

14/911

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
CHERRY LANE VILLAGE NO. 3 SUBDIVISION

THIS DECLARATION is made on the date hereinafter set forth by CHERRY LANE DEVELOPMENT, a general partnership, hereinafter referred to as "Declarant";

WITNESSETH:

WHEREAS, Declarant is the Owner of certain real property situate in the City of Meridian, County of Ada, State of Idaho, which is more particularly described as:

Cherry Lane Village No. 3 Subdivision, according to the official plat thereof on file in the Office of the County Recorder of Ada County, State of Idaho, in Book 58 of Plats at pages 5473, 5474 and 5475;

which real property is hereinafter referred to as the "Property."

NOW, THEREFORE, Declarant hereby declares that the Property 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 and bind, the Property and each and every part, parcel and Lot thereof, and be binding on all parties having any right, title or interest in the Property or any part, parcel or Lot 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 CHERRY LANE VILLAGE NO. 3 HOMEOWNERS' ASSOCIATION, INC., a nonprofit corporation organized under the laws of the State of Idaho, or any successor or assign of the Association.

Section 2. "Owner" shall mean and refer to the record Owner, whether one (1) or more persons or entities, of a fee simple title to any Lot which is a part of the Property, including contract purchasers, but excluding those having an interest merely as security for the performance of an obligation.

Section 3. "Property" shall mean and refer to the real property constituting Cherry Lane Village No. 3 Subdivision according to the official recorded plat thereof (the "plat"), and every part, parcel and Lot thereof, and shall further mean and refer to such additional real property as may hereafter be made subject to this Declaration of Covenants, Conditions and Restrictions by Supplemental Declaration, pursuant to the provisions hereof for the annexation and addition of additional parcels of real property.

Section 4. "Common Area" shall mean and refer to any Lot or parcel designated as Common Area upon the recorded subdivision plat of the Property (including Lot 9, Block 14 and Lot 7, Block 1, Cherry Lane Village No. 3 Subdivision) or in any Supplemental Declaration filed by Declarant subjecting additional real property to this Declaration. Said areas are intended to be devoted to the common benefit, use and enjoyment of the Owners (subject to the provisions hereof) and are not dedicated to the public.

Section 5. "Common Facilities" shall mean and refer to those physical improvements constructed by Declarant or the Association upon any of the Common Area or upon the utility or other easements over each Lot, including the irrigation water system.

Section 6. "Lot" shall mean and refer to all Lots within and shown upon the official recorded plat of Cherry Lane Village No. 3 Subdivision, except the Common Area, Lots constituting part of the Golf Course, and streets dedicated to the public, as shown upon the recorded plat.

Section 7. "Project" shall mean and refer to the Property and all contemplated improvements thereto.

Section 8. "Annexed Property" shall mean and refer to any real property made subject to this Declaration by Supplemental Declaration pursuant to the provisions hereof for the annexation and addition of additional parcels of real property.

Section 9. "Golf Course" shall mean and refer to the Cherry Lane Village Golf Course, and the real property constituting the same, owned and operated as a public golf course by the City of Meridian.

Section 10. Whenever the context so requires, the use of the singular shall include the plural, the plural the singular, and the use of any gender shall include all genders.

ARTICLE II

CHERRY LANE VILLAGE NO. 3 HOMEOWNERS' ASSOCIATION, INC.

Section 1. It is contemplated that simultaneously with the execution and recordation of this Declaration of Covenants, Conditions and Restrictions (the "Declaration"), the Association will be incorporated and will adopt ByLaws (the "ByLaws") for its governance. To the extent the Articles of Incorporation or ByLaws of the Association may conflict with the provisions of this Declaration, the provisions of this Declaration shall control.

ARTICLE III

PROPERTY RIGHTS

Section 1. Owner's Easements of Enjoyment. Every Owner shall have a right of use and enjoyment in, of and to the Common Area and Common Facilities, subject to such reasonable rules and regulations governing use and access as may be adopted by the Association, which right shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- (a) The Association shall have the right to charge reasonable admission and other fees for the use of any Common Facility;
- (b) The Association shall have the right to suspend the voting rights and right to use the Common Area or Common Facilities of an Owner for any period during which any assessment against his Lot remains unpaid and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations; and
- (c) The Association shall have the right to:
 - (i) mortgage or convey all or any part of the Common Area or Common Facilities, or
 - (ii) dedicate or transfer all or any part of the Common Area or Common Facilities 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 mortgage, dedication or transfer shall be effective unless an instrument agreeing to such mortgage, dedication or transfer signed by two-thirds (2/3) of each class of members has been recorded.

Section 2. Delegation of Use. Any Owner may delegate his right to enjoyment of the Common Area and Common Facilities to the members of his family, his tenants or contract purchasers of his Lot, provided such designees reside on the Property.

ARTICLE IV

RIGHTS RESERVED BY DECLARANT

Notwithstanding anything to the contrary contained in this Declaration, the Declarant expressly reserves unto:

- (a) Itself, its employees, successors and assigns, its agents, representatives, contractors and their employees, easements and rights-of-way on, over and across all or any part of the streets for vehicular and pedestrian ingress and egress to and from any part of the Property, or any adjacent real property owned by Declarant, or its successors or assigns;
- (b) Itself, its successors and assigns (including any district or other entity providing water, sewer, gas, oil, electricity, telephone, cable television, or other similar services), easements on, over, under and across all or part of any Common Area, and the utility easements as provided on the recorded subdivision plat of Cherry Lane Village No. 3 Subdivision, and any subsequent subdivision plat of Annexed Property, for installation, use, maintenance and repair of all lines, wires, pipes, and all other things necessary for all such services, provided that any such lines, wires or pipes shall be underground and, further, provided that all work done in connection therewith shall be performed with reasonable care and that the surface of said easement area shall be restored to the level and condition that existed prior to the doing of such work; and
- (c) Itself, its employees, successors, assigns, agents, representatives, contractors and their employees, the right to use any Common Area or Common Facilities, where applicable, to facilitate and complete the development of the Property, and any Annexed Property, including without limitation the use of the Common Area, where applicable for:
 - (1) Construction, excavation, grading, landscaping, parking and/or storage;

- (2) The maintenance and operation of the sales office and model units for sales purposes;
- (3) The showing to potential purchasers of any unsold Lot, unit or improvements within the Project;
- (4) The display of signs to aid in the sale of any unsold Lots and units or all or part of the Project.

ARTICLE V

USE AND BUILDING RESTRICTIONS

Section 1. Land Use and Building Type. No Lot shall be used for any purpose except for residential purposes. No building shall be erected, altered, placed or permitted to remain on any Lot other than one detached single family dwelling not to exceed two and one-half (2-1/2) stories in height and a private garage for not more than three (3) cars (but not less than two cars). The foregoing provisions shall not exclude construction of a private greenhouse, storage unit, private swimming pool or a shelter or port for the protection of such swimming pool, or for the storage of a boat and/or camping trailer kept for personal use, provided that the location of such structure is in conformity with the applicable municipal regulations, is compatible in design and decoration with the residence constructed on such Lot, and has been approved by the Architectural Control Committee.

The provisions of this Section shall not be deemed to prohibit the right of any homebuilder to construct a residence on any Lot, to store construction materials and equipment on said Lot in the normal course of construction and to use any single family residence as a sales office or model home for the purposes of sales in the Project.

Section 2. Dwelling Size. The ground floor area of a one-story dwelling, exclusive of open porches and garage shall be not less than one thousand three hundred (1,300) square feet.

In the case of a two-story dwelling, the lower or ground floor level shall be not less than one thousand (1,000) square feet. In the event of a multi-level dwelling, the area of the one-story portion and the area of the upper level of the two-story portion shall constitute a minimum of one thousand three hundred (1,300) square feet, with no less than five hundred (500) square feet in the lower level. A split entry or split foyer type home

shall have a main floor area of not less than one thousand (1,000) square feet.

Section 3. Building Setbacks. No building shall be located on any Lot nearer than twenty-five (25) feet to the front Lot line, nearer than twenty-five (25) feet to the rear Lot line, or nearer than five (5) feet to a side Lot line (ten (10) feet to a side Lot line for two story homes); on corner Lots the side yard shall be a minimum of twenty-five (25) feet on the side abutting the street. Such building setbacks shall be in effect with the exception of the following:

- (a) All odd-numbered Lots as designated on the plat in Arabic numerals, and with the exception of odd-numbered cornered Lots, shall have a front setback of at least thirty (30) feet unless specifically waived in writing by the Architectural Control Committee. All odd-numbered corner Lots shall have setback restrictions as set forth above.
- (b) For the purposes of setback determinations, all Lots which are bordered on one (1) side by a public street and on an adjacent side by a cul-de-sac shall be considered corner Lots.
- (c) All Lots which have a common Lot line with the Golf Course shall consider such side as the rear yard, and no structure shall be located within a thirty (30) foot rear yard setback of such Lot line, unless specifically waived in writing by the Architectural Control Committee.

The Architectural Control Committee, upon application, may in its discretion waive any violation of this subsection which it finds to have been inadvertent, provided the same would not constitute a violation of local governmental ordinances.

Section 4. Easements. Easements for installation and maintenance of utilities, drainage, and irrigation facilities are reserved as shown on the recorded plat. Within these easements, no structure, fence, planting or other materials shall be placed or permitted to remain which may damage or interfere with the installation and/or maintenance of such utilities, or which may change the direction of flow of water through a drainage channel in the easements or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each Lot and all improvements in it shall be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority or utility company is responsible.

Easements, to permit access for the standard play of golf during regular daylight hours, over and across the lots adjacent to the Golf Course which are subject to these restrictions are hereby granted and established. The purposes of this Easement shall include, but not be limited to, the recovery of golf balls from such Lots, the flight of golf balls over and upon such Lots, the usual and common noise level created by the playing of the game of golf, together with all the other common and usual activity associated with the game of golf.

Section 5. Temporary Structures. No structure of a temporary nature, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any Lot at any time as a residence, either temporary or permanent.

Section 6. Fences. No fence shall exceed six (6) feet in height from the finished Lot grade. In no event shall side yard fences project beyond the front walls of any dwelling or garage, or, on corner lots, beyond the extended plane of any side wall adjacent to a street.

Chain-link fences are hereby prohibited on any residential Lot, except where required by the Declarant or any public agency in order to secure utility sites, irrigation or drainage facilities or other public use as deemed necessary.

Hedges or other solid screen plantings may be used as Lot line barriers subject to the same height restrictions as fences; provided, however, that no such fence or hedge shall be permitted along the front of a Lot.

Both fences and hedges located on the Lot lines in common with the Golf Course shall include a gate for means of access to and from the Golf Course and shall be erected directly on the Lot line, and all fencing shall be of a grape-stake design and construction. On all grape stake or cedar style fencing located on Lot lines in common with the Golf Course, supporting posts or braces shall be located on the side of the fence facing the house and not on the side facing the Golf Course. No fence or hedge intersecting a Lot line which is in common with the Golf Course shall exceed six (6) feet in height.

Declarant shall construct a six (6) foot cedar board fence continuously upon and on the westerly edge of Lot 11, Block 14, and Lot 7, Block 1, Cherry Lane Village No. 3 Subdivision, and shall landscape said Lots. The Association shall be obligated to maintain the fence and landscaping in good condition. No portion of said fence shall be painted, stained or coated, except with a coating approved by the Architectural Control Committee.

Section 7. Offensive Activity. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be, or may become, an annoyance or a nuisance to the neighborhood.

Section 8. Business and Commercial Uses. No trade, craft, business, profession, commercial or similar activity of any kind shall be conducted on any Lot, or on or in any structure thereon, nor shall any goods, equipment, vehicles, materials or supplies used in connection with any trade, service or business be kept or stored on any Lot, excepting the right of any homebuilder and the Declarant to construct residences on any Lot, to store construction materials and equipment on said Lots during the normal course of said construction.

The prohibition of use of any Lot or any structure thereon for the conduct of any trade, craft, business, professional, commercial or similar activities of any kind includes and prohibits use of any Lot or any structure thereon for a "half-way house," treatment center, shelter home, school, day-care center or other similar use, including use for the care or the residence of unrelated physically or mentally handicapped persons (notwithstanding the provisions of Section 67-6530 and 67-6531, Idaho Code). The occupancy of a dwelling structure on a Lot shall be limited to one or more persons related by blood, adoption or marriage, living together as a single housekeeping unit, or not more than two persons, though not related by blood, adoption or marriage, living together as a single housekeeping unit.

Section 9. Signs. No sign of any kind shall be displayed to the public view on any Lot or improvement, except one professional sign of not more than six (6) square feet advertising the Property for sale. This restriction shall not prohibit the temporary placement of political signs on any Lot by the Owner or placement of a professional sign by the Declarant, which must comply with the local sign ordinances. This restriction does not apply to signs used by the builders during construction and sales.

Section 10. Parking. Parking of boats, trailers, motorcycles, trucks, truck-campers, recreational vehicles and like equipment shall not be allowed on any part of any Lot or on public ways adjacent thereto, excepting only within the confines of an enclosed garage, storage port, or behind a screening fence or shrubbery which shall in no event project beyond the front walls of any dwelling or garage, or beyond the extended plane of any side wall of any dwelling, structure or garage adjacent to a street on a corner lot. Any driveway to a recreational vehicle parking spot on a lot shall be surfaced with concrete, asphalt, or other material approved by the Architectural Control Committee.

Section 11. Animals. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except that not more than two (2) dogs and/or two (2) cats or other household pets may be kept provided that they are not kept, bred or maintained for any commercial purposes.

Section 12. Trash or Rubbish. No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall be kept in sanitary containers and out of public view. All incinerators or other equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition.

Section 13. Construction Completion. Construction of any dwelling shall be completed, including exterior decoration, within eight (8) months from the date of the start of such construction. All Lots shall, prior to the construction of improvements thereon, shall be kept in a neat and orderly condition, free of brush, vines, weeds, or debris, and the grass thereon cut or mowed at sufficient intervals to prevent creation of a nuisance or fire hazard.

Section 14. Landscape Completion. All landscaping must be completed within sixty (60) days from the date of occupancy of the residence constructed thereon. However, all Lots abutting the Golf Course must be sodded, and such sodding must be completed within forty-five (45) days of the completion of the residence, unless otherwise approved in writing by the Architectural Control Committee. In the event of undue hardship due to weather conditions, this provision may be extended for a reasonable length of time upon written approval of the Architectural Control Committee.

Section 15. Antennas and Service Facilities. Exterior antennas shall not be permitted to be placed upon the roof of any structure on any Lot so as to be visible from the street in front of said Lot. Clothes lines and other facilities shall be screened so as not to be viewed from the street.

Section 16. Trees. Each builder or Property Owner, within forty-five (45) days from the date of final yard grading of the residence, shall plant at least two 1-1/2 inch caliper, five-gallon ornamental trees adjacent to the street right-of-way in the front yard. In the case of corner Lots, such trees shall be planted so that each side fronting on a street contains at least one (1) tree. Such trees shall be placed in a manner equidistant from each other and from the adjacent Lot lines, unless otherwise approved in writing by the Architectural Control Committee.

Section 17. Water Supply. No individual domestic water supply system shall be permitted on any residential Lot.

Section 18. Exterior Finish. The exterior of all construction on any Lot shall be designed, built and maintained in such a manner as to blend in with the natural surroundings, existing structures and landscaping within the Project. Exterior colors shall be of the flat, non-gloss type and shall be limited to subdued tones. Exterior colors must be approved by the Architectural Control Committee in accordance with the provisions of Article VIII of this Declaration. Exterior trim, fences, doors, railings, decks, eaves, gutters, and the exterior finish of garages and other accessory buildings shall be designed, built and maintained to be compatible with the exterior of the structure they adjoin.

Section 19. Roofing. Only shake or tile roofing shall be used on any structure constructed on a Lot unless approved otherwise in writing by the Architectural Control Committee before installation.

Section 20. Yard Lights. Upon completion of a residential structure, a yard light shall be installed in a location not more than seven (7) feet from the inside of the sidewalk, and adjacent to, the driveway of such premises. Said yard light shall be of a standard six (6) foot height, and the location and type shall be shown on all plans for construction of each particular structure and be subject to approval by the Architectural Control Committee. Each such light shall be continuously maintained by the Owner in good repair and working condition, shall be equipped with a photocell for automatic illumination at dusk and shall be directly connected to the residential structure's electrical power system. The Association may, but is not required to, replace light bulbs, and assess the Lot Owner if the owner fails to replace any burned out bulb after five days' notice. If at some future time the Association or the Owners desire street lights to be installed, the expense of installation shall be borne by the Owners.

ARTICLE VI

ASSOCIATION MEMBERSHIP AND VOTING RIGHTS

Section 1. Every Owner of a Lot shall be a member of the Association. Membership shall be appurtenant to and may not be separated from Ownership of any Lot.

Section 2. The Association shall have two (2) classes of voting membership:

Class A: The Class A members shall be all Owners, with the exception of the Declarant (during the period when the Declarant is a Class B member). Each Class A member shall be entitled to one (1) vote for each Lot owned.

When more than one (1) person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

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

- (a) When the total votes outstanding in Class A memberships equal the total votes outstanding in Class B membership; or
- (b) On January 1, 2000.

ARTICLE VII

COVENANT FOR ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Property, 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 agrees to pay to the Association:

- (a) Annual assessments or charges and
- (b) Special assessments;

such assessments to be established and collected as hereinafter provided.

The annual and special assessments, together with interest, costs of collection and reasonable attorneys' fees incurred in collection shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment falls due. Unpaid assessments shall constitute a continuing lien against the Lot until paid.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, welfare and economic well-being of the residents in the Project and for the improvement, operation and maintenance of the Common Area and Common Facilities.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the year in which the conveyance of the first Lot to an Owner occurs, the maximum annual assessment shall be Sixty Dollars (\$60.00) per Lot. The annual assessment may be made payable (by action of the Board of Directors of the Association) on a monthly basis, one-twelfth (1/12) per month, or on a quarterly basis, one-fourth per quarter, in advance. Increases in the amount of the annual assessment shall be limited as follows:

- (a) Each year, beginning with the calendar year beginning January 1 of the year immediately following the year in which the conveyance of the first Lot to an Owner occurs, the maximum annual assessment may be increased effective as of that January 1 (and each year thereafter) by action of the Board of Directors of the Association without a vote of the membership, by an amount of not more than ten percent (10%) above the prior year's assessment.
- (b) For the calendar year beginning January 1 immediately following the year in which the conveyance of the first Lot to an Owner occurs, or any subsequent year, the maximum annual assessment may be increased more than ten percent (10%) above the prior year's assessment only by an affirmative vote 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 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy in any calendar 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 Sections 3(b) or 4 of this Article VII shall be sent to all members not less than ten (10) days nor more than twenty (20) days in advance of the

meeting. At such meeting, the presence of members in person or by proxy entitled to cast fifty-one percent (51%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, the meeting shall be adjourned and rescheduled for a time and place not less than ten (10) days nor more than thirty (30) days subsequent. Written notice of the rescheduled meeting shall be mailed to all members not less than five (5) days in advance of the rescheduled meeting date. The required quorum at the subsequent meeting shall be satisfied by the presence in person or by proxy of twenty-five percent (25%) of each class of membership.

Section 6. Special Assessment for Irrigation System. Declarant shall, within twelve (12) months of the recording of this Declaration, complete installation of dry lines throughout the Project to serve as a water delivery system for a pressurized irrigation system for ultimate delivery of irrigation water to each Lot. Upon the completion of the installation of said dry lines by Declarant and upon the adoption by the City of Meridian of standards and specifications for pressurized irrigation systems in residential subdivisions, an appropriate diversion, pump and such other equipment or improvements as are reasonably necessary to divert water under pressure into said system in accordance with the standards and specifications adopted by the City of Meridian shall be constructed, installed and completed by the Association. The Association shall levy, by action of its Board of Directors, a Special Assessment for Irrigation System, in a total amount adequate to pay for such equipment, improvements and construction. Each Lot in the Project (except Lots constituting part of the Golf Course) shall pay an equal portion of that assessment.

Section 7. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots; provided, however, that assessments for Lots which have not been improved with a dwelling unit or outbuildings shall be assessed at one-fourth (1/4) of the assessment for Lots which have been improved with a dwelling unit or outbuildings. A Lot shall be deemed improved with a dwelling unit or outbuilding when such structure is occupied or substantially completed.

Section 8. Date of Commencement of Annual Assessments; Due Dates. The annual assessments provided for herein shall commence as to each Lot on the first day of the month following the initial conveyance of that Lot by Declarant to a purchaser. Lots owned by Declarant shall not be liable for assessments. The first annual assessment shall be adjusted (pro rata) according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment at least thirty (30) days in advance of each annual assessment period; provided, however, that in the event of an assessment proposed in excess of the authority of the Board of Directors, the amount of such assessment in excess of the Board's authority shall not be

effective until membership approval. 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. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 9. 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 twelve percent (12%) per annum or at such other interest rate as may be established annually by the Board of Directors. Each assessment, when levied, shall automatically constitute a lien on and against the Lot to which the assessment pertains, without any requirement of filing any documentation of such lien. Nonetheless, the Association may file an Affidavit of Lien evidencing such lien thirty (30) days after the due date of the assessment. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the assessment lien against the Property, in the same manner as provided by law as to statutory materialmen's liens. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area, or irrigation system, or abandonment of his Lot.

Section 10. 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 proceeding 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 assessment thereafter becoming due or from the lien thereof.

Section 11. Rights of Mortgagees. Mortgagees shall not be required to collect assessments on behalf of the Association. The Owner's failure to pay assessments due to the Association shall not constitute a default under any mortgage affecting the Property.

ARTICLE VIII

ARCHITECTURAL CONTROL

Section 1. Architectural Control Committee. In order to protect the quality and value of all homes built in the Project

and for the continued protection of the Owners thereof, an Architectural Control Committee, consisting of three or more members to be appointed by the Declarant is hereby established. At such time as the Declarant no longer owns any Lots in the Project, then the membership of the Architectural Control Committee shall be appointed by the Board of Directors of the Association, to succeed the prior Committee membership upon such appointment.

Section 2. Approval by Committee. No building, fence, wall, patio cover, window awning or other structure shall be commenced, erected, or maintained upon any Lot, the Common Areas or other properties within the Project, 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, location of the same, and such other detail as the Architectural Control Committee may require (including but not limited to any electrical, heating or cooling systems) shall have been submitted to and approved in writing by the Architectural Control Committee. In the event said Committee fails to approve or disapprove such plans, specifications and location within thirty (30) days after said plans and specifications have been submitted to it in such form as may be required by the Committee, in writing, approval will not be required, and this Article will be deemed to have been fully complied with.

Section 3. Rules and Regulations. The Architectural Control Committee is hereby empowered to adopt rules to govern its procedures, including such rules as the Committee may deem appropriate and in keeping with the spirit of due process of law with regard to the right of concerned parties due to be heard on any matter before the Committee. The Architectural Control Committee is further hereby empowered to adopt such regulations as it shall deem appropriate, consistent with the provisions of this Declaration, with regard to matters subject to the Committee's approval, including matters of design, materials and aesthetic interest. Such rules, after adoption, shall be of the same force and effect as if set forth in full herein.

Section 4. Fees. The Architectural Control Committee may establish, by its adopted rules, a fee schedule for an architectural review fee to be paid by each Owner submitting plans and specifications to the Committee for approval. No submission for approval shall be considered complete until such fee has been paid. Such fee shall not exceed such reasonable amount as may be required to reimburse the Committee for the costs of professional review of submittals and, in any event, shall not exceed the sum of One Hundred Dollars (\$100.00) per submittal.

ARTICLE IX

ENFORCEMENT

Section 1. Persons Entitled to Enforce. The provisions of this Declaration may be enforced by any of the following persons or entities in accordance with the procedures outlined herein:

- (a) The Association;
- (b) The Declarant;
- (c) The Owner or Owners of any Lot adversely affected, but only after demand made upon the Association and its failure to act, except that no such Owner shall have the right to enforce independently of the Association any assessment or lien herein.

Section 2. Methods of Enforcement. The following methods of enforcement may be utilized:

- (a) Legal or equitable action for damages, injunction, abatement, specific performance, foreclosure, rescission, or cancellation of any contracts of an executory nature;
- (b) Eviction for trespass;
- (c) Temporary suspension from Association membership rights and privileges, in accordance with the ByLaws of the Association.

Section 3. Fees and Costs. The Association, or any person entitled to enforce any of the terms hereof, by any of the means contained herein, who obtains a decree from any Court or arbitrator enforcing any of the provisions hereof, shall be entitled to reasonable attorneys' fees and all costs incurred or anticipated to be incurred in remedying or abating the offensive condition as a part of his or its judgment or decree against the party in violation hereof.

Section 4. Non-Liability for Enforcement or for Non-Enforcement. Neither the Architectural Control Committee nor the Association shall be liable to any person under any of these covenants for failure to enforce any of them, for personal injury, loss of life, damage to property, economic detriment, or for any other loss caused either by their enforcement or non-enforcement. Failure to enforce any of the covenants contained herein shall in no event be deemed a waiver of the right to do so thereafter.

ARTICLE X

ANNEXATION OF ADDITIONAL PROPERTIES

Declarant intends to develop the property described in Exhibit A, attached hereto and incorporated herein by this reference (the "Additional Property"), by subdividing the Additional Property and recording subdivision plats of such property. The Additional Property will be developed in stages and may include Common Area and Common Facilities of the same style and nature as included in Cherry Lane Village No. 3 Subdivision. Declarant shall have the right, without action, approval or consent of the Owners or the Association, to amend the Declaration to include the Additional Property (or parts thereof) as Declarant develops and plats such property. Amendment of the Declaration to include Additional Property and to subject Additional Property to the rights, privileges, restrictions and covenants herein provided shall be made by the execution and recordation by Declarant of a Supplemental Declaration, which shall describe the Additional Property being annexed, and shall describe the Common Areas thereof. Upon recordation of the Supplemental Declaration, the Annexed Property shall be subject to this Declaration as if included originally in this Declaration. Any such Supplemental Declaration may designate Lots within the affected Additional Property which may be used for the conduct of a trade or business.

ARTICLE XI

GENERAL PROVISIONS

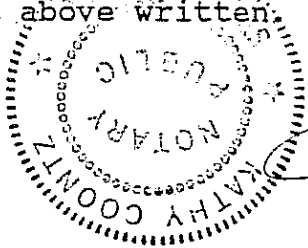
Section 1. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall not affect any other provisions hereof, which shall remain in full force and effect.

Section 2. 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 unless a document terminating the covenants and restrictions of this Declaration, signed by seventy-five percent (75%) of all Owners, duly acknowledged as to each executing Owner, is recorded in the official records of Ada County, Idaho. This Declaration may be amended by an instrument signed and acknowledged by the Owners of not less than ninety percent (90%) of the Lots subject to this Declaration; provided, however, that no amendment which eliminates, dissolves or abrogates the Association may be adopted without the prior written consent of the City of Meridian and the Ada County Highway District; and no amendment may be made to Article V, Section 2,

STATE OF IDAHO)
) ss.
County of Ada)

on this 11th day of October, 1990, before me,
Kara Coon, the undersigned, a Notary Public in
and for said State, personally appeared PAUL E. WHITE and LOIS M.
WHITE, husband and wife, known or identified to me to be the
persons whose name are subscribed to the foregoing instrument, and
acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and
affixed my official seal the day and year in this certificate
first above written.

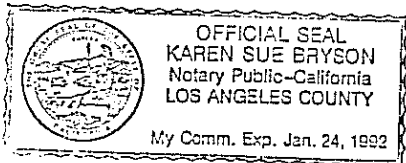


Kara Coon
Notary Public for Idaho
Residing at Bow, Idaho
My commission expires 8-15, 1991

STATE OF CALIFORNIA)
) ss.
County of Los Angeles)

On this Five day of April, 1990, before me,
Karen Sue Bryson, the undersigned, a Notary
Public in and for said State, personally appeared JOHN W.
MARSHALL, known or identified to me to be the person whose name is
subscribed to the foregoing instrument, and acknowledged to me
that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and
affixed my official seal the day and year in this certificate
first above written.

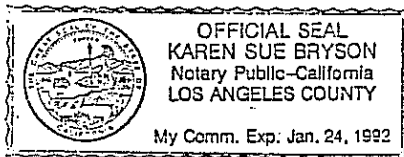


Karen Sue Bryson
Notary Public for California
Residing at Los Angeles, Calif.
My commission expires Jan, 1992

STATE OF CALIFORNIA)
) ss.
County of Los Angeles)

On this 8th day of October, 1990, before me, Karen Sue Bryson, the undersigned, a Notary Public in and for said State, personally appeared R. WILLIAM RHEINSCHILD, known or identified to me to be a general partner of the general partnership of R & P PROPERTIES, and the general partner who subscribed said general partnership name to the foregoing instrument, and acknowledged to me that he executed the same in said general partnership name.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

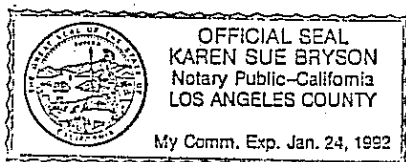


Karen Sue Bryson
Notary Public for California
Residing at Los Angeles, Calif.
My commission expires 1-24, 1992

STATE OF CALIFORNIA)
) ss.
County of Los Angeles)

On this 8th day of October, 1990, before me, Karen Sue Bryson, the undersigned, a Notary Public in and for said State, personally appeared R. L. PACK, known or identified to me to be a general partner of the general partnership of R & P PROPERTIES, and the general partner who subscribed said general partnership name to the foregoing instrument, and acknowledged to me that he executed the same in said general partnership name.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Karen Sue Bryson
Notary Public for California
Residing at Los Angeles, Calif.
My commission expires 1-24, 1992

Article VII, or Article VIII without the written consent of the Declarant, so long as Declarant owns any Lot in the Project.

Section 3. Succession. Upon the transfer and conveyance of all of Declarants' interest in the Project to a corporation or other legal entity created by Declarant, such transferee shall succeed to all rights of Declarant.

Section 4. HUD/VA Approval. So long as there is a Class B membership, HUD/VA must approve the annexation of additional real property to the Property, the dedication of Common Area, and the amendment of the Declaration.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 11th day of October, 1990.

Paul E. White
Paul E. White

Lois M. White
Lois M. White

John W. Marshall
John W. Marshall

R & P PROPERTIES, a general partnership

By R. William Rheinschild
R. William Rheinschild
A General Partner

By R. L. Pack
R. L. Pack
A General Partner

9057877

ADA COUNTY, IDAHO
FOR Paul White

'90 OCT 25 AM 11 25

JOHN BASTIDA, RECORDER
BY [Signature]

9064845

9064646

ADA COUNTY, IDAHO
FOR Paul White

'90 NOV 28 PM 4 10

JOHN BASTIDA, RECORDER
BY [Signature]

63⁰⁰