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STATE OF UTAH
COUNTY OF CACHE
Northern Title Company
MAY 22 3 00 PM '79
MICHAEL BLEED
COUNTY RECORDER
DEPUTY

DECLARATION OF COVENANTS AND RESTRICTIONS

FOR

CEDAR CREEK #1 HOMEOWNER'S ASSOCIATION, INC.

TOWNHOUSE DEVELOPMENT

THIS DECLARATION, made this 21 day of May, 1979,
by WESTERN SIERRA DEVELOPMENT CORPORATION hereinafter referred
to as Declarant.

W I T N E S S E T H :

WHEREAS, Declarant is the owner of certain real property
in Logan, County of Cache, State of Utah, which is more particu-
larly described as:

Part of Lot 3, Block 3, Plat "F", Logan Farm Survey,
described as follows:

Beginning at a point in the West line of Fourth East
Street, Logan, Utah 368.0 feet North of the Southeast
corner of said Lot 3, and running thence North in said
West line of street 253.7 feet; thence South 89°36'
West 432.0 feet to the Logan-Hyde Park Twin Canals;
thence Southwesterly following said Logan-Hyde Park
Twin Canals 423.5 feet to a point 198.0 feet North
of the South line of said Lot 3; thence North 89°45'
East 186.0 feet; thence North 170.0 feet; thence North
89°45' East 271.0 feet to the place of beginning.

Further being described as being situated in the Northwest
Quarter of Section 27, Township 12 North, Range 1 East
of the Salt Lake Base and Meridian. Containing 2.61
acres.

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WHEREAS, Declarant desires to provide for the preservation of the values and amenities in said community and for the maintenance of said open spaces and other common facilities; and, to this end, desires to subject the real property described above to the covenants, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof; and,

WHEREAS, Declarant has deemed it desirable, for the efficient preservation of the values and amenities in said community, to create an agency to which should be delegated and assigned the powers of maintaining and administering the community properties and facilities and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created; and,

WHEREAS, Declarant has incorporated under the laws of the State of Utah, as a non-profit corporation, CEDAR CREEK #1 HOMEOWNER'S ASSOCIATION, for the purpose of exercising the functions aforesaid;

NOW THEREFORE, the 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 properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I
DEFINITIONS

Section 1. The following words when used in this Declaration or any supplemental declaration (unless the context shall prohibit) shall have the following meanings:

(a) "Association" shall mean and refer to the CEDAR CREEK #1 HOMEOWNER'S ASSOCIATION, its successors and assigns.

(b) "The 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.

(c) "Common Area" shall mean all real property (including the improvements thereto) 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 of the first lot is described as follows:

Part of Lot 3, Block 3, Plat "F", Logan Farm Survey, described as follows:

Beginning at a point in the West line of Fourth East Street, Logan, Utah 368.0 feet North of the Southeast Corner of said Lot 3, and running thence North in said West line of street 253.7 feet; thence South 89°36' West 432.0 feet to the Logan-Hyde Park Twin Canals; thence Southwesterly following said Logan-Hyde Park Twin Canals 423.5 feet to a point 198.0 feet North of the South line of said Lot 3; thence North 89°45' East 186.0 feet; thence North 170.0 feet; thence North 89°45' East 271.0 feet to the place of beginning.

Further described as being situated in the Northwest Quarter of Section 27, township 12 North, Range 1 East of the Salt Lake Base and Meridian. Containing 2.61 acres.

Excepting therefrom, Lots #1251 to 1289 , inclusive, as depicted in that certain Plat recorded MAY 22, 1979 , as filing No. 429173 , in the Office of the Recorder, Cache County, Utah.

(d) "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of The Properties with the exception of Common Area as heretofore defined.

(e) "Living Unit" shall mean and refer to any portion of a building situated upon The Properties designed and intended for use and occupancy as a residence by a single family.

(f) "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot or Living Unit situated upon The Properties, including contract sellers and shall not refer to any person or entity holding fee simple title to a lot merely as security for the performance of an obligation.

(g) "Member" shall mean and refer to all those Owners who are Members of the Association as provided in Article II, Section 1, hereof.

(h) "Declarant" shall mean and refer to Western Sierra Development 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

MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION.

Section 1. Membership: Every person or entity who is a record Owner of a fee or undivided fee interest in any Lot which is subject by covenants of record to assessment by the Association shall be a Member of the Association.

Section 2. Voting Rights: The Association shall have two classes of voting membership:

Class A. Class A members shall be those Members as defined in Section 1 of this Article II.

Class B. Class B Members shall be the Declarant. The Class B Member shall be entitled to three votes for each Lot in which it holds the interest required for membership by Section 1, provided that the Class B membership shall cease and become converted to Class A membership on the happening of any 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 May 1, 1980.

From and after the happening of these events, whichever occurs earlier, the Class B Member shall be deemed to be a Class A Member entitled to one vote for each Lot in which it holds the interests required for membership under Section 1.

ARTICLE III

PROPERTY RIGHTS IN THE COMMON PROPERTIES

Section 1. Member's Easements of Enjoyment: Subject to the provisions of Section 2 of this Article, every Member shall have a right and easement of enjoyment in and to the Common Area and such easement shall be appurtenant to and shall pass with the title to every Lot.

Section 2. Extent of Members' Easements: The rights and easements of enjoyment created hereby shall be subject to the following:

- (a) The right of the Association, in accordance with its Articles and Bylaws, to borrow money for the purpose of improving the Common Area and in aid thereof to mortgage said properties, which mortgage shall not be effective until an instrument agreeing to such mortgage has been signed by 2/3 of each class of members and has been recorded. In the event

of a default upon any such mortgage the lender's rights hereunder shall be limited to a right, after taking possession of such properties, to charge admission and other fees as a condition to continued enjoyment by the Members and, if necessary, to open the enjoyment of such properties to a wider public until the mortgage debt is satisfied whereupon the possession of such properties shall be returned to the Association and all rights of the Members hereunder shall be fully restored.

(b) The right of the Association, as provided in its Articles and Bylaws, to suspend the voting rights and rights to use the recreation facilities by any Member for any period during which any assessment against his Lot remains unpaid, and for any period not to exceed thirty (30) days for any infraction of its published rules and regulations; and,

(c) The right of the Association to charge reasonable admission and other fees for the use of any recreational facilities situated on the Common Area; and,

(d) The right of individual Members to the exclusive use of parking spaces as provided in Section 3 hereof; and

(e) 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 provided that no such dedication or transfer, determination as to the purposes or as to the conditions thereof, shall be effective unless an instrument signed by Members entitled to cast two-thirds (2/3) of the votes of each class of membership has been recorded, agreeing to such dedication, transfer, purpose or condition, and unless written notice of the proposed agreement and

action thereunder is sent to every Member at least ninety (90) days in advance of any action taken.

Section 3. Parking Rights: The Association shall maintain upon the Common Area at least one covered parking space (carport) for each Living Unit, the carport and storage area to be assigned shall bear the same number as the Living Unit. For example, Unit 1261 (1) shall receive the carport and storage area assigned the same number on the recorded plat referred to in Section 1 (c) hereinabove. Subject to reasonable rules and conditions, the carport and storage area assigned to each Living Unit shall be for the exclusive use of the Members residing therein, their families, lessees' families, contract purchasers' families, and guests. The use of such space by any other Member or person may be enjoined by the Association or the Members entitled thereto. The right to exclusive use of such carport shall be appurtenant to and shall pass with the title to each Living Unit.

Section 4. 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 IV

COVENANT FOR MAINTENANCE ASSESSMENT

Section 1. Creation of the Lien and Personal Obligation of Assessments: The Declarant, for each Lot owned by him 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 any such deed or other conveyance, are deemed to covenant and agree to pay the Association:

- (1) annual assessments or charges;
- (2) special assessments for capital improvements, such assessments to be fixed, established, and collected from time to time as hereinafter provided.

The annual and special assessments, together with such interest thereon and costs of collection thereof as hereinafter provided, 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 such interest thereon and cost of collection thereof as hereinafter provided, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due.

If the assessment is not paid within thirty (30) days after the delinquency date, the assessment shall bear interest from the date of delinquency at the rate of six (6) percent per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same or to foreclose the lien against the property, and there shall be added to the amount of such assessment the cost of preparing and filing the complaint in such action, and in the event a judgment is obtained, such judgment shall include interest on the assessment as above provided and a reasonable attorney's fee to be fixed by the court together with the costs of the action.

Section 2. Purpose of Assessments: The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the residents of The Properties and in particular for the improvement and maintenance of properties, services, and facilities devoted to this purpose and related to the use and enjoyment of the Common Area and of the homes situated upon The Properties, including, but not limited to, the payment of taxes and insurance for the Common Area, and the repair and replacement of improvements thereto and for the cost of labor, equipment, materials, management and supervision thereof.

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 Three Hundred Dollars (\$300.00) 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 not more than five (5) percent 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 5% 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 Trustees 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 by section 3 hereof, the Association may levy in any assessment year a special assessment, applicable for that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the Common Area, including the necessary 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 the meeting duly called for this purpose.

Section 5. Quorum for Any Action Authorized Under Sections 3 and 4: The quorum required for any action authorized by Section 3 and 4 hereof shall be as follows:

At the First meeting called, written notice of which must be sent at least 30 but not more than 60 days prior to the date of the meeting, the presence at the meeting of Members, or of proxies, entitled to case sixty (60) percent of all the votes of each class of membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement set forth above, and the required quorum at any such subsequent meeting shall be one-half of the required quorum at the preceding meeting, provided that no such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. 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 assessments shall be made for the balance of the calendar year and shall become due and payable on the day fixed for commencement. The assessments for any year, after the first year, shall become due and payable on the first day of March of said year.

The amount of the annual assessment which may be levied for the balance remaining the first year of assessment shall be an amount which bears the same relationship to the annual assessment provided for in Section 3 hereof as the remaining number of months in that year bear to twelve. The same reduction in the amount of the assessment shall apply to the first assessment levied against any property which is hereafter added to the properties now subject to assessment at a time other than the beginning of any assessment period.

The due date of any special assessment under Section 4 hereof shall be fixed in the resolution authorizing such assessment.

Section 7. Duties of the Board of Trustees: The Board of Trustees of the Association shall fix the amount of the assessment against each lot at least thirty (30) days in advance of each annual assessment and shall, at that time, prepare a roster of The Properties and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Owner.

Written notice of the assessment shall thereupon be sent to every Owner subject thereto.

The Association shall upon demand at any time furnish to any Owner liable for said assessment a certificate in writing signed by an officer of the Association, setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 8. 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 assessments thereafter becoming due or from the lien thereof.

Section 9. Exempt Property: the following property subject to this Declaration shall be exempt from the assessments, charge and lien created herein:

- (a) All properties dedicated and accepted by the local public authority and devoted to public use;
- (b) All Common Area as defined in Article I, Section 1 (c) hereof;
- (c) All properties owned by a charitable or non-profit organization exempt from taxation by the laws of the State of Utah.

Notwithstanding any provisions herein, no land or improvements devoted to dwelling use shall be exempt from said assessments, charges, or liens.

ARTICLE V
PARTY WALLS

Section 1. General Rules of Law to Apply: Each wall which is built as 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 of liability for property damage due to negligent 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 will 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 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

for a larger contribution from the others under any rules 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 cost 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 an additional arbitrator, and the decision of a majority of all the arbitrators shall be final and conclusive of the question involved.

ARTICLE VI

ARCHITECTURAL CONTROL COMMITTEE

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 Trustees 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, fail to approve or disapprove such design and location

within thirty (30) days after said plans and specifications have been submitted to it, or in any event, if no suit to enjoin the addition, alteration or change has been commenced prior to the completion thereof, approval will not be required and this Article will be deemed to have been fully complied with fully.

ARTICLE VII

EXTERIOR MAINTENANCE

Section 1. Exterior Maintenance: In addition to maintenance upon the Common Area, the Association shall provide exterior maintenance upon each Lot and Living Unit which is subject to assessment under Article IV hereof, as follows: Paint, repair, replace and care for roofs, gutters, downspouts, exterior building surfaces, trees, shrubs, grass, walks, and other exterior improvements, excluding exterior glass surfaces.

Section 2. Access at Reasonable Hours: For the purpose solely of performing the exterior maintenance required by this Article, the Association, through its duly authorized agents or employees, shall have the right, after reasonable notice to the Owner, to enter upon any Lot or exterior of any Living Unit at reasonable hours on any day except Sunday.

ARTICLE VIII

OWNER'S OBLIGATIONS AND LIMITATIONS

Section 1. Owner's Obligation to Repair: Each Owner shall, at the Owner's expense, keep the interior of his Unit and its equipment and appurtenances in good order, condition and repair and in a clean and sanitary condition.

The Owner shall also, at the Owner's own expense, keep the interior of the common ownership carport assigned to his Unit and parking spaces reserved to his use as Common Areas in a clean and orderly condition. The Association and manager shall not, by virtue of their positions, be responsible

to the Owner for loss or damage by theft, or otherwise of articles which may be stored by the Owners in the Common Areas, storage area, or carport, unless such loss or damage is due to the negligent or willful misconduct of the Association or any of its agents.

Section 2. Prohibition Against Structural Changes by Owner: The Owner shall do no act nor any work that will impair the structural soundness or integrity of the buildings or safety of The Property or impair any easement or hereditament. The Owner shall not paint or decorate any portion of the exterior of the building or other Common Area or any portion of the fences, carport, or any other area contained therein without first obtaining written consent of the Association.

Section 3. Limitation of the Use of the Units and Common and Limited Common Areas: The Units and Common Area shall be occupied and used as follows:

(a) No Owner shall occupy or use his Unit, or permit the same or any part thereof to be occupied or used for any purpose other than as a private residence for the Owner and the Owner's family or the Owner's lessee's family or the contract purchaser's family and their guests.

(b) There shall be no obstruction of the Common Area except in the case of designated storage areas. Nothing shall be stored in the Common Area without the prior consent of the Association.

(c) Nothing shall be done or kept in the Common Area which will increase the rate of insurance thereon, without the prior written consent of the Association. No Owner shall permit any thing to be done or kept in the Common Area which will result in the cancellation of insurance of any part of the Common Area, or which would be in violation of any law. No waste will be committed in the Common Area.

(d) Owners may display "For Rent" or "For Sale" signs on the exterior of the apartments without prior consent of the Association provided the dimensions of said signs do not exceed the dimensions of one foot by two feet (1' x 2'). No other sign of any kind shall be displayed to the public view on or from any Unit or the Common Area without the prior consent of the Association.

(e) No animals, livestock or poultry of any kind shall be raised, bred, or kept in any unit or in the Common Area except that dogs, cats, or other household pets may be kept at Units subject to rules and regulations adopted by the Association.

(f) No noxious or offensive activity shall be carried on in any Unit in the Common Area, nor shall anything be done therein which may be or become an annoyance or nuisance to the other Owners;

(g) Nothing shall be altered or constructed in or removed from the Common Area except upon the written consent of the Association.

(h) None of the rights and obligations of the Owners created herein or by the deed creating the Unit shall be altered in any way by encroachment due to settlement or shifting of structures or any other cause. There shall be valid easements for the maintenance of said encroachments so long as they shall exist, provided, however, that in no event shall a valid easement for encroachment be created in favor of an Owner if said encroachment occurred due to the willful conduct of said Owner.

Section 4. Entry for Repairs: The Association or its agents may enter any Unit when Necessary in connection with any maintenance, repair, replacement, inspection or construction for which the Association is responsible. Such entry

shall be made with as little inconvenience to the Owners as practicable and any damage caused thereby shall be repaired by the Association.

ARTICLE IX

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.

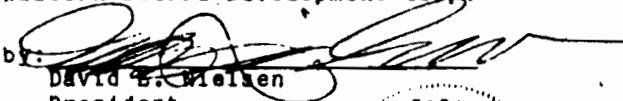
Section 2. Severability: Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

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) year period by an instrument signed by not less than ninety (90) percent of the Lot Owners, and thereafter by an instrument signed by not less than seventy-five (75) percent of the Lot Owners. Any amendment must be recorded.

Section 4. Notices: Any notice required to be sent to any Member or Owner under the provisions of the Declaration shall be deemed to have been properly sent when mailed first class, postage prepaid, to the last known address of the person who appears as Member or Owner on the records of the Association at the time of such mailing.

Section 5. FHA/VA Approval. As long as there is a Class B Membership, the following action will require the prior approval of the Federal Housing Administration and the Veterans Administration: Annexation of additional property, dedication of Common Area, an amendment of this Declaration of Covenants and Restrictions.

Western Sierra Development Corp.

by: 
David L. Nielsen
President



STATE OF UTAH)
) ss:
COUNTY OF CACHE)

On the 21st day of May A.D. 1979,
personally appeared before me David L. Nielsen
who, being by me duly sworn, did say that he is (are) the
President
respectively of the Western Sierra Development Corp. and that
the said instrument was signed in behalf of said Corporation by
authority of the Board of Directors

and the aforesaid officers acknowledged to me that said
corporation executed the same.


Notary Public

Commission expires: 2-22-81

Residing in: Logan, Utah

