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Reception No. 311402 MILDRED ALSDORF, RECORDER

BOOK 564 PAGE 294

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

OF CREEKSIDE TOWNHOMES

A Planned Unit Development Subdivision

This Declaration is made on the date hereinafter set forth by Ann C. Robinson, hereinafter "Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner of the following described properties located in the City of Rifle, County of Garfield, State of Colorado, to wit:

See Exhibit A attached hereto and incorporated herein by this reference thereto.

WHEREAS, it is the intent and purpose that the within Declaration govern and control the development and use and occupation of the Properties.

NOW, THEREFORE, Declarant hereby declares that the Properties shall be held, sold and conveyed subject to the following covenants, restrictions, conditions and easements which are herein promulgated for the purpose of protecting the value and desirability of and which run with the Properties and be binding upon all parties having any right, title or interest in the Properties, or any part thereof, their successors and assigns of every description, and shall inure to the benefit of each owner thereof.

ARTICLE I
Controlling Declarations

The development, use and occupation of the Properties shall be governed and controlled by the within Declaration.

ARTICLE II
Definitions

Section 1. Association. "Association" shall mean and refer to Creekside Townhomes Homeowners Association, a Colorado corporation, its successors and assigns.

Section 2. Board of Directors. "Board of Directors" shall mean and refer to the Board of Directors of the Association.

Section 3. Owner. "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 4. Properties. "Properties" shall mean and refer to that certain real property hereinabove described.

Section 5. Common Area. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the Owners and shall include all that portion of the Properties designated as such upon the plat thereof recorded in the office of the Clerk and Recorder of Garfield County, Colorado, as Reception No. 311403.

Section 6. Lot. "Lot" shall mean a lot platted as such as shown upon the plat identified in the preceding paragraph.

Section 7. Declarant. "Declarant" shall mean and refer to Ann C. Robinson, her successors and assigns, which successors or assigns shall succeed to the interest of Declarant herein only by express reference hereto.

ARTICLE III
Property Rights

Section 1. Owner's 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 restrictions as to use as hereinafter set forth in Article VII and to the following provisions:

(a) 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 determined by the Board of Directors of the Association.

(b) The right of individual Owners to the exclusive use of the parking spaces as provided in this Article.

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 members of his family, his tenants, or contract purchasers who reside on the Properties.

Section 3. Vehicular Parking. Ownership of each Lot shall entitle the Owner or Owners thereof to the use of not more than two (2) vehicular parking spaces which shall be as near and convenient to said Lot as reasonably possible, together with a right of ingress and egress in and upon said parking area. The Association shall permanently assign one (1) vehicle parking space for each Lot.

ARTICLE IV
Membership and Voting Rights

Section 1. Membership. Every Owner of a Lot which is subject to assessments 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. Voting. The Association shall have two (2) 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 (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, among themselves, determine, but in no event shall more than one (1) 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. Class B membership shall cease and be converted to Class A membership when the total votes outstanding in Class A membership equal the total votes outstanding in the Class B membership.

ARTICLE V
Assessments

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant hereby covenants and the Owner of each Lot, by acceptance of a deed therefor, whether or not it shall be expressed in such deed, is deemed to covenant and agree to pay to the Association for each Lot owned:

(a) Annual assessments or charges; and

(b) 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 fees 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 attorney fees shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment fell due. The personal obligation for delinquent assessments shall pass to his successors in title; provided, however, the holder of a mortgage, deed of trust or other lien on a Lot shall not be liable for any such assessments.

(c) Additional assessments against an individual Lot may be made for the cost of maintaining the improvements upon such Lot as provided in Section 16 of Article VII hereafter.

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, as stated in Articles of Incorporation and By-Laws of the Association and the within Declaration.

Proper uses of the assessments shall include, but shall not be limited to, the expenditure of funds for taxes, fees, expenses, charges, levies, premiums or other costs incurred by the Association for:

(a) Repairing, replacing, insuring and maintaining the Common Area and improvements thereon;

(b) Providing services to the Common Area, such as mowing the lawns, caring for the grounds and sprinkling and irrigation system, landscaping, trees, shrubs, lawns, walkways and pathways and snow plowing and removal;

(c) Trash and garbage pickup furnished to the Common Area or to the Lots by the Association;

(d) Water service provided to the Common Area;

(e) Providing for the establishment of an adequate reserve fund for the maintenance, repair and replacement of Common Areas, which reserve fund shall be a part of the regular monthly assessments;

(f) Carrying out the powers and duties of the Association; and

(g) Any other purposes and uses that the Board of Directors shall determine to be necessary to meet the primary purposes of the Association.

Section 3. Maximum Annual Assessment. The initial maximum annual assessment shall be \$_____ per Lot. Assessments for each succeeding year shall be established by the Board of Directors.

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. Reserve for Improvements, Repairs and Replacements. As a part of any annual or special assessments, the Association may levy and establish in any assessment year, a reserve fund for the maintenance, repair and replacement of Common Areas and any improvements thereon, or for the future construction or improvement thereon. Any funds so collected shall be designated by the Board of Directors as capital contributions by the members thereof and shall be segregated and placed in a separate bank account of the Association to be utilized solely for the purposes aforesaid.

Section 6. 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 thirty (30) days, nor more than sixty (60) days, in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast 60% of all of 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 the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 7. Rate of Assessment. All assessments shall be levied on each Lot equally; that is, each Lot shall pay the same percentage assessment as every other Lot in the Properties.

Section 8. Due Dates For Assessment Payments. Unless otherwise determined by the Board of Directors, all assessments shall be paid monthly, in advance, and shall be due and payable to the Association at its office, without notice, on the first day of each month.

Section 9. Date of Commencement of Annual Dues. The annual assessments provided for herein shall commence as

to all Lots on the first day of the month following the date of the first occupancy of the residence located on each Lot. 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. Written notice of the annual assessment shall be sent to every Owner subject thereto. 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 10. Effect of Non-Payment of Assessments, Remedies of the Association. If any assessment is not paid within fifteen (15) days after the due date, then the Board of Directors may assess a "late charge" in an amount not exceeding Ten Dollars (\$10.00) and the assessment shall bear interest from the due date at the rate of 15% 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 Lot. 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 11. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. The 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 assessment as to payments which became due prior to such sale or transfer. No sale or transfer shall release such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE VI
Architectural Control

Section 1. Authorized Improvements. All residences and fences erected on all Lots shall be constructed solely and exclusively in conformity with the plans and specifications therefor furnished to the Owner by the Declarant upon the conveyance of the Lot to the Owner; provided, however, the interior of residences may be altered and modified to the extent that they do not affect the exterior thereof.

Section 3: Location of Improvements. Each residence and each fence erected upon each Lot shall be located precisely in the location designated by the Declarant and as depicted on the plat of each Lot furnished to the Owner by the Declarant upon conveyance of the Lot to the Owner.

Section 4. Modification and Alteration of Improvements. No residence, fence, or shed shall be modified or altered in any respect subsequent to the initial erection or construction thereof, including changing the color thereof, without the consent of the DCC being first obtained in writing.

Section 5. Appeal of Action of DCC. In the event any Owner is aggrieved by the action taken by the DCC, he may appeal such action to the Board of Directors. The Board of Directors may:

- (a) Reverse or modify the action of the DCC;
- (b) Return the same to the DCC for further action; or
- (c) Affirm such action.

Appeal must be taken in writing to the Board of Directors within fifteen (15) days following the decision of the DCC. The Board of Directors shall take action on the appeal within thirty (30) days from date of lodging of the appeal. Failure of the Board of Directors to act within such period of time shall be deemed an affirmation of the action of the DCC.

Section 6. No Liability. Neither the Board of Directors nor the DCC shall be liable in damages to any Owner by reason of any action, failure to act, approval, disapproval or failure to approve or disapprove, with regard to any request hereunder. Each Owner hereby agrees and

covenants that he will not bring any action or suit to recover damages against the Board of Directors or the DCC, its members as such as individuals, or its advisors, employees or agents.

Section 7. Records. The DCC shall keep and safeguard for at least five (5) years complete permanent records of all applications for approvals, and all actions taken by it under the provisions hereof.

ARTICLE VII
Uses and Restrictions

Section 1. Single Family Only. Each Lot shall be used for single family residential purposes only.

Section 2. Common Area Uses. No improvements of any kind or nature shall be constructed, altered, or allowed to remain on any Common Area, except as shall be approved by the Board of Directors.

Section 3. Easements.

There is hereby created a blanket easement upon, across, over and under all of the Properties for ingress, egress, installation, replacement, repair and maintenance of all utilities, including, but not limited to, water, sewer, gas, telephone and television. An easement is further granted to all law enforcement, fire protection, trash removal, ambulance and other similar and necessary entities to enter Common Areas in performance of their duties.

Section 4. Resubdivision Prohibited. No Lot shall be divided into two or more Lots, nor conveyed or encumbered in any less than the full original dimensions.

Section 5. Rubbish and Trash Disposal. No rubbish or trash shall be stored on any Lot outside of the improvements situate thereon and shall be deposited in receptacles provided for the same by the Association at locations depicted on the plat of the Properties, or such other locations as shall from time to time be determined by the Association.

Section 6. Pets. The occupants of each unit shall be entitled to house no more than one (1) dog not in excess of thirty (30) pounds in weight, and two (2) cats which shall be in full compliance with all ordinances and resolutions of the City of Rifle, Colorado, and which shall further be restricted to the confines of the Lot of each Owner unless under the immediate control of the Owner thereof. Such maintenance of dogs and cats shall be further subject to such rules and regulations as shall be promulgated by the Association.

Section 7. Exterior Lights. All exterior lights and light standards shall be approved by the DCC for harmonious development and prevention of lighting nuisances.

Section 8. Burning Prohibited. The outside burning of any trash, rubbish or other materials shall be absolutely prohibited. Standard and approved exterior barbecues and

portable cooking appliances shall be allowed for the preparation of foodstuffs only.

Section 9. Parking. All parking spaces shall be used for the parking of automobiles and pick-up trucks not exceeding 3/4 ton in weight only. All such vehicles shall be operative, shall be currently licensed and shall bear a valid safety inspection sticker issued by the State of Colorado. Vehicles shall be moved at the request of the Association to facilitate snow removal and cleaning. No recreational vehicles shall be parked on the Properties without the express written consent of the Association and a specific parking location assigned to each such vehicle.

Section 10. Storage. All storage must be within a structure on each Lot. No storage upon the open space within each Lot shall be allowed.

Section 11. Roof Structures Prohibited. No structures, equipment or apparatus, such as TV and radio aerials, heating or cooling units or other such items shall be affixed to or be allowed to be located on any roof located in the Properties.

Section 12. Maintenance of Improvements. All improvements on each Lot shall be maintained in good repair, which shall include, but not necessarily be limited to, the following: paint, repair, replace and care for roof and gutters, downspouts and exterior building surfaces, trim and fences and storage sheds. The color of a structure or fence shall not be changed without the approval of the DCC being first obtained in writing. In the event any Owner fails to provide such maintenance, the Association may cause the same to be accomplished at the cost of the Owner and such cost collected as an additional assessment against the Lot as provided in Article V hereof.

Section 13. Maintenance of Lots. All clotheslines, equipment, garbage cans, wood piles or storage piles shall be kept within the yard so as to conceal them from view of neighboring Lots and streets. All rubbish, trash, or garbage shall be regularly removed from the Lots, and shall not be allowed to accumulate thereon.

Section 14. Signs and Commercial Use. No advertising sign (except one of not more than five square feet and containing the words "For Sale" or "For Rent" per Lot), billboards,

unsightly objects or nuisances shall be erected, placed or permitted to remain on the Common Area or any Lot. Further, no business activities of any kind whatever shall be conducted on any Lot or in any portion of the Property.

Section 15. Damage to Common Areas. Damage to any portion of the Common Areas and improvements located thereon caused by an Owner or his family or guests shall be paid for by said Owner. The term "damage" shall not include ordinary wear and tear.

Section 16. Noxious Activities. The Owner of any Lot shall not suffer or permit any noxious or offensive activity to be conducted, carried on or practiced on his Lot or within his residence, or on the Common Area nor shall any activities be allowed which constitute nuisance as provided by law, or that will detract from the residential value, reasonable enjoyment and quality of the Properties.

Section 17. Utilities Within Lots. All utilities and related equipment installed within or located on a Lot commencing at a point where the utility lines, pipes, wires, conduits, systems, or other related equipment enters the Lot shall be maintained and kept in repair by the Owner of the Lot.

Section 18. Common Mail Receptacles. No individual mail receptacles shall be allowed. Mail receptacles shall be provided by the Association and shall be located throughout the Properties as determined by the Board of Directors.

Section 19. Declarant's Use During Development. Notwithstanding any provisions herein contained to the contrary, it shall be expressly permissible for the Declarant to maintain during the period of construction and sale of the Lots and residences, upon such portion of the Properties as the Declarant may choose, such facilities as in its sole opinion may be reasonably required, convenient or incidental to the construction and sale of said Lots and residences, including, but without limitation, a business office, storage area, construction yards, signs, model units and sales office.

Section 20. No Liability. The Board of Directors shall not be liable in damages to any Owner by reason of its exercise of control over the operation of the Properties. Each Owner, by recordation of the deed to a Lot, covenants and agrees that he will not bring an action or suit to

recover damages against the Board of Directors, its members as individuals or its advisors, for damages to any person or property occurring upon the Properties.

ARTICLE VIII

Common Area Maintenance and Insurance

Section 1. Maintenance. The Association shall provide and maintain all landscaping upon the Common Area, maintain the fences, parking areas and driveways, provide all snow removal upon all parking areas, driveways and sidewalks and govern the removal and collection of garbage and trash from the Common Areas.

Section 2. Insurance. The Association shall obtain and maintain in force at all times a broad form public liability insurance policy, or similar substitute, covering the Common Area and the acts of the Association and its agents. Such insurance may include coverage against vandalism and the Association may maintain any and all other insurance coverage as the Board may deem advisable. In the event of loss, damage, or destruction to any property covered by insurance written in the name of the Association, the Board of Directors shall, upon receipt of the insurance proceeds, contract to repair, reconstruct, or rebuild any damaged or destroyed portions of the Common Area to as good condition as formerly existed.

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. All costs and expenses of enforcement proceedings by the Association, including reasonable attorney fees, shall be taxed to the Owner against whom such proceedings are instituted. All such costs shall be a lien in favor of the Association against the Lot or Lots of the Owner and may be collected in the same fashion as assessments. 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 nowise affect any other provision which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the Properties 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 by an instrument signed by not less than 75% of the Lot Owners. Any amendment must be recorded.

IN WITNESS WHEREOF the Declarant has caused its name to be hereunto subscribed this 7 day of Jan 1980.

CREEKSIDE TOWNHOMES

By Ann C. Robinson
Ann C. Robinson

STATE OF COLORADO)
) ss.
COUNTY OF GARFIELD)

The foregoing instrument was acknowledged before me this 7th day of Jan, 1980 by Ann C. Robinson for Creekside Townhomes.

Witness my hand and official seal.

My commission expires: My Commission Expires Mar 28, 1983

John J. Jull
Notary Public

EXHIBIT A

A parcel of land situate in the SW 1/4 NW 1/4 and the NW 1/4 SW 1/4 of Section 9, Township 6 South, Range 93 West of the 6th Principal Meridian, and more particularly described as follows:

Beginning at the Northeast corner of the SW 1/4 of Section 9, thence along the East line of said SW 1/4 $S00^{\circ}17'35''E$ 175.03 feet to a point on the westerly right-of-way of Whiteriver Avenue, the True Point of Beginning; thence continuing along said East line of the SW 1/4 $S00^{\circ}17'35''E$ 659.81 feet, whence the street monument located at the intersection of 5th Street and Whiteriver Avenue bears $S00^{\circ}22'00''E$ 1748.30 feet; thence leaving said East line of the SW 1/4 $S89^{\circ}42'25''W$ 221.70 feet to a point on the East line of East Avenue; thence along the East line of East Avenue $N00^{\circ}17'35''W$ 834.84 feet; thence leaving said East line $N89^{\circ}42'25''E$ 6.70 feet; thence $N26^{\circ}26'25''E$ 304.55 feet; thence $N89^{\circ}42'25''E$ 42.50 feet to a point on the westerly right-of-way of Whiteriver Avenue; thence along said westerly right-of-way $S00^{\circ}17'35''E$ 181.09 feet; thence 269.09 feet along an arc of a curve to the left, the chord of which is $S07^{\circ}53'49''E$ 268.30 feet to the True Point of Beginning.

Said parcel of land contains 4.87 acres more or less;