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DECLARATION OF
 COVENANTS, CONDITIONS, AND RESTRICTIONS OF
 COLONIAL SQUARE SUBDIVISION
 A PLANNED COMMERCIAL DEVELOPMENT
 BOUNTIFUL, DAVIS COUNTY, UTAH

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BOUNTIFUL, DAVIS COUNTY, UTAH

This Declaration is made and executed this 17th day of September, 1976, by Eugene L. Kimball and consented to by Ruth Kimball, his wife, for themselves, their successors, grantees and assigns (hereinafter 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 Declaration. Developer desires to create on said Property a commercial development with parking areas 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, restrictions, easements, charges, and liens hereinafter set forth.

C. Developer deems it desirable, for the efficient preservation 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 COLONIAL SQUARE PROPERTY OWNERS 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 this Declaration of Covenants, Conditions, and Restrictions.
2. Plat shall mean the subdivision plat covering the Property, entitled "Colonial Square" Subdivision executed and acknowledged by Developer on the 31st day of August, 1976, prepared and certified to by C. J. Schuchert, (a duly registered Utah Land Surveyor holding Certificate No. 2868) and filed for record in the office of the County Recorder of Davis County, Utah, concurrently with the filing of this Declaration.
3. Property shall mean 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 any of the forty-seven (47) separately numbered and individually described parcels of land as shown on the Plat.

5. Common Areas shall mean that part of the Property which is not included within the Lots, but including all parking areas, interior and incidental roadways, sidewalks, walkways, curbs, and landscaping within or adjacent to areas used for parking of motor vehicles, together with all improvements other than utility lines which are now or hereafter constructed or located thereon except for utility lines.

6. Commercial Unit shall mean a structure or portion of a structure which is designed and intended for commercial use, together with all improvements located on such Lot which are used in conjunction with such Commercial Unit.

7. Owner shall mean the person who is the owner of record (in the office of the County Recorder of Davis 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.

8. Association shall mean the COLONIAL SQUARE PROPERTY OWNERS ASSOCIATION, a Utah nonprofit corporation.

9. Member shall mean every person who 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 Davis County, State of Utah:

Beginning on the west line of 500 West Street at a point that is S 89°13' W 248.64 feet and N 0°27' W along said west line 1285.133 feet from the S.E. corner of Sec. 36, T. 2 N., R 1 W., S.L.B.&M., said point of beginning also being S 0°27' E along the monument line 601.029 feet and S 89°10'34" W 33.001 feet from the monument at the intersection of 500 West Street and 2600 South Street, thence N 0°27' W along said west line of 500 West Street 568.311 feet to the south line of 2600 South Street; thence S 89°40'02" W along said south street line 658.00 feet; thence S 0°05'30" E 317.00 feet; thence N 89°57' W 233.026 feet; thence S 0°27' E 42.005 feet; thence N 89°13' E 162.575 feet; thence S 0°27' E 58.352 feet; thence N 89°20'32" E 154.957 feet; thence S 38°16' E 162.181 feet; thence S 77°19'56" E 132.163 feet; thence N 89°10'34" E 347.324 feet to the point of beginning, containing 8.383 acres, together with a perpetual easement for ingress and egress to and from the demised premises over and upon the following described real property.

Beginning on the South side of the County road 261.36 feet South 89°13' West and 1854.78 feet North 0°47' W and South 89°32' W 893 feet from the Southeast corner of Section 36, Township 2 North, Range 1 West, Salt Lake Meridian, thence South 0°27' East 826.83 feet to the North line of Irfred Park Subdivision, thence South 89°13' West 50 ft. North 0°27' West 445 feet, thence South 89°13' West 348.85 feet to the East line of the State Highway 91 thence North 30°38' East 58.59 feet, thence North 89°13' East 340.3 feet more or less to the West line of the street which is an extension of 625 West Street; thence North 0°27' West on the West line of said street 331.83 feet to the County Road, also known as 2600 South Street; thence East 50 feet to the point of beginning.

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 his employees, agents, and successors, 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 for the Developer, his employees, agents and successors (in a manner not inconsistent with the provisions of this Declaration) to engage in construction upon or to improve the Common Areas with such structures and facilities (including, but not limited to parking areas, sidewalks, parking area and sidewalk lighting, and various landscaped areas) designed for the use and enjoyment of all the Members as Developer may reasonably determine to be appropriate. 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 Davis 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. Neither the issuance nor the holding of shares of stock shall be necessary to evidence membership in the Association.

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

Class A. Class A Members shall be all Owners other than the Developer until the Class B membership ceases, at which time the Developer shall become a Class A Member with respect to any Lot or Lots which the Developer may own at that time or from time to time. Class A Members shall be entitled to one (1) vote for each one hundred (100) square feet of ground space in 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 one hundred (100) square feet of ground space in any Lot. No vote shall be allowed for ground space of less than one hundred (100) square feet in each Lot.

Class B. The Class B Member shall be the Developer. The Class B Member shall be entitled to six (6) votes for each one hundred (100) square feet of ground space in each Lot in which the Developer 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 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 Davis County, Utah.

IV. PROPERTY RIGHTS IN COMMON AREAS

1. Easement of Enjoyment. 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 tenant, lessee, or contract purchaser who does business on such Member's Lot.

2. 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, or for easements or rights of way reserved to the Developer or otherwise enforceable in law or equity).

3. 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 Davis County, Bountiful City, 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 parking area, walkway, or open area contained within the Property for purposes of providing police and fire protection, and providing any other governmental or municipal service; and

(b) 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.

(c) The right of the Developer, prior to conveyance of the Common Areas to the Association, and after said conveyance, the right of the Association to grant and reserve easements and right-of-way through, under, over and across the Common Areas, for the installation, maintenance and inspection of the lines and appurtenances for public or private water, sewer, drainage, gas, electricity, telephone and other utilities.

4. Utility Easement. The Developer for himself and his successors and assigns, including but not limited to the Association, hereby grants easements over, under, in, on and through the Common Area for the installation, construction, reconstruction, relocation, removal, maintenance, repair, operation and inspection of sewer, water, drainage, electric, gas and telephone facilities and wires, lines, cables, conduits, pipes and other necessary and proper attachments therewith, for the benefit of the Property or any part thereof, to the Developer, the

Association, any federal, state or local authority, commission or agency having jurisdiction thereover and any corporation, be it public, quasi-public or private, supplying or servicing such facilities.

5. Overhang Easement. Each Owner shall have an easement over the Common Areas for any portion of any Commercial Unit which extends into the airspace over the Common Areas, provided the following conditions are met: (i) the "overhang" does not extend more than six (6) feet past the furthest extension of the boundary line between the Owner's Lot and the Common Areas and in no event interferes with use of the parking areas or of any interior roadway; (ii) the "overhang" extends no lower than eight (8) feet above the ground; and (iii) any such "overhang" is approved by the Architectural Control Committee as provided in Article X below. In connection with the easement previously described in this Section 5, the Owner of any Lot upon which a Commercial Unit with an "overhang" is located shall have an easement to attach posts, pillars and other structural supports to the Common Area, provided the following conditions are met; (iv) such structural supports are not located in or upon any interior roadway parking area; and (v) the style, number and location of any such structural supports is approved by the Architectural Control Committee as provided in Article X below.

6. 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 Colonial Square commercial subdivision, as the same is identified in the Plat recorded in the office of the County Recorder of Davis County, Utah, in Book _____ at Page _____ and in the "Declaration of Covenants, Conditions, and Restrictions of the Colonial Square Subdivision" recorded in the office of the County Recorder of Davis County, Utah, in Book _____ at Page _____. 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.

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 commercial development of the Property. The use made by the Association of funds obtained from Assessments may include payment of the cost of: advertising for the common benefit of the Owners, taxes and insurance on the Common Areas; maintenance, repair, and improvements of the Common Areas; managements 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. Maximum Monthly Assessment. As of the date set under Section 7 of this Article V each Lot shall be subject to a monthly assessment of not more than one-twelfth (1/12) of the yearly assessment rate of fifty cents (\$.50) per square foot of ground space on each Lot. From and after January 1, 1977, the maximum monthly assessment may be increased or decreased so long as the change is 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 such 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. The Board of Directors of the Association may from time to time and in its discretion set the amount of 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 V, 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 Section 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 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.

6. Uniform Rate of Assessment. Both monthly and special assessments shall be fixed at a uniform rate based on the square footage ground area of each Lot.

7. Monthly Assessment Due Dates. The monthly and special assessments provided for herein shall commence 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.

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 fall 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 ten percent (10%) 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 and every other expense incurred by the Association in enforcing its rights.

10. Exception for Developer. Notwithstanding anything to the contrary contained in this Declaration, if at the time specified in Section 7 of this Article V for the commencement of monthly assessments the Developer retains title to any Lot, the rate of all assessments made upon such Lot under the provisions of Section 3 of this Article V shall be one-half (1/2) the amount specified therein and the rate of any assessment made upon such Lot under the provisions of Section 4 of this Article V shall be one-half (1/2) of the amount charged to other Owners thereunder. The terms of this Section 10 shall continue in operation and effect as to any Lot retained by the Developer until either (i) the Developer sells, leases, or otherwise conveys any interest in such Lot or in any Commercial Unit erected thereon or (ii) the expiration of one (1) year from the date upon which the Developer conveys the Common Areas to the Association, whichever shall first occur.

VI. CONSTRUCTION, OPERATION AND MAINTENANCE

1. Time for Construction. Each Owner shall begin construction of a Commercial Unit which conforms to the architectural and use restrictions set forth in Articles IX and X within two (2) years from the date of closing of the contract of sale for the Lot purchased by the Owner. Each Commercial Unit so begun shall be completed and landscaped within one (1) year from the date upon which construction of said unit commences.

2. Construction. Once begun, any improvements, construction, landscaping, or alterations approved by the Architectural Control 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.

3. Liability of Owner During Construction. The Owner in the course of building shall not be liable to the Owners of adjacent Lots affected by such work for any inconvenience, annoyance, disturbance or loss of business to the Owner effected by the performance of such work (or his tenants) arising out of or during the performance of such work (unless occasioned by the negligence of the Owner of the improvement with respect to which the work in question was being performed or its agents); but the Owner of the Lot or Commercial Unit with respect to which such work is being performed shall make all reasonable efforts to keep any such inconvenience, annoyance, disservice, or loss of business to the minimum reasonably required by the work in question.

4. Responsibility to Rebuild or Repair. Because the physical condition of each Commercial Unit effects the value of every other Commercial Unit, the Owner of each Unit shall maintain its Commercial Unit in such a manner that it shall have the continued capacity to be

used as a Commercial Unit, and thus benefit the other Commercial Units. The Owner shall not cause or permit to occur any damage, loss or injury to the Owners of the benefited Commercial Units or their tenants by or as a result of any act of negligence or any willful, wanton or reckless act on its part or on the part of its tenant with respect to the Owner's Commercial Unit. Should any Commercial Unit be damaged or destroyed by fire, flood, wind, snow or any other cause of whatever nature, the Owner shall cause the Commercial Unit upon the Lot owned by him to be repaired or rebuilt. Such repair or rebuilding shall commence not later than ninety (90) days after the occurrence of the damage or destruction and shall be completed not later than one year after such occurrence.

5. Liability for Physical Damage. Notwithstanding anything to the contrary contained in this Article VI, the Owner in the course of building, rebuilding, repairing, maintaining or otherwise working or causing work to be done upon his Lot shall be liable to the Owners of any adjacent Lots or to the Association with respect to the Common Areas for any physical damage to any other Lot or Commercial Unit and for any physical damage to any Common Area. The Owner shall cause any such damage to be repaired and the Lot, Commercial Unit or Common Area affected to be placed in the same state or condition that it was in prior to said damage. All such repairs shall be subject to the approval of the Architectural Control Committee and of the affected Owner or, in the case of damage to a Common Area, of the Board of Directors of the Association.

6. Maintenance of Commercial Units. Each Commercial Unit shall be maintained by the Owner thereof at his own cost and expense so as not to detract from the appearance of the Property and so as not to affect adversely the value or use of any other Commercial Unit. The Association shall have no obligation regarding maintenance or care of Commercial Units.

7. 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. In addition, the Association shall provide for maintenance and upkeep of any portion of any Lot which lies between the extremities of the Commercial Unit situated thereon and the boundaries of the Lot.

VII. PARTY WALL

1. General Principles. A wall constructed as part of the original construction of the Commercial Units which is located on a boundary line common to two Lots may by agreement of the Owners concerned 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 benefiting only one Owner (such as interior painting or redecorating) shall be borne solely by the Owner benefited.

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

able principle regarding liability for negligent or willful acts or omissions.

4. Right to Contribution to Run with the Land. The right of any Owner to contribution from any other Owner under this Article VII shall be appurtenant to the land and shall pass to such Owner's successor in title.

VIII. 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 comprising a part of the Common Areas. The name of the insured under each such policy shall be in form and substance similar to: "Colonial Square Property Owners 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 \$1,000,000.00 for any one person injured, \$1,000,000.00 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.

(iii) A policy of workmens compensation insurance which meets the requirements of the law; provided, however, that such insurance coverage shall not be required unless the Association hires an employee or employees.

(iv) A policy of fidelity insurance covering those employees of the Association and those agents and employees hired by the Association to handle Association funds, in amounts as determined by the Board of Directors of the Association.

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 an insurance carrier which is licensed to transact business in the State of Utah and which has a financial rating by Best's Insurance Reports of Class X or better.

(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: (i) A waiver of the insurer's subrogation rights with respect to the Association, the Owners, and their respective directors, officers, agents, employee invitees, and tenants; (ii) That it cannot be cancelled, suspended, or invalidated due to the conduct of any particular Owner or Owners; (iii) 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; and (iv) That any "no other insurance" clause therein shall not apply with respect to insurance held individually by the Owners.

In addition to coverage obtained by the Association, Owners of individual Lots shall obtain policies of fire and casualty insurance and a policy or policies covering their agents and employees against liability incident to the ownership of their separate lots and improvements thereon. These policies shall contain all the provisions set forth above where possible.

IX. USE RESTRICTIONS

1. Use of Common Areas. The Common Areas shall be used only in a manner consistent with the shopping center concept and with the use restrictions applicable to Lots and Commercial Units.

2. Use of Lots and Commercial Units. All Lots are intended to be improved with Commercial Units and are restricted to such use. No Lot or Commercial Unit shall be used, occupied, or altered in violation of law, so as to jeopardize the support of any other Commercial 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. Signs. No advertising sign or billboard of any kind shall be displayed to the public view on any portion of the properties or any lot, except as approved pursuant to the provisions of Article X; provided, however, that this restriction shall not apply to any sign advertising the subdivision erected or maintained by the Developer or the Association.

4. Prohibited Uses. No use or operation will be made, conducted, or permitted on or with respect to all or any part of the shopping center which use or operation is obnoxious to or out of harmony with the development or operation of a first class shopping center including the following: Any public or private nuisance; any noise or sound that is objectionable due to intermittent, beat, frequency, shrillness or loudness; any obnoxious odor; any noxious, toxic, caustic or corrosive fuel or gas; any dust, dirt, or fly ash in excessive quantities; any unusual fire, explosion or other damaging or dangerous hazards; any assembly, manufacture, or distillation operations; any "second hand" store, army, navy or governmental "surplus" store; any gasoline filling station or other similar facility; any raising of animals other than a pet shop; any fire or bankruptcy sale or auction house operation.

5. Temporary Structures and Equipment. No structure of a temporary character, trailer, basement, tent, shack, garage, barn, or other out building shall be used on any Lot at any time as a Commercial Unit, either temporarily or permanently unless approved in writing by the Architectural Control Committee. No trailer, camper, boat, truck larger than 3/4 ton, or similar equipment shall be permitted to remain upon any Lot, unless written approval is given by the Architectural Control Committee; provided, however, that this sentence shall

not apply to any Lot during the construction of a Commercial Unit thereon, except as to any camper or boat.

6. Garbage Removal. All rubbish, trash and garbage shall be regularly removed from the properties, and shall not be allowed to accumulate thereon. All refuse containers, woodpiles, storage areas and machinery and equipment shall be prohibited upon any Lot unless obscured from view of adjoining Lots Common Areas and streets by a fence, building, or appropriate screen.

7. Electronic Antennas. No television, radio or other electronic antenna shall be erected, constructed, placed or permitted to remain on any of the Lots unless and until the same shall have been approved in writing by the Architectural Control Committee; provided, however, that there may be erected on any Lot upon which the Commercial Unit is used for the sale of radio or television equipment, one antenna; and provided further, that approval of the Architectural Control Committee for erection of antennas or additional antennas shall not be withheld unreasonably.

8. Slope Erosion. All slopes or terraces on any lot shall be maintained so as to prevent any erosion thereof upon adjacent Common Areas or adjoining property.

9. Exception for Developer. Notwithstanding the restrictions contained in this Article VIII, for the five (5) year period following the date on which this Declaration is filed for record in the office of the County Recorder of Davis County, Utah, Developer shall have the right to use any Commercial 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 improvements of the Common Areas or improvement and/or sale of all Lots owned by Developer.

X. ARCHITECTURAL CONTROL

1. Architectural Control Committee. The Board of Directors of the Association shall appoint a three-member Committee, at least one of whom shall be selected by the Developer, the function of which shall be to insure that all improvements and landscaping within the Property harmonize with the 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 Commercial Unit, accessory or addition to a Commercial Unit, landscaping, sign or other improvement of a Lot shall be constructed or maintained, and no alteration, repainting, or refurbishing of the exterior of any Commercial Unit shall be performed, unless complete plans and specifications therefor have first been submitted to and approved by the Architectural Control Committee, whose judgment shall be final in all cases.

3. Standard. In deciding whether to approve or disapprove plans and specifications submitted to it, the Committee shall use its best judgment to insure that all improvements, construction, landscaping, and alterations on Lots within the Property conform to and harmonize with existing surroundings and structures and the concept of a retail shopping center; provided, however, that all said improvements, construction, landscaping and alterations on Lots shall conform to the requirements contained in Section 4 below.

4. Architectural Controls, Restrictions and Requirements.

(a) Architecture.

(1) Architectural style shall be consistent with that of the Victorian era. Design motifs and use of materials consistent with victorian, tudor, elizabethan, rococo, french provincial and colonial and other turn-of-the-century traditional styles of architecture shall be required.

(2) The Commercial Units on adjacent sites shall complement each other. Variation in styles, while encouraged, shall only be allowed to the extent that such variation creates a pattern of consistency throughout the Property. The Architectural Control Committee shall be permitted to make recommendations and shall approve or disapprove all designs. The judgment of the Architectural Control Committee shall be final with respect to all matters of design, architecture and style.

(3) All designs, plans and drawings shall be done by a licensed architect.

(4) All construction shall conform to all applicable ordinances, rules and codes.

(5) Sewer drainage and utility lines, conduits or systems shall not be constructed or maintained above the ground level.

(6) The Owner shall have the right to place footings, signs, canopies, cornices and other building features attached to a Commercial Unit which project over the Lot lines, sidewalks or walkways, provided the same are approved by the Architectural Control Committee,

(7) No fence or wall shall be erected upon any Lot. Hedges not exceeding four (4) feet in height may be grown immediately adjacent to any Commercial Unit. These restrictions may, however, be waived or modified by the Architectural Control Committee.

(b) Signs.

(1) No sign, symbol, advertisement, or billboard shall be constructed, used, maintained, erected, posted, pasted, displayed, or permitted on or about any portion of a Lot except a sign which identifies the name, business, or symbol of such Commercial Unit, which does not advertise any particular item of merchandise, which is harmonious to the general exterior architectural treatment of the buildings, and which is of a type, size, and design which complies with the criteria set forth in these covenants.

(2) All signs shall be consistent with the architectural styles specified in Subsection (a)(1) above, such as a decorative, handcrafted motif, and shall be integrated with the architecture and materials used in the construction of the Commercial Unit. All signs must be approved by the Architectural Control Committee.

(3) No sign shall be longer than seventy-five percent (75%) of the frontage of the Commercial Unit to which it relates, nor shall any sign project above the roof of the Commercial Unit to which it relates.

(4) Signs shall not be gaudy, distracting, too big or bright. Illuminated, plastic, blinking or moving signs are discouraged. Signs shall be tastefully done using good design principles; three dimensional, sculptural, symbolic or logo type signs are encouraged.

(5) No sign may be erected in or on the Common Areas by an individual Owner or for the benefit of a single Commercial Unit. Signs and directories which benefit their entire Property may be erected by the Association.

(6) The Architectural Control Committee must approve all signs and shall have the power to alter, amend, or waive any provision

contained in this Subsection (b); provided, however, that in no case may said Committee waive, alter or amend the provisions of Paragraph (5) above.

(c) Landscaping and Excavating.

(1) Within one (1) year from the date of closing of the contract of sale for the Lot purchased by the Owner, providing that construction of a Commercial Unit has not begun, the Owner shall landscape the Lot in a manner consistent with the landscaping of the Common Areas. The consistency of said landscaping shall be determined by the Architectural Control Committee, whose judgment shall be final. If the Owner fails to so landscape the Lot, the Association shall have the power to do so, and any amount expended on such landscaping by the Association shall become an assessment against the Owner of the Lot which shall be due upon completion of the landscaping and shall be subject to the terms of Section 9 of Article V above.

(2) No landscaping shall be started on any Lot until the plans and specifications therefor have been first approved in writing by the Architectural Control Committee.

5. 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.

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 X.

7. Exception for Developer. The foregoing provisions of this Article X 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 Davis County, Utah.

8. Developer's Obligation. Developer hereby covenants in favor of each Owner that all Commercial Units erected by him and all improvement of the Common Areas accomplished by him shall be architecturally compatible with respect to one another.

XI. 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.

It is anticipated that the Association and Eugene L. Kimball (the Developer hereunder) will enter into a Management Agreement for an initial one (1) year period to begin on or about the date that this Declaration is filed for record.

XII. 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 insure 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 by the Developer if the Class B membership then exists). In such instrument an officer or director of the Association shall certify that the vote required by this Section 3 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. In the event an Owner 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 Association shall give written notice of such fact to the holder of any first mortgage (or trust deed) covering such Owner's Lot.

The lien for unpaid assessments provided for under Article V shall be subordinate to any first mortgage (or trust deed) affecting a Lot, but only to the extent of assessments which become due prior to foreclosure of the mortgage, exercise of a power of sale available thereunder, or deed or assignment in lieu of foreclosure.

Unless all holders of first mortgages (or trust deeds) on the individual Lots have given their prior written approval, neither the Association nor any other party shall be entitled to:

(a) Alter the provisions of Section b of Article V hereof (pertaining to uniform rate of assessment);

(b) Partition or subdivide any Lot or the Common Areas or dedicate or transfer (pursuant to Section 3(c) of Article IV hereof) all or any part of the Common Areas; or

(c) By act or omission seek to abandon or materially alter the arrangement which is established by this Declaration.

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 Commercial 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. 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 Salt Lake County, Utah.

EXECUTED the day and year first above written.

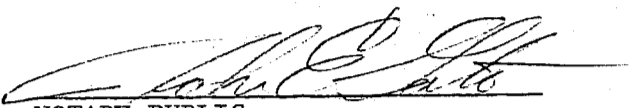
"DEVELOPER"


EUGENE L. KIMBALL


RUTH M. KIMBALL

STATE OF UTAH) 740
)
 : ss.
COUNTY OF SALT LAKE)

On this 17th day of September 1976, personally appeared before me Eugene L. Kimball and Ruth M. Kimball who having been first duly sworn, deposed and said that they executed the foregoing document.


NOTARY PUBLIC
Residing at: Salt Lake City, Utah

My Commission Expires:
1/22/79
