

DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS

400
FEB 18 1975
MARJORIE PAGE, Recorder

BOOK 2311 PAGE 495

THIS DECLARATION, MADE OF THE DATE HEREINAFTER SET FORTH BY MEDEMA HOMES, INC., A COLORADO CORPORATION, HERINAFTER REFERRED TO AS "DECLARANT".

W I T N E S S E I H:

WHEREAS, DECLARANT IS THE OWNER OF CERTAIN PROPERTY IN THE COUNTY OF ARAPAHOE, STATE OF COLORADO, WHICH IS LEGALLY DESCRIBED AS FOLLOWS, (HEREINAFTER SOMETIMES REFERRED TO AS THE EL VISTA SUBDIVISION):

LOTS 1-214, INCLUSIVE, EL VISTA SUBDIVISION, COUNTY OF ARAPAHOE, STATE OF COLORADO.

NOW THEREFORE, DECLARANT HEREBY DECLARES THAT ALL OF THE REAL PROPERTY DESCRIBED ABOVE SHALL BE HELD, SOLD AND CONVEYED SUBJECT TO THE FOLLOWING EASEMENTS, RESTRICTIONS, COVENANTS, AND CONDITIONS, WHICH ARE FOR THE PURPOSE OF PROTECTION THE VALUE AND DESIRABILITY OF, AND WHICH SHALL RUN WITH, SAID REAL PROPERTY AND BE BINDING ON ALL PARTIES HAVING ANY RIGHT, TITLE OR INTEREST IN SAID REAL PROPERTY OR ANY PART THEREOF, THEIR HEIRS, SUCCESSORS AND ASSIGNS, AND SHALL INURE TO THE BENEFIT OF EACH OWNER THEREOF.

ARTICLE I
DEFINITIONS

SECTION 1. "COMMITTEE" SHALL MEAN AND REFER TO THE BROOKHAVEN ARCHITECTURAL CONTROL COMMITTEE, ITS SUCCESSORS AND ASSIGNS.

SECTION 2. "OWNER" SHALL MEAN AND REFER TO THE RECORD OWNER, WHETHER ONE OR MORE PERSONS OR ENTITIES, OF A FEE SIMPLE TITLE TO ANY LOT WHICH IS A PART OF THE PROPERTIES INCLUDING CONTRACT SELLERS, BUT EXCLUDING THOSE HAVING SUCH INTEREST MERELY AS SECURITY FOR THE PERFORMANCE OF AN OBLIGATION.

SECTION 3. "PROPERTIES" SHALL MEAN AND REFER TO THAT CERTAIN REAL PROPERTY HEREINBEFORE DESCRIBED, AND REFERRED TO AS THE EL VISTA SUBDIVISION.

SECTION 4. "LOT" SHALL MEAN AND REFER TO ANY PLOT OF LAND SHOWN UPON ANY RECORDED SUBDIVISION MAP OF THE PROPERTIES, EXCLUDING ROAD, STREETS, ETC.

SECTION 5. "DECLARANT" SHALL MEAN AND REFER TO MEDEMA HOMES, INC., ITS SUCCESSORS AND ASSIGNS.

ARTICLE II
ARCHITECTURAL CONTROL

SECTION 1. ARCHITECTURAL CONTROL COMMITTEE: THERE IS HEREBY CREATED THE BROOKHAVEN ARCHITECTURAL CONTROL COMMITTEE, HEREINAFTER REFERRED TO AS "COMMITTEE", FOR THE PURPOSE OF MAINTAINING, WITHIN THE EL VISTA SUBDIVISION, A STYLE AND NATURE OF BUILDING DESIGN WHICH IS HOMOGENEOUS TO THE AREA'S PHYSICAL SETTING.

MEMBERSHIP: THE COMMITTEE IS COMPOSED OF DAVID W. MOUNIER,
WAYNE E. MONSON, AND CARL CAGLE.

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THE COMMITTEE SHALL ADOPT REASONABLE RULES AND REGULATIONS, FIX THE TIME AND PLACE OF ITS REGULAR MEETINGS, APPOINT A CHAIRMAN AND SECRETARY, AND KEEP MINUTES OF THE MEETINGS WHICH SHALL BE OPEN FOR INSPECTION BY ANY OWNER, UPON APPROVAL OF A MEMBER OF THE COMMITTEE.

ALL DECISIONS OF THE COMMITTEE SHALL BE BY MAJORITY VOTE, PROVIDED THAT A MAJORITY OF THE COMMITTEE MAY DESIGNATE A REPRESENTATIVE TO ACT FOR IT. IN THE EVENT OF DEATH OR RESIGNATIONS OF ANY MEMBER OF THE COMMITTEE, THE REMAINING MEMBERS SHALL HAVE FULL AUTHORITY TO DESIGNATE A SUCCESSOR. IN THE EVENT NO VOLUNTEER SUCCESSOR CAN BE FOUND, THE REMAINING MEMBERS SHALL DESIGNATE ANY OWNER OF A LOT AS SUCCESSOR. THE MEMBERS OF THE COMMITTEE SHALL NOT BE ENTITLED TO ANY COMPENSATION FOR SERVICES PERFORMED PURSUANT TO THIS COVENANT. AT ANY TIME, THE THEN RECORDED OWNERS OF A MAJORITY OF THE LOTS SHALL HAVE THE POWER THROUGH A DULY RECORDED WRITTEN INSTRUMENT TO CHANGE THE MEMBERSHIP OF THE COMMITTEE, TO INCREASE OR DECREASE ITS NUMBER, OR TO WITHDRAW ANY MEMBER FROM THE COMMITTEE.

IT SHALL REMAIN THE PREROGATIVE AND IN THE JURISDICTION OF THE COMMITTEE TO REVIEW APPLICATIONS AND GRANT APPROVAL FOR EXCEPTIONS TO THIS DECLARATION. VARIATIONS AND DEVIATIONS FROM THESE REQUIREMENTS AND RESTRICTIONS MAY BE MADE ONLY WHEN SUCH EXCEPTIONS, VARIATIONS AND DEVIATIONS DO NOT IN ANY WAY DETRACT FROM APPEARANCE AND AESTHETIC QUALITIES OF THE PROPERTIES, AND ARE NOT IN ANY WAY DETRIMENTAL TO THE PROPERTY VALUES OF INDIVIDUALS LOCATED IN THE VICINITY OR IN ANY WAY DETRIMENTAL TO THE GENERAL PUBLIC HEALTH, SAFETY OR WELFARE.

SECTION 2. CONTROL: NO BUILDING, FENCE, WALL, OR OTHER STRUCTURE SHALL BE ERECTED OR ALTERATIONS MADE ON ANY BUILDING UNTIL THE CONSTRUCTION PLANS AND SPECIFICATIONS REGARDING QUALITY OF WORKMANSHIP, TYPE OF MATERIALS, AND HARMONY OF EXTERNAL DESIGN SHALL HAVE BEEN APPROVED BY THE COMMITTEE ALSO A SITE PLAN SHALL BE SUBMITTED TO THE COMMITTEE, FOR THEIR APPROVAL, SHOWING THE LOCATION OF SAID PROPOSED STRUCTURE WITH RESPECT TO TOPOGRAPHY, FINISH GRADE ELEVATION AND ANY EXISTING STRUCTURES ON OR ADJACENT TO SAID BUILDING SITE. EACH OWNER SHALL PROVIDE, AT HIS COST, ONE COMPLETE SET OF HOUSE PLANS, SPECIFICATIONS, SITE AND GRADE PLANS, TO THE COMMITTEE AT LEAST THIRTY (30) DAYS PRIOR TO THAT DATE ACTUAL CONSTRUCTION IS SCHEDULED TO COMMENCE ON HIS RESIDENCE.

SHOULD THE COMMITTEE FAIL TO APPROVE OR DISAPPROVE THE PLANS AND SPECIFICATIONS SUBMITTED TO IT BY THE OWNER OF A LOT IN THE PROPERTIES WITHIN THIRTY (30) DAYS AFTER WRITTEN REQUEST THEREOF, THEN SUCH APPROVAL SHALL NOT BE REQUIRED, PROVIDED, HOWEVER, THAT NO BUILDING OR OTHER STRUCTURE SHALL BE ERECTED OR BE ALLOWED TO REMAIN ON ANY LOT WHICH VIOLATES ANY OF THE COVENANTS OR RESTRICTIONS CONTAINED HEREIN. THE ISSUANCE OF A BUILDING PERMIT OR LICENSE, WHICH MAY BE IN CONTRAVENTION OF THESE PROTECTIVE COVENANTS, SHALL NOT PREVENT THE COMMITTEE FROM ENFORCING THESE PROVISIONS.

ARTICLE III

USE RESTRICTIONS

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SECTION 1. RESIDENTIAL USE: NO LOT OR LOTS EMBRACED IN THE PROPERTIES SHALL BE USED FOR OTHER THAN SINGLE FAMILY RESIDENCE PURPOSE. THERE SHALL NOT EXIST ON ANY LOT AS SHOWN ON THE PLAT RECORDED AT THE ARAPAHOE COUNTY CLERK AND RECORDER'S OFFICE AT ANY TIME MORE THAN ONE RESIDENCE. ALL BUILDINGS OR STRUCTURES ERECTED UPON SAID PROPERTY SHALL BE OF NEW CONSTRUCTION. NO GARAGE, CARPORT OR PORCH SHALL BE CONSTRUCTED EXCEPT AS AN INTEGRAL PART OF THE RESIDENCE IT IS INTENDED TO SERVE. ANY GARAGE OR CARPORT SHALL NOT HOLD MORE THAN THREE CARS.

SECTION 2. BUILDING STANDARDS: ALL STRUCTURES SHALL CONFORM WITH THE CURRENT EDITION OF THE UNIFORM BUILDING CODE PUBLISHED BY THE INTERNATIONAL CONFERENCE OF BUILDING OFFICIALS AS A GUIDE FOR SOUND CONSTRUCTION; FURTHERMORE, ALL BUILDINGS SHALL CONFORM TO CURRENT EDITIONS OF THE NATIONAL ELECTRIC AND NATIONAL PLUMBING CODES.

SECTION 3. BUILDING HEIGHT: THE DESIGNATED MAXIMUM BUILDING HEIGHT SHALL BE CONSIDERED AS THE VERTICAL DISTANCE FROM THE AVERAGE FINISHED GROUND LEVEL OF THE BUILDING SITE TO THE HIGHEST POINT OF THE STRUCTURE DIRECTLY ABOVE SAID GROUND LEVEL. THE DESIGNATED MAXIMUM BUILDING HEIGHT REQUIREMENTS MAY BE WAIVED BY THE COMMITTEE WHEN IN THEIR OPINION, SUCH STRUCTURES RELATE TO SOUND ARCHITECTURAL PLANNING AND LAND USE, AND CONFORM TO THE OVERALL DESIGN AND PATTERN OF THE DEVELOPMENT.

SECTION 4. DWELLING COST, QUALITY AND SIZE: NO DWELLING SHALL BE PERMITTED ON ANY LOT AT A COST OF LESS THAN \$10,000.00 BASED UPON COST LEVELS PREVAILING ON THE DATE THESE COVENANTS ARE RECORDED, IT BEING THE INTENTION AND PURPOSE OF THIS COVENANT TO ASSURE THAT ALL DWELLINGS SHALL BE OF A QUALITY OF WORKMANSHIP AND MATERIALS SUBSTANTIALLY THE SAME OR BETTER THAN THAT WHICH CAN BE PRODUCED ON THE DATE THESE COVENANTS ARE RECORDED AT THE MINIMUM COST STATED HEREIN FOR THE MINIMUM PERMITTED DWELLING SIZE. THE GROUND FLOOR AREA OF THE MAIN STRUCTURE, EXCLUSIVE OF ONE-STORY OPEN PORCHES AND GARAGES, SHALL BE NOT LESS THAN 800 SQUARE FEET FOR A ONE-STORY DWELLING, NOR LESS THAN 700 SQUARE FEET FOR A DWELLING OF MORE THAN ONE STORY.

SECTION 5. LOT AREA AND WIDTH: NO DWELLING SHALL BE ERECTED OR PLACED ON ANY LOT HAVING A WIDTH OF LESS THAN 50 FEET AT THE BUILDING SETBACK LINE.

SECTION 6. TIME FOR CONSTRUCTION: AT THE TIME PLANS AND SPECIFICATIONS RECEIVE APPROVAL FROM THE COMMITTEE, THE PROSPECTIVE BUILDER SHALL PROCEED DILIGENTLY WITH CONSTRUCTION OF SAID BUILDING, AND THE SAME SHALL BE READY FOR OCCUPANCY WITHIN A MAXIMUM PERIOD OF ONE (1) YEARS, TIME FROM THE DATE OF COMMENCEMENT; EXCEPTING, HOWEVER, THAT THIS PERIOD MAY BE EXTENDED AS MAY BE DEEMED REASONABLE BY THE COMMITTEE IF SAID EXTENSION IS MADE NECESSARY BY REASON OF INCLEMENT WEATHER, INABILITY TO OBTAIN MATERIALS, STRIKES, ACT OF GOD, ETC.

SECTION 7. OCCUPANCY OF STRUCTURE: NO STRUCTURE SHALL BE OCCUPIED OR USED FOR THE PURPOSE FOR WHICH IT WAS DESIGNED OR BUILT UNTIL THE SAME SHALL BE APPROVED AND/OR INSPECTED BY THE COUNTY BUILDING INSPECTOR OR SUCH OTHER OFFICIAL DESIGNATED BY ARAPAHOE COUNTY. NO STRUCTURE ERECTED UPON ANY LOT SHALL BE OCCUPIED IN ANY MANNER WHILE IN THE COURSE OF CONSTRUCTION NOR AT ANY TIME PRIOR TO ITS BEING FULLY COMPLETED, AS HEREIN REQUIRED.

SECTION 8. BUILDING EXTERIOR: THE EXTERIOR PORTIONS OF ALL BUILDINGS SHALL HAVE MANUFACTURED FINISHED SURFACE MATERIALS, NATURAL STONE OR SHALL BE PAINTED OR STAINED UPON COMPLETION SO THAT ALL EXPOSED SURFACES SHALL HAVE A FINISHED APPEARANCE.

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SECTION 9. AIR-CONDITIONING UNITS: NO AIR-CONDITIONING UNIT, EVAPORATIVE COOLER OR OBJECT OTHER THAN A RADIO OR T.V. ANTENNA SHALL BE PLACED UPON THE ROOF OF ANY RESIDENCE OR BUILDING EXCEPT OR UNLESS SUCH AIR-CONDITIONING UNIT IS ARCHITECTURALLY CONCEALED FROM VIEW AND PLANS FOR CONCEALMENT HAVE BEEN SUBMITTED TO AND APPROVED BY THE COMMITTEE.

SECTION 10. OFF - STREET PARKING: AT LEAST ONE OFF-STREET PARKING SPACE SHALL BE REQUIRED FOR EACH RESIDENCE.

SECTION 11. CLEARING OF TREES AND GRADING: ALL THE TREES CLEARED WILL BE DISPOSED OF IN SUCH A WAY THAT ALL LOTS, WHETHER VACANT OR OCCUPIED BY A RESIDENCE, SHALL BE KEPT FREE OF ACCUMULATIONS OF BRUSH, TRASH OR OTHER MATERIALS WHICH MAY CONSTITUTE A FIRE HAZARD OR RENDER A LOT UNSIGHTLY, PROVIDED, HOWEVER, THAT THIS SHALL NOT OPERATE OR RESTRICT GRANTEEES FROM STORING FIREPLACE WOOD IN NEAT STACKS ON THEIR LOTS.

UNDER NO CIRCUMSTANCES SHALL THE OWNER OF ANY LOT OR PARCEL OF LAND DISTURB THE NATURAL SOIL OR GRASSES UNLESS THE OWNER IMMEDIATELY THEREAFTER CONSTRUCTS UPON, PAVES, GRAVELS OR REPLANTS SUCH AREA WITH GROUND COVER APPROVED BY THE COMMITTEE. THE GROUND MAY BE CULTIVATED FOR GARDENING, PROVIDED, HOWEVER, THAT NO GARDEN IS MAINTAINED FOR COMMERCIAL PURPOSES.

A GRADING PLAN SHALL BE PRESENTED TO THE COMMITTEE FOR THEIR APPROVAL PRIOR TO COMMENCING CONSTRUCTION OF ANY RESIDENCE UNIT ON ANY LOT AND NO ADDITIONAL GRADING ON ANY LOT SHALL BE PERMITTED WITHOUT PRIOR APPROVAL BY THE COMMITTEE.

SECTION 12. UNNATURAL DRAINAGE: UNDER NO CIRCUMSTANCES SHALL ANY OWNER OF ANY LOT OR LAND PARCEL BE PERMITTED TO DELIBERATELY ALTER THE TOPOGRAPHIC CONDITIONS OF HIS LOT OR LAND PARCEL IN ANY WAY THAT WOULD PERMIT UNUSUAL ADDITIONAL QUANTITIES OF WATER FROM ANY SOURCE, OTHER THAN WHAT NATURE ORIGINALLY INTENDS, TO FLOW FROM HIS PROPERTY ONTO ANY OTHER PROPERTY OR PUBLIC RIGHT-OF-WAY. THE ELEVATION OF A LOT SHALL NOT BE CHANGED SO AS TO MATERIALLY AFFECT THE SURFACE ELEVATION OR GRADE OF THE SURROUNDING LOTS. NO ROCK, GRAVEL OR CLAY SHALL BE EXCAVATED OR REMOVED FROM ANY PROPERTY FOR COMMERCIAL PURPOSES.

SECTION 13. TEMPORARY RESIDENCES: NO STRUCTURE OF TEMPORARY CHARACTER, NO TRAILER, CONVERTED TRAILER, MOBILE HOME, BASEMENT, TENT OR ACCESSORY BUILDING SHALL BE USED ON ANY LOT AS A RESIDENCE, TEMPORARILY OR PERMANENTLY, AND NO USED STRUCTURE OF ANY SORT SHALL BE MOVED ONTO ANY LOT, EXCEPT THAT THE COMMITTEE MAY APPROVE THE USE OF TRAILERS OR MOBILE HOMES FOR A DESIGNATED LENGTH OF TIME, NOT TO EXCEED SIX (6) MONTHS, TO BE USED SOLELY FOR A TEMPORARY RESIDENCE OR CONSTRUCTION HEADQUARTER DURING THE CONSTRUCTION OF THE PERMANENT RESIDENCE. THE APPROVAL IN THE ABOVE CASE BY THE COMMITTEE IS EXPRESSLY SUBJECT TO THE APPROVAL AND ISSUANCE OF A PERMIT IN EACH CASE BY THE COUNTY OF ARAPAHOE.

SECTION 14. SIGHT DISTANCE AT INTERSECTIONS: ON CORNER LOTS, NO PLANTING OF SHRUBS, TREES OR FLOWERS OR THE ERECTION OF ANY FENCE OR STRUCTURE OVER 30 INCHES ABOVE THE ROADWAYS SHALL BE PLACED OR PERMITTED TO REMAIN ON ANY CORNER LOT WITHIN THE TRIANGULAR AREA FORMED BY THE STREET PROPERTY LINES AND A LINE CONNECTING THEM AT POINTS 25 FEET FROM THE INTERSECTION OR THE STREET LINES, OR IN THE CASE OF ROUNDED PROPERTY CORNER FROM THE INTERSECTION OF THE STREET PROPERTY LINES EXTENDED.

SECTION 15. NUISANCE: NOTHING SHALL BE DONE OR PERMITTED ON THE PROPERTIES WHICH MAY BE OR BECOME AN ANNOYANCE OR NUISANCE TO THE SUB-DIVISION-DEVELOPMENT. NO NOXIOUS OR OFFENSIVE ACTIVITIES OR COMMERCIAL BUSINESS OR TRADE SHALL BE CARRIED ON OR UPON A LOT. NO LOT SHALL BE USED IN WHOLE OR IN PART FOR THE STORAGE OF ANY PROPERTY OR THING THAT WILL CAUSE SUCH LOT TO APPEAR IN AN UNCLEAN OR UNTIDY CONDITION OR THAT WILL BE OBNOXIOUS TO THE EYE; NOR SHALL ANY SUBSTANCE, THING, OR MATERIAL EMIT FOUL OR OBNOXIOUS ODORS, OR THAT WHICH WILL CAUSE ANY NOISE THAT WILL OR MIGHT DISTURB THE PEACE, QUIET, COMFORT OR SERENITY OF THE OCCUPANTS OF SURROUNDING PROPERTY.

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SECTION 16. GARBAGE AND REFUSE DISPOSAL: NO LOT SHALL BE USED OR MAINTAINED AS A DUMPING GROUND FOR RUBBISH, TRASH, GARBAGE, OR OTHER WASTE SHALL NOT BE KEPT EXCEPT IN SANITARY CONTAINERS. ALL INCINERATORS OR OTHER EQUIPMENT FOR THE STORAGE OR DISPOSAL OF SUCH MATERIAL SHALL BE KEPT IN A CLEAN AND SANITARY CONDITION.

SECTION 17. WALLS: NO BOUNDARY WALL OR FENCE SHALL BE CONSTRUCTED WITH A HEIGHT OF MORE THAN SIX FEET AND NO BOUNDARY LINE HEDGE OR SHRUBBERY SHALL BE PERMITTED WITH A HEIGHT OF MORE THAN SIX FEET. NO WALL OR FENCE OF ANY HEIGHT SHALL BE CONSTRUCTED ON ANY LOT UNTIL AFTER THE HEIGHT, TYPE, DESIGN, AND APPROXIMATE LOCATION THEREFORE SHALL HAVE BEEN APPROVED IN WRITING BY THE COMMITTEE. THE HEIGHTS OR ELEVATIONS OF ANY WALL OR FENCE SHALL BE MEASURED FROM THE EXISTING ELEVATIONS OF THE PROPERTY AT OR ALONG THE APPLICABLE POINTS OR LINES. ANY QUESTIONS AS TO SUCH HEIGHTS MAY BE COMPLETELY DETERMINED BY THE COMMITTEE.

SECTION 18. TANKS, ETC. NO ELEVATED TANKS OF ANY KIND SHALL BE ERECTED, PLACED, OR PERMITTED ON ANY PART OF SUCH PREMISES, PROVIDED, THAT NOTHING HEREIN SHALL PREVENT THE PERMITTING OF THE PLACING OF TANKS AND OTHER WATER SYSTEM APPARATUS ON THE PROPERTIES. ANY TANKS FOR USE IN CONNECTION WITH ANY RESIDENCE CONSTRUCTED ON SUCH PREMISES, INCLUDING TANKS FOR THE STORAGE OF FUELS, MUST BE BURIED OR WALLED SUFFICIENTLY TO CONCEAL THEM FROM THE VIEW FROM NEIGHBORING LOTS, ROADS, OR STREETS. ALL GARBAGE CANS, EQUIPMENT, COOLERS, OR STORAGE PILES SHALL BE WALLED IN TO CONCEAL THEM FROM THE VIEW OF NEIGHBORING LOTS, ROADS, OR STREETS. PLANS FOR ALL ENCLOSURES OF THIS NATURE MUST BE APPROVED BY THE COMMITTEE PRIOR TO CONSTRUCTION.

SECTION 19. SIGNS: NO SIGN OF ANY CHARACTER SHALL BE DISPLAYED OR PLACED UPON ANY OF THE LOTS IN THE PROPERTIES EXCEPT ONE PROFESSIONAL SIGN OF NOT MORE THAN THREE SQUARE FEET IN AREA PER SIDE ADVERTISING THE PROPERTY FOR SALE, HOUSE NUMBERS, OCCUPANT'S NAME OR SIGNS USED BY A BUILDER TO ADVERTISE THE PROPERTY DURING ANY CONSTRUCTION AND SALES PERIOD. ALL SIGNS ARE SUBJECT TO THE APPROVAL OF THE COMMITTEE.

SECTION 20. SUBDIVISION OF LOTS: NONE OF THE LOTS SHALL AT ANY TIME BE DIVIDED, SUBDIVIDED OR RE-SUBDIVIDED UNLESS SAID DIVISION, SUBDIVISION OR RE-SUBDIVISION IS PERMITTED UNDER THE REGULATIONS, CODES AND ORDINANCES OF THE COUNTY OF ARAPAHOE, STATE OF COLORADO. IN THE EVENT OF SAID DIVISION, ALL PROPERTY THEREAFTER SHALL BE SUBJECT TO ALL OTHER PROVISIONS HEREOF.

SECTION 21. LIVESTOCK AND POULTRY: NO ANIMALS, LIVESTOCK, OR POULTRY OF ANY KIND SHALL BE RAISED, BRED OR KEPT ON ANY LOT, EXCEPT THAT DOGS, CATS, OR OTHER HOUSEHOLD PETS MAY BE KEPT PROVIDED THAT THEY ARE NOT KEPT, BRED OR MAINTAINED FOR ANY COMMERCIAL PURPOSE.

SECTION 22. MINING: NO DERRICK OR OTHER STRUCTURE DESIGNED FOR USE IN BORING FOR OIL OR NATURAL GAS SHALL BE ERECTED, PLACED, OR PERMITTED UPON ANY PART OF SUCH PREMISES, NOR SHALL ANY OIL, NATURAL GAS, PETROLEUM, ASPHALTUM, OR HYDRO-CARBON PRODUCTS OR MINERALS OF ANY KIND BE PRODUCED OR EXTRACTED THEREFROM.

SECTION 23. CONSTRUCTION. DECLARANT, DURING THE CONSTRUCTION PERIOD, SHALL HAVE THE RIGHT TO INGRESS AND EGRESS OVER THE PROPERTIES OWNED BY DECLARANT AND THE RIGHT TO STORE MATERIALS THEREON AND TO MAKE SUCH OTHER USE THEREOF AS IN ITS DISCRETION MAY BE NECESSARY TO COMPLETE ANY CONSTRUCTION THEREON. THE EXERCISE OF THE RIGHTS SECURED TO THE DECLARANT HEREIN SHALL NOT UNREASONABLY INTERFERE WITH THE RIGHTS OF ACCESS TO, OCCUPATION, USE AND ENJOYMENT BY ANY OWNER OF HIS RESIDENCE, PARKING AREA OR HIS ACCESS TO A PUBLIC WAY FROM HIS PREMISES.

ARTICLE IV

EASEMENTS

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SECTION 1. EASEMENTS. EASEMENTS FOR INSTALLATION AND MAINTENANCE OF UTILITIES AND DRAINAGE FACILITIES ARE RESERVED AS SHOWN ON THE RECORDED PLAT, OF EL VISTA SUBDIVISION. WITHIN THESE EASEMENTS, NO STRUCTURE, PLANTING OR OTHER MATERIAL SHALL BE PLACED OR PERMITTED TO REMAIN WHICH MAY DAMAGE OR INTERFERE WITH THE INSTALLATIONS AND MAINTENANCE OF UTILITIES, OR WHICH MAY CHANGE THE DIRECTION OF FLOW OF DRAINAGE CHANNELS IN THE EASEMENT 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.

ARTICLE V

GENERAL PROVISIONS

SECTION 1. ENFORCEMENT. THE COMMITTEE, OR ANY OWNER, SHALL HAVE THE RIGHT TO ENFORCE, BY A PROCEEDING AT LAW OR IN EQUITY, ALL RESTRICTIONS, CONDITIONS, COVENANTS AND RESERVATIONS, NOW OR HEREAFTER IMPOSED BY THE PROVISIONS OF THIS DECLARATION. FAILURE BY THE COMMITTEE 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 THIRTY (30) 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 THIRTY (30) YEAR PERIOD BY AN INSTRUMENT SIGNED BY THE OWNERS OF NOT LESS THAN NINETY PERCENT (90%) OF THE LOTS, AND THEREAFTER BY AN INSTRUMENT SIGNED BY THE OWNERS OF NOT LESS THAN SEVENTY-FIVE (75%) OF THE LOTS. ANY AMENDMENT MUST BE RECORDED.

SECTION 4. GENDER AND GRAMMAR. THE SINGULAR WHEREVER USED HEREIN SHALL BE CONSTRUED TO MEAN THE PLURAL WHEN APPLICABLE, AND THE NECESSARY GRAMMATICAL CHANGES REQUIRED TO MAKE THE PROVISIONS HEREOF APPLY EITHER TO CORPORATIONS OR INDIVIDUALS, MEN OR WOMEN, SHALL IN ALL CASES BE ASSUMED AS THOUGH IN EACH CASE FULLY EXPRESSED.

IN WITNESS WHEREOF, THE UNDERSIGNED, BEING THE DECLARANT, HAS EXECUTED THIS DECLARATION THIS 18th DAY OF April 1975.

MEDEMA HOMES, INC.

EXECUTIVE VICE PRESIDENT:

ATTEST: Mary Ellen Jones
SECRETARY - TREASURER

THE ABOVE AND FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS 18th DAY OF April 1975, BY M. J. Jones EXECUTIVE VICE PRESIDENT, AND M. E. Jones SECRETARY - TREASURER, FOR AND ON BEHALF OF MEDEMA HOMES, INC.

My COMMISSION EXPIRES: My Commission expires September 25, 1976.

NOTARY PUBLIC

233 APR 29 1976
MARJORIE PAGE, Recorder

1550355

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LEWIS ENGINEERING COMPANY

6199 SO. ADAMS DRIVE
LITTLETON, COLORADO
771-6065

BOOK 2442 PAGE 336

April 28, 1976

AFFIDAVIT

This is to certify that the Easterly, Northerly, and Southerly boundaries of El Vista Subdivision are the same as the Easterly, Northerly, and Southerly boundaries of the SW 1/4 of Section 20, Township 5 South, Range 67 West of the 6th P.M. and also reciting that the westerly boundary of said subdivision, including the Northerly and westerly boundaries of Weaver Place, tie to the boundaries of the W 1/2 NW 1/4, NE 1/4 SW 1/4 of said Section 20. (Affects Lots 82, 83 and 85 to 141)

Sincerely yours,
LEWIS ENGINEERING COMPANY

Charles J. Lewis
Charles J. Lewis

CJL:d1



ASSIGNMENT
OF
ARCHITECTURAL CONTROL COMMITTEE'S
RIGHTS, DUTIES AND OBLIGATIONS

FOR LOTS 1-214, INCLUSIVE, EL VISTA SUBDIVISION,
ARAPAHOE COUNTY, COLORADO

THIS IRREVOCABLE ASSIGNMENT is made this 10th day of July, 1997, by the undersigned persons who are the last known members of the Brookhaven Architectural Control Committee (hereinafter referred to as the "Assignors").

WHEREAS, Assignors are the duly empowered members of the Brookhaven Architectural Control Committee, as that term is defined by, and with all incidental rights, duties and obligations as set forth in that certain Declaration of Covenants, Conditions, and Restrictions dated _____ and recorded on February 18, 1975 in Book 2311 at page 495 in the records of Arapahoe County, Colorado (the "Covenants"); and

WHEREAS, the Covenants specifically set forth all of the rights, duties and obligations of the Brookhaven Architectural Control Committee in the administration and enforcement of the provisions of the Covenants on the real properties encumbered by the Covenants; and

WHEREAS, Assignee is a nonprofit corporation duly organized for the purpose of, among other things, assuming and discharging all such rights, duties and obligations.

NOW THEREFORE, for and in consideration of the mutual covenants contained herein, the receipt and sufficiency of which are hereby acknowledged, Assignors hereby irrevocably assign, transfer and set over onto CHERRY PARK HOMEOWNERS ASSOCIATION, INC., its successors and assigns, the entire right, title, interest, including all authority, obligations, responsibilities, duties, powers and rights of the Brookhaven Architectural Control Committee.

THIS ASSIGNMENT SHALL BE RECORDED IN ARAPAHOE COUNTY, COLORADO.

IN WITNESS WHEREOF, Assignors have caused this Assignment to be executed and delivered on the date first above written.

ASSIGNORS:

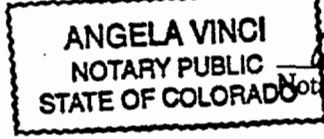
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DONETTA DAVIDSON
ARAPAHOE COUNTY

Wayne E. Mason

STATE OF Colorado)
) ss.
COUNTY OF Adams)

The foregoing document was acknowledged before me this 4th day of June, 1996, by Wayne E. Messer.
Witness my hand and official seal.

My commission expires: **MY COMMISSION EXPIRES 2/23/98**



Angela Vinci
Notary Public

STATE OF COLORADO)
) ss.
COUNTY OF DOUGLAS)

The foregoing document was acknowledged before me this ___ day of ___, 1997, by _____.
Witness my hand and official seal.

My commission expires:

Notary Public

STATE OF COLORADO)
) ss.
COUNTY OF DOUGLAS)

The foregoing document was acknowledged before me this ___ day of ___, 1997, by _____.
Witness my hand and official seal.

My commission expires:

Notary Public

3/4

ACCEPTANCE OF ASSIGNMENT
OF
ARCHITECTURAL CONTROL COMMITTEE'S
RIGHTS, DUTIES AND OBLIGATIONS

ASSIGNEE HEREBY ACCEPTS THE OBLIGATIONS OF BROOKHAVEN ARCHITECTURAL CONTROL COMMITTEE AND ASSUMES AND AGREES TO FULLY AND FAITHFULLY DISCHARGE ALL DUTIES, OBLIGATIONS, AND RESPONSIBILITIES AND TO RECEIVE ALL INCIDENTAL RIGHTS AND BENEFITS OF THE ARCHITECTURAL CONTROL COMMITTEE PURSUANT TO, AND IN FURTHERANCE OF, THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR LOTS 1-214, INCLUSIVE, EL VISTA SUBDIVISION, ARAPAHOE COUNTY, COLORADO.

ASSIGNEE:

CHERRY PARK HOMEOWNERS ASSOCIATION, INC.,
a Colorado nonprofit corporation

By: Bart W. Miller
President

By: _____

By: _____

STATE OF COLORADO)
City and) ss.
COUNTY OF ARAPAHOE DENVER)



The foregoing document was acknowledged before me this 10th day of July, 1997, by Bart W. Miller
Witness my hand and official seal.

My commission expires 12/9/2000

Susan Andrews
Notary Public

My Commission Expires Dec. 9, 2000

STATE OF COLORADO)
) ss.
COUNTY OF ARAPAHOE)

The foregoing document was acknowledged before me this ___ day of _____, 1997, by _____
Witness my hand and official seal.

My commission expires:

Notary Public

4/4

STATE OF COLORADO)
) ss.
COUNTY OF ARAPAHOE)

The foregoing document was acknowledged before me this ____ day of _____, 1997, by _____.

Witness my hand and official seal.

My commission expires:

Notary Public

CLERK AND RECORDER:

After recording, please return to:

Lynn S. Jordan
Orten Hindman & Jordan, P.C.
1099 - 18th Street, Suite 2750
Denver, Colorado 80202

W:\CLIENT\CHERRYPA\EVASSIGN