the Common Areas and Facilities which is appurtenant thereto. The Declarant is the owner of all unconstructed and unsold Units. In the event a Unit is the subject of an executory contract of sale, the contract purchaser shall be considered the Unit Owner for purposes

of voting and Committee membership.

8. Common Expenses -- shall mean and refer to all sums which are expended on behalf of all the Unit Owners and all sums which are required by the Management Committee to perform or exercise its functions, duties or rights under the Act, this Declaration, any Management Agreement for operation of the Project, and such rules and regulations as the Management Committee may from time to time make and adopt.

9. Phase -- shall mean and refer to each separate step in the development of Declarant's property submitted through the description below set forth to the terms of the Act. The term also includes all improvements which are constructed and all appurtenances which come into existence in conjunction with the submission of any single area.

10. Condominium Project -- shall mean and refer to the Briarcreek initial phase and any other phase which may hereafter be added to and merged with that initial phase.

11. SUBMISSION

DESCRIPTION: Declarant hereby submits to the provisions of the Act as the area constituting the initial phase of the Project, the following described real property situated in Salt Lake County, State of Utah:

Beginning at a point which is N 89°56'59" W along the quarter section line 2055.47 feet and South 159.57 feet from the East Quarter Corner of Section 3, Township 2 South, Range 1 East, Salt Lake Base and Meridian; said point being on the South right of way line of 4500 South Street and running thence easterly along the south line of said 4500 South Street 886.49 feet; thence S 39°27'45" E 161.05 feet; thence S 80°09'30" W 424.71 feet; thence S 77°40' W 60 feet; thence S 70°45'13" W 160.11 feet; thence S 66°08'30" W 188.07 feet; and thence N 8°15' W 145.36 feet to the point of beginning.

EXPANSION: Declarant is the owner of a like tract of unimproved land easterly on 4500 South Street and it reserves the right to expand this Project without prior consent of the Unit owners to construct four similar type dwellings in general appearance equivalent to those on the initial phase and containing a maximum of eight Units. Such will be constructed within three years from date hereof and at Declarant's sole option made subject to these same covenants, conditions and restrictions. The description of the area for expansion is:

Beginning at a point which is N 89°56'59" W along the quarter section line 2055.47 feet and South 159.57 feet from the East Quarter Corner of Section 3, Township 2 South, Range 1 East, Salt Lake Base and Meridian and 966.44 feet further easterly along the south line of 4500 South Street and being on the south line of said Street and running thence easterly along the south line of said 4500 South Street 890.0 feet to the east line of Declarant's property and thence S 140.2 feet; thence westerly 880 feet more or less to a point which is S 39°27'45" E 161 feet from the point of beginning and thence N 39°27'45" W 161 feet to the point of beginning.

111. COVENANTS, CONDITIONS

AND RESTRICTIONS

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

1. The improvements included in this initial phase of the Project are now located upon the parcel first described above and are described in the Record of Survey Map. The buildings are constructed principally of masonry brick exterior walls with load-bearing or non-bearing walls studded with wood, wooden joist floors and roofs, wooden shingles and interior walls surfaced with gypsum sheets.

2. The Record of Survey Map shows the Unit number for each Unit, its location and dimensions and also the Common Areas and Facilities which are reserved for use and for immediate access. Each Unit has an adjacent

garage and each Unit is capable of being independently owned, encumbered and conveyed.

3. The Common Areas and Facilities contained in this phase of the Project are described in Article 1 above. The percentage of undivided interest in the Common Areas and Facilities shall not be separated from the Unit to which it appertains; and such percentage shall automatically accompany the transfer of the Unit to which it relates.

4. For purposes of determining the percentages of the undivided interests in the Common Areas and Facilities which are appurtenant to the various Units, such have been fixed upon the basis that the floor space of each Unit is identical and there are eight such units hence the percentage is 12.5% for each Unit.

5. Units in each Phase are home Units intended solely to be used for residential housing, and each is restricted to such use. No Unit shall be used or occupied in violation of law, so as to create a nuisance or interfere with the rights of any Unit owner or in such a way as to cause an increase in the costs of insurance coverage.

6. Any owner who plans to sell his or her Unit or to enter into any agreement for another's occupancy thereof, shall at least 10 days before the transaction is to be consummated, give the Committee written notice of such intentions. The notice shall furnish the name and address of the proposed purchaser or occupant and the terms of the transaction. At any time within seven days after its receipt of the notice, the Committee shall have the right to enter into the transaction upon the same terms as those offered. Thereafter, if the Committee exercises such right, it may then lease or sell the Unit to any party reasonably acceptable to it.

8. The Condominium Project shall be managed, operated and maintained by the Management Committee as agent

for all Unit owners. The Committee shall in the exercise of its powers including those stated below, constitute a legal entity capable of dealing in its committee name and have the following authority and powers:

a. The power to sue and be sued.

b. The power and authority to convey or to transfer any interest in real property and to record any necessary amendment so long as the vote or consent of the Unit owners necessitated by the agreement has been obtained.

c. The power to promulgate such reasonable rules and regulations and procedures as may be necessary or desirable to aid the Committee in carrying out any of its functions or to insure that the Project is maintained and used in a manner consistent with the interests of the Unit owners.

d. The power and authority to perform any other acts and to enter into any other transactions which may be reasonably necessary for the Management Committee to perform its functions as agent for the owners of the Units.

9. At all times the Committee shall carry out all of its functions through a Project Manager who shall be employed for that purpose. Such Manager so engaged by the Committee shall act for the benefit of the Unit owners and shall, to the extent permitted by law, be authorized to perform the functions and acts required of the Committee.

10. The initial Project Manager and the one upon whom legal process may be served shall be:

P. David Jensen - 4525 South 2300 East
Holladay, Utah 84117

11. The Committee shall be composed of three members. At the first regular meeting of the Owners of Units, two members shall be elected for two-year terms and one member for a one-year term. At each annual Owners' meeting thereafter any vacant seat on the Committee shall be filled with a member elected for a two-year term. Only Unit owners or officers of corporate Unit owners shall be eligible for Committee membership. At the annual meeting each Unit owner may vote his percentage of undivided owner-

ship in favor of as many candidates for Committee membership as there are seats to be filled. In case of an interim vacancy, the remaining Committee members shall elect a replacement until the term of the one being replaced has expired. Committee members shall be reimbursed for all expenses reasonably incurred in connection with Committee business.

12. The Committee will perform its functions through officers elected from its membership and by agents duly appointed by it. Committee officers, agents and employees may be removed at any time by a majority vote of the members of the Committee. The designated officers are:

President: He shall be the chief executive of the Committee and shall preside over all meetings and exercise general supervision over the property of the Project.

Vice-President: He shall have and exercise all of the powers of the President in the event of his absence or inability to act.

Secretary: He shall keep minutes of all meetings of the Committee and record all items and keep all records essential under the Act and these Declarations.

Treasurer: The Treasurer shall have custody and control of the funds available to the Committee. The offices of Secretary and Treasurer may be held by the same Committee member.

13. A regular meeting of the Committee shall be held immediately after the adjournment of each annual Owners' meeting and at such time and place as the Committee may provide. No notice need be given of the regular meeting. Special Committee meetings shall be held whenever called by the President or by a majority of the Committee after 24 hours notice or waiver of notice or by attendance by all Committee members. A majority of the Committee shall constitute a quorum for doing business.

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14. Regular meetings of the Unit Owners shall be held on the first Tuesday in April of each year. The place of meeting shall be in Salt Lake County, Utah as designated by the Committee. At least 10 days before such meeting, written notice of the time and place shall be personally delivered or mailed, postage prepaid, to each Unit owner at his last known address. Special meetings of the Owners may be called by the President or a majority of the Unit Owners by giving notice of the time, place and purpose of such meeting at least four days prior to such meeting in the manner set forth above. A majority of the Unit Owners shall constitute a quorum for the conduct of the business.

15. Additions or capital improvements to the Project which cost no more than \$5,000.00 may be authorized by the Management Committee alone. Those which will exceed such amount must, prior to being constructed, be authorized by at least a majority of the Owners.

16. The Committee shall provide for such maintenance of the Common Areas and Facilities as may be reasonably necessary to keep them clean, functional, attractive and generally in good condition and repair. The Committee may permit installation of individual air conditioning units which may intrude partially into portions of the Common Areas. The Committee shall have no obligation regarding maintenance or care of home Units or garages.

17. Before the end of each year (calendar) the Committee shall prepare a budget which sets forth an itemization of the anticipated Common Expenses for the coming year. The total of such expenses shall be apportioned among all the Units on the basis of their appurtenant percentages of undivided ownership interest. Prior to the first day of each month during the year covered by the budget, each Unit Owner shall pay to the Committee

as his share of the Common Expenses one-twelfth of the amount so apportioned to his Unit. If such monthly payments are too large or too small as a result of another phase being added, the Committee may effect an equitable charge to meet unanticipated changes in expenses. The date of payment and methods of assessment may be altered by the Committee in conformance with good accounting practices.

18. Should any Unit Owner fail to pay, when due, his share of the Common Expenses, the Committee may enforce any remedy provided in the Act or otherwise available for collection of delinquent Common Expense assessments. The liability shall be joint and several and may be enforced against any party holding such an interest in a Unit including both a seller and purchaser under an executory contract of sale of a Unit. The delinquent Unit Owner shall pay all costs of enforcement or collection, including reasonable attorneys fees, and if necessary, costs of foreclosure.

19. The Management Committee shall secure and at all times maintain insurance coverage by a policy or by policies of fire and casualty insurance, with extended coverage, for the full insurable replacement value of the entire Project. The payee may be the Committee and all persons holding an interest in the Project and the Units. Also a public liability policy shall be maintained to protect the Unit Owners, the Committee and the Manager against any legally enforceable liability. The Committee shall have authority to adjust losses and any such insurance shall not be brought into contribution with insurance held by the individual Unit Owners or their mortgagees.

20. In those cases in which the Act or this Declaration requires the vote of a stated percentage of the Project's undivided ownership interests for the authorization or approval of a transaction, such requirement may be fully satisfied by obtaining, with or without

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a meeting, consents in writing to such transaction from Unit Owners who collectively hold at least the necessary percentage of undivided ownership interests.

21. Except as provided below, the vote of at least 75% of the undivided ownership interest in the Common Areas and Facilities shall be required to amend this Declaration or the Record of Survey Map. Any amendment so authorized shall be accomplished through the recordation of an instrument executed by the Executive Committee. Such instrument shall certify the vote required by this paragraph. The foregoing right of amendment shall be subject to the following paramount rights:

a. Until Units representing 50% of the undivided ownership interest in this initial phase of the Project have been sold, Declarant shall have the right to amend this Declaration and the Record of Survey Map in a manner consistent with law.

b. As and when an additional phase is added to the Project, the Declaration and the Record of Survey Map thereof shall supplement and amend those relating to this initial phase so far as such is consistent with law.

22. The Management Committee may adopt Community Rules which apply to the use and occupancy of the Units and the Common Areas and Facilities. Until such are adopted, the following rules will apply:

a. The greens and walkways in front of and around the Units and the entrance-ways shall not be obstructed or used for any purpose other than for ingress and egress to and from Units.

b. No exterior of any Unit shall be decorated nor awnings placed by any owner in any manner without the prior consent of the management.

c. No owner shall make or permit any noises that will disturb or annoy the occupants of any of the Units or do or permit anything which will unduely interfere with the rights or comfort of other owners.

d. The Units are designed for single family dwellings and none shall be used for living purposes by more people than it was designed to accomodate comfortably. No groups, unrelated by blood or marriage shall be permitted to occupy the units.

e. No sign, notice or advertisement shall be inscribed or exposed on or at any window or other

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