

Plotted Abstract
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RUTH JAMES OLSEN
WEBER COUNTY CLERK

Ruth J. Olsen

DECLARATION

OF COVENANTS, CONDITIONS AND RESTRICTIONS

EDGEMONT SUBDIVISION, A Planned Unit Development

THIS DECLARATION, made on the date hereinafter set forth by WADE'S INC., a Utah Corporation, hereinafter referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in Ogden City, County of Weber, State of Utah, which is more particularly described as:

A part of the Southeast Quarter of Section 15, Township 6 North, Range 1 West, Salt Lake Meridian, U.S. Survey: BEGINNING at a point 173 feet North and 10 feet East of the Southwest corner of said Quarter Section and running thence South 89°53' East 120 feet; thence South 0°31'10" West 140 feet; thence South 89°53' East 60 feet; thence North 0°31'10" East 142 feet; thence to the left along the arc of a 351.16 foot radius curve, chord bearing North 5°41'02" West 75.89 feet; thence to the right along arc of a 291.16 foot radius curve, the chord bearing North 5°41'02" West 72.93 feet; thence North 0°31'10" East ~~222~~ ^{250.71} feet; thence South 89°28'50" East 128.85 feet to the Westerly line of Skyline Drive; thence Northerly along West line of Skyline Drive the following two courses, North 8°42' West 179.05 feet, and along a 810.0 foot radius curve to the right 143.83 feet to the Southeast corner of Colonial Hills Subdivision No. 1; thence North 89°28'50" West 254.83 feet to a point 10 feet East from the quarter section line; thence South 0°31'10" West 125.0 feet; thence North 89°28'50" West 126.71 feet; thence South 3°28'50" East 60.15 feet; thence South 89°28'50" East 103.05 feet; thence South 0°31'10" West 105.0 feet; thence South 89°28'50" East 19.45 feet; thence South 0°31'10" West 552.0 feet to the point of beginning.

NOW THEREFORE, Declarant hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

SECTION 1. "Association" shall mean and refer to EDGEMONT

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TOWNHOUSES OWNERS ASSOCIATION, its successors and assigns.

SECTION 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

SECTION 3. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

SECTION 4. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the owners. The Common Area to be owned by the Association at the time of the conveyance of the first lot is all the property described on the preceding page excepting however Lots 1 through 34, inclusive, Edgemont Subdivision and includes private streets, parking areas, playgrounds, open areas, the common areas and facilities set forth as such on the subdivision plat, and all other parts of the property necessary or convenient to the existence, maintenance and safety of the common area, or normally in common use.

SECTION 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision plat of the Properties with the exception of the Common Areas.

SECTION 6. "Declarant" shall mean and refer to WADE'S, INC., a Utah corporation, its successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

ARTICLE II
PROPERTY RIGHTS

SECTION 1. Owners' Easements of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) the right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;

(b) the right of the Association to suspend the voting rights and right to use of the recreational facilities by an owner for any period during which any assessment against the Lot remains unpaid; and for a period not to exceed 60 days for any infraction of its published rules and regulations;

(c) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members.

No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of each class of members agreeing to such dedication or transfer has been recorded.

SECTION 2. Delegation of Use. Any owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

SECTION 1. Every owner of a lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

SECTION 2. The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners with the

exception of the Declarant and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or
- (b) on July 1, 1973.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

SECTION 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided.

The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell

due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

SECTION 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Properties and for the improvement and maintenance of the Common Area, and of the homes situated upon the Properties.

SECTION 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be Four Hundred dollars (\$400) per Lot.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year nor more than 3% above the maximum assessment for the previous year without a vote of the membership.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above 3% by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

(c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

SECTION 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have

the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

SECTION 5. Notice and Quorum for Any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. At the first such 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 the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

SECTION 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis.

SECTION 7. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the Common Area. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the association setting forth whether the assessments on a specified Lot have been paid.

SECTION 8. Effect of Nonpayment of Assessments:

Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of 6 per cent per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

SECTION 9. Subordination of the Lien to Mortgages. The

lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceedings in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE V

EXTERIOR MAINTENANCE

In addition to maintenance upon the Common Area, the Association shall provide exterior maintenance upon each Lot which is subject to assessment hereunder, as follows: paint, repair, replace and care for roofs, gutters, downspouts, exterior building surfaces, trees, shrubs, grass, walks, and other exterior improvements. Such exterior maintenance shall not include glass surfaces.

In the event that the need for maintenance or repair is caused through the willful or negligent act of the Owner, his family, or guests, or invitees, the cost of such maintenance or repairs shall be added to and become a part of the assessment

to which such lot is subject.

ARTICLE VI

PARTY WALLS

SECTION 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the homes upon the Properties and placed on the dividing line between the Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

SECTION 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

SECTION 3. Destruction by Fire or other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

SECTION 4. Weatherproofing. Notwithstanding any other provision of this Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole costs of furnishing the necessary protection against such elements.

SECTION 5. Right to Contribution Runs with Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass

to such Owner's successors in title.

SECTION 6. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators.

ARTICLE VII

ARCHITECTURAL CONTROL

No building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

ARTICLE VIII

GENERAL PROVISIONS

SECTION 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained

shall in no event be deemed a waiver of the right to do so thereafter.

SECTION 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

SECTION 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) years period by an instrument signed by not less than ninety per cent (90%) of the Lot Owners, and thereafter by an instrument signed by not less than seventy-five per cent (75%) of the Lot Owners. Any amendment must be recorded. All amendments to this declaration shall be consistent with the ordinances of Ogden City applicable thereto in effect at the time the amendment is made and no amendment shall become effective until approved in writing by Ogden City.

SECTION 4. Annexation. Additional residential property and Common Area may be annexed to the Properties with the consent of two-thirds (2/3) of each class of members.

SECTION 5. FHA/VA Approval. As long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: Annexation of additional properties, dedication of Common Area, and amendment of this Declaration of Covenants, Conditions, and Restrictions.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 7 day of _____, 1970.

WADE'S, INC.

BY Alton E. Wade
ALTON E. WADE
PRESIDENT

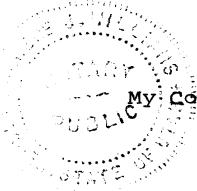


Gene Wade
GENE WADE, SECRETARY

STATE OF UTAH)
) ss.
COUNTY OF WEBER)

On this 26th day of October, 1970, personally appeared before me ALTON E. WADE and GENE WADE, who being by me duly sworn, did say, each for himself, that he, the said ALTON E. WADE, is the President, and the said GENE WADE is the Secretary of WADE'S, INC., a Utah corporation, and that the within and foregoing instrument was signed in behalf of said corporation by authority of a resolution of its Board of Directors, and that said Alton E. Wade and Gene Wade each duly acknowledged to me that said corporation executed the same, and that the seal affixed is the seal of said corporation.

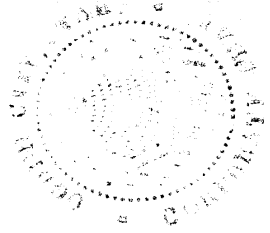
Blaslene J. Williams
NOTARY PUBLIC
Residing At: Ogden, Utah



My Commission Expires: MY COMMISSION EXPIRES MARCH 13, 1974

Pursuant to the requirement of Section 29-23-6 (d), Revised Ordinances of Ogden City, 1964, as amended, Ogden City hereby approves the association hereby established for Edgemont Subdivision, a Planned Unit Development.

DATED this 2nd day of December, 1970.



Charles T. Kelly
City Manager