

OCT 15-1982

Declaration of Covenants, Conditions and Restrictions
Riverpark Estates

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THIS DECLARATION, made on the date hereinafter set forth by D. M. Young Construction Company, Inc., hereinafter referred to as "Declarant."

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in the City of Auburn, County of King, State of Washington, which is more particularly described as:

Riverpark Estates, a portion of the North 1/4 of the Southeast 1/4 of Section 6, Township 21 North, Range 5 East, W.M., City of Auburn, King County, Washington. Recorded in Vol. 121 of plats Pages 97-100

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

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ARTICLE I
DEFINITIONS

Section 1. "Association" shall mean and refer to Riverpark Estates Homeowners Association, its successors and assigns.

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

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

Section 4. "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 conveyance of the first Lot is described as follows:

All right-of-ways within the plat of Riverpark Estates as depicted on the recorded plat.

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Section 5. "Lot" shall mean and refer to any plot of land shown on any recorded subdivision map of the Properties with the exception of the Common Area.

Section 6. "Declarant" shall mean and refer to D. M. Young Construction Company, Inc., its successors and assigns if such successors or assigns should acquire more than one undeveloped lot from the Declarant for the purpose of development.

ARTICLE II
PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every owner shall have a right and easement for the use of all streets, designated Common Area, which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) the right and obligation of the Association to levy reasonable fees for the use and maintenance of any and all streets within and a part of the designated Common Area;

(b) the right of the City of Auburn, as conveyed by the Declarant, to suspend water service to any Lot in the case that duly levied association fees become delinquent in the part of the owner of that Lot;

(c) the right of the Association to suspend the voting rights of an owner for any period during which any assessment against his Lot remains unpaid; and for a period ~~not to exceed sixty days for any infraction of its published rules and regulations;~~

(d) the right of the Association to dedicate or transfer all or part of the Common Area to the City of Auburn for such purposes and subject to such conditions as may be mutually agreed to by the members and the City. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by two-thirds of each class of members has been recorded.

Section 2. See page 16

ARTICLE III
MEMBERSHIP AND VOTING RIGHTS

Section 1. Every owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not

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Be separated from ownership of any Lot which is subject to assessment.

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

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

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

- (a) When the total votes outstanding in the Class A membership equals the total votes outstanding in the Class B membership, or
- (b) on January 1, 1984.

ARTICLE IV.

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments

The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant, and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees shall be a charge on the land, and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the health, safety, and welfare of the residents in the Properties and for the improvement and maintenance of

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the Common Area.

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 seventy dollars (\$70.00) 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 10% 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 10% by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

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

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, 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 for this purpose.

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

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Section 6. Uniform Rate of Assessment. Both Annual and special assessments must be fixed at a uniform rate for all Lots and shall be collected on an annual basis.

Section 7. Date of Commencement of Annual Assessments: Due Dates. 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. Each Class A member shall pay his prorated share of the annual assessment at the time of closing of his purchase or at the time of first occupancy, whichever occurs first. If first occupancy takes place prior to closing, payment shall be made directly to the Association at 3402 'C' St. N.E., Auburn, Washington, or such other place as designated by the Board of Directors. Otherwise, the payment shall be collected by the designated escrow agent on behalf of the Association. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to each 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 issuance.

Section 8. Effect of Non-payment 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. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to Mortgage foreclosure or any 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 trans-

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fer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 10. Method of Collection of Assessments. The regular annual assessments shall be paid when due directly to the Association at its registered office. The Treasurer of the Association shall deposit all fees into an interest bearing account at Rainier National Bank, Auburn, Washington, or such other depository as shall be designated by the Board of Directors. Any special assessments shall be handled in like manner.

ARTICLE V

USE RESTRICTIONS

Section 1. Improvements. ~~No Lot shall be used for any purpose other than for single family residential purposes. No dwelling, residence, out-building, fence, wall, building, pool or other structure shall be erected, altered, placed or maintained on any Lot unless it shall comply with the following restrictions:~~

following:

- (a) All buildings and improvements on a Lot shall be of permanent construction, and no temporary structure, trailer, tent, garage, out-building or other similar device shall be placed on any Lot, except as provided for in this section. Garages, out-buildings and other such structures shall be permitted if the use thereof is appurtenant to an existing residential structure conforming herewith.
- (b) Prior to placing any structure or making any improvement on a Lot and prior to clearing and grading of a Lot, the plans and specifications for the structure or improvement shall be submitted to and approved by the Committee as provided in Article VI. When constructed or placed on the Lot, the improvement and structure shall substantially conform to the plans and specifications as approved by the Committee.
- (c) Prior to making any change or alteration to the external appearance of any improvement on a Lot, plans and specifications for the alteration and change shall be submitted to and approved by the Committee as provided in Article VI.
- (d) Each residential building in the Plat shall conform to the restrictions contained on the face of the Plat relating to setbacks and lot coverage.

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Section 2. Signs. No sign, billboard or other advertizing device shall be located, placed or maintained on the Properties, except that a sign not to exceed four square feet in area may be placed on a Lot to offer the property for sale or rent.

Section 3. Maintenance. Each Lot shall be maintained by the owner thereof in a neat, clean and sightly condition at all times and shall be kept free of accumulations of litter, junk, containers, equipment, building materials and debris. All refuse shall be kept in sanitary containers concealed from view of any Lot, and the contents shall be disposed of off the properties on a regular basis.

Section 4. Storage of Vehicles. ~~No recreational vehicle, including but not limited to, travel-trailers, boats, boat trailers and motor homes shall be permitted to park on the street or in any uncovered space upon a Lot.~~ All such vehicles shall be stored either in garages or carports and shall be ~~covered, with no portion protruding.~~ The length of the vehicle or divice shall not exceed twenty (20) feet and in the case of a trailered boat, the total length of the combination shall not exceed twenty (20) feet. ~~The Association shall have the authority to enforce these restrictions and to levy fines for violations as It deems appropriate. Such fines shall not exceed twenty-five dollars (\$25.00) per occurrence.~~

ARTICLE VI

ARCHITECTURAL CONTROL

Section 1. The Committee. The Directors of the Association shall comprise the Committee herein referred to. The address of the Committee shall be the registered office of the Association.

Section 2. Submission of Plans. All plans and specifications required to be submitted to the Committee shall be submitted by mail to the address of the Committee in duplicate, shall be in writing, shall contain the name and address of the person submitting the same and the Lot involved, and shall set forth the following with respect to the proposed structure: the location of the structure upon the Lot; the elevation of the proposed structure with reference to the existing and finished Lot grade; the general design; the interior layout; the exterior finish materials and color including roof materials; the landscape

plan; and such other information as may be required to determine whether structure conforms with these restrictions.

Section 3. Standards. The Committee shall have the authority to determine and establish standards involving aesthetic considerations of harmony of construction and color which It determines to be in the best interest of providing for attractive development of the Plat, which authority shall include but not be limited to the height, configuration, design and appearance of the dwelling and fences, walls, outbuildings, pools, and other structures appurtenant to the use of a dwelling. Such determinations may be amended and shall be binding on all parties.

Section 4. Approval or Disapproval. Within thirty days after the receipt of plans and specifications, the Committee shall by majority vote approve or disapprove such plans and specifications. Approval or disapproval shall be made upon one of the copies thereof and returned to the address shown on the plans and specifications. In the event that no disapproval of such plans and specifications is given within thirty days of submission in compliance herewith, such plans shall be deemed approved.

Section 5. Variations. The Committee shall have the authority to approve plans and specifications which do not conform to these restrictions in order to overcome practical difficulties or prevent hardships in the application of these restrictions; provided that such variations so approved shall not be materially injurious to the improvements of other Lots and shall not constitute a waiver of the restrictions herein contained but shall be in furtherance of the purposes and intent of these restrictions.

ARTICLE VII

LOT LINE EASEMENTS

Section 1. Creation. Whenever in the Plat a structure for a single family detached dwelling may be built so that a portion of the dwelling may be constructed along a lot line, then a lot line easement is hereby created for the benefit of the owner of the dwelling which easement is ten feet in width along the lot line of and entirely within the adjacent Lot for the purposes described and upon the conditions imposed in the Article.

Section 2. Purposes. The easement may be used by the dwelling owner for the following purposes and no other:

- (a) Access and temporary use to maintain and repair the foundation,

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roof and exterior of the structure which is built along the lot line, such as painting exterior walls, trim, gutters and downspouts; cleaning gutters; waterproofing foundations; installing, maintaining and repairing (including any necessary excavation) drain pipes, tiles, lines and other items incident to proper drainage and caulking exterior surfaces;

(b) To lay, install, maintain and repair (including any necessary excavation) necessary footings and foundations; roof overhangs; downspouts, gutters, drain lines and other items incident to proper drainage; and water, sewer and other utility pipes, lines and connections.

(c) Lateral support of the structure by the subsoil of the minerals in the adjoining Lot; and

(d) In the event of damage or destruction of the structure or its appurtenances in whole or in part, from any cause, to repair, rebuild or replace the structure, or to build a new one, and all footings, foundations, roof overhangs, downspouts, gutters, items for proper drainage, water, sewer and other utility pipes, lines and connections and such other appurtenances as are necessary or appropriate to repair or replace the structure.

Section 3. Conditions. The owner of the structure may exercise the easement rights subject to the following conditions:

(a) Except for overhangs, downspouts, drainage and footings built in the easement, occupation and use of the surface of the adjoining Lot subject to the easement, the airspace above it and the ground below, shall be only for as long as is reasonably necessary to accomplish with exercise of due diligence the maintenance, repairs or reconstruction contemplated;

(b) After the maintenance, repairs or reconstruction is completed, all excavations shall be filled in, any damage caused to the adjoining Lot or appurtenances and property located on it (including that to lawns and other landscaping) shall be repaired, and all tools, scaffolding, equipment and other materials and supplies used in affecting the maintenance, repairs or reconstruction shall be removed;

(c) Except in the case of emergency, prior notice shall be given to the owner or occupant of the adjoining Lot. The notice shall be of intention to use the easement, describing the project contemplated, the manner in which it is intended to accomplish the project and the estimated length of time required to complete the project. the notice need not be in writing

but must be reasonable in scope and time given the circumstances and in sufficient detail as to permit the owner or occupant of the adjoining Lot sufficient time and understanding so that reasonable steps may be taken to prepare for and accomodate the exercise of the easement rights; and

(d) All reasonable steps shall be taken to prevent or avoid any injury to or death of any person and to prevent, avoid or minimize damage to or destruction of any property within the easement or adjacent thereto as the result of exercise of these easement rights.

Section 4. No Obstructions. The owner of the adjoining Lot shall not locate, place within, or suffer to exist any structure, improvement, device, fence or other thing, item or obstruction within the easement which would impair, impede, or render unsafe or hazardous the use of the easement for the purposes permitted.

Section 5. Plat Easement. The provisions of this Article shall supplement, define and expand provisions contained on the face of the Plat creating similar easement.

ARTICLE VIII

PARTY WALLS

Section 1. Creation. Where in the Plat a building may be built on two Lots containing one dwelling unit in the building on each separate Lot, then each wall which is placed along the lot line separating one dwelling unit from another in the same structure is hereby declared to be a party wall between the dwelling units which adjoin the wall. This Article shall be controlling, and all rights granted in this Article shall be fully effective as to each such party wall as and where it is actually constructed despite any deviation from the lot line which might be revealed by an accurate survey.

Section 2. Maintenance. Subject to the provisions of Section 3 of this Article, the cost of repair and maintenance of every party wall shall be borne equally between the owners of the adjoining dwelling units.

Section 3. Damage or Destruction of Party Wall Without Other Damage to Dwelling Units.

(a) If (1) a party wall is damaged or destroyed, in whole or in part, from any cause which is not the result of fault or negligence of either of the owners of the adjoining dwelling units or other persons occupying

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or using their respective dwelling unit, or is the result of the joint or concurring fault of each of the owners or other persons occupying or using their respective dwelling units, and (2) neither dwelling unit has suffered substantial damage other than that to the party wall, then the owners of the adjoining dwelling units shall at their joint expense, to be shared equally, repair or rebuild the party wall to as nearly as practicable the same condition and at the same location as the party wall was in immediately before the damage or destruction. Each owner of the adjoining dwelling unit shall have the right to full use of the party wall as repaired or rebuilt.

(b) If (1) a party wall is damaged or destroyed, in whole or in part, from any cause which is the result of fault or negligence of one (but not both) of the owners of the adjoining unit or other persons occupying or using his dwelling unit and (2) neither dwelling unit has suffered substantial damage other than that to the party wall, then that owner shall at his sole cost and expense repair or rebuild the party wall to as nearly as practicable the same condition and at the same location as the party wall was in immediately before the damage or destruction and shall repair the resultant damage, if any, to the other dwelling unit. Each owner of the adjoining dwelling unit shall have the right to full use of the party wall as repaired or rebuilt.

Section 4. Damage or Destruction of Party Wall with Other Damage to Dwelling Unit.

(a) If (1) a party wall is damaged or destroyed, in whole or in part, from any cause which is described in Section 3(a) of this Article, and (2) either or both of the adjoining dwelling units are at the same time substantially damaged or destroyed, in whole or in part, from the same or any other cause, then if one or both of the owners elects to repair or rebuild his dwelling unit, the party wall will be repaired or rebuilt with costs shared as provided in Section 3(a) of this Article. If both adjoining dwelling units are substantially damaged or destroyed and neither owner elects to rebuild or repair his dwelling unit, then the costs of demolishing and clearing debris from the party wall between the damaged dwelling

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units and the cost of restoring the party wall (including any alterations or additions necessary to convert an interior wall to an exterior wall compatible with the remaining portion or portions of the structure), if any, between either or both of the damaged or destroyed dwelling units and any undamaged dwelling unit in the same structure shall be shared equally by the owners of the dwelling units separated by the damaged party wall.

(b) If (1) a party wall is damaged or destroyed, in whole or in part, from any cause described in Section 3(b) and (2) either or both of the adjoining dwelling units is at the same time substantially damaged or destroyed from the same or any other cause, then the owner of the dwelling unit who is not at fault will make all elections described in Section 4(a) and the owner of the dwelling unit who is at fault will bear at his sole expense all costs of repair, reconstruction, alteration, restoration, demolition and/or clearing appropriate to the election made.

(c) Unless exercised to the contrary by written notice delivered to all other owners of dwelling units in the structure (or if an owner does not occupy his unit, to the tenant or other occupant with a copy to the president of the Association) within thirty (30) days after the damage or destruction giving rise to the election, each owner of a dwelling unit which is damaged or destroyed shall be conclusively deemed to have elected to repair and rebuild his dwelling unit, including restoring the party wall.

Section 5. Access to Party Wall Interior. Each owner of a dwelling unit adjoining a party wall shall have the right, at his sole expense, to drill into, cut into or otherwise gain access to the interior of a party wall for the purpose of maintaining, repairing or restoring and, if consent be first obtained pursuant to Section 6, remodeling or altering, water, utility, soundproofing or other services or amenities to his dwelling unit subject to (1) his obligation to restore the party wall to the same condition it was in immediately before such act and (2) his liability to the owner of the other dwelling unit adjoining the party wall for any damages caused thereby.

Section 6. No Alteration. Interior decoration excepted, no owner of a dwelling unit adjoining a party wall may make any changes to or alterations

in a party wall without the written consent of the owner of the other dwelling unit adjoining the party wall.

Section 7. Easement. Each owner of a dwelling unit adjoining a party wall has an easement over, in and to the other dwelling unit adjoining the party wall for the following purposes:

(a) To have the party wall remain in the same location as when originally built or such other location as may be reasonably necessary in the event repairs to, restoration of, or reconstruction of the party wall are made;

(b) To use, for party wall purposes, that portion of the adjoining dwelling unit upon which the party wall is originally built or subsequently restored or rebuilt; and

(c) For access through, in or upon any portion of the adjoining dwelling unit reasonably necessary to effect repairs to, maintenance of or reconstruction of the party wall or that portion of any foundation, exterior wall or roof of the structure which meets with, adjoins or is connected to the party wall.

Section 8. Rights in the Event of Default. Should the owner of a dwelling unit adjoining a party wall fail to perform any act or make any payment which this Article requires him to do or to make, and such failure continues after five (5) days' prior written demand from any owner of a dwelling unit in the same structure, then the owner or owners who made demand may do such act or make such payment. The owner in default must repay on demand the owner who does the act or makes the payment all costs and expenses (including attorneys' fees and costs, if any) incurred in doing the act or making the payment together with interest thereon at twelve percent per annum until repaid. Further, the owner doing the act or making the payment shall have a lien upon the dwelling unit of the defaulting owner and the land on which it is located, notice of which lien may be recorded not later than ninety (90) days after the last act is performed or payment is made which notice shall contain, as nearly as possible, the information required in the case of a person performing labor upon land or an improvement thereon pursuant to Chapter 60.04 of the Revised Code of Washington. The lien may be foreclosed in the manner provided and with the priority with respect to such labor liens. In addition, the owner who does

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the act or makes the payment shall have the right of access to, through, in or upon and to use the dwelling unit of the defaulting owner and the Lot upon which it is located for the purpose of performing the act.

Section 9. Equipment, Utilities and Other Portions of a Party Wall. For the purposes of this article, the term "party wall" includes everything, if anything, located within such wall (such as studs, framing, insulation, sound-proofing material, pipes, wires, joints, junction boxes and other materials or equipment related to utilities) and below the wall (such as the surface of the ground and footings located in the ground).

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. Invalidity of any one of these covenants or restrictions by judgement of 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 percent (90%) of the Lot Owners, and thereafter by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners. Any amendment must be recorded.

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

Section 5. FHA/VA Approval. As long as there is a Class B membership,

ARTICLE II

Section 2. Delegation of Use. Any owner may delegate, i
the By-Laws, his right of enjoyment to the Common Area and i
members of his family, his tenants, or contract purchasers w/
property.

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FILED for Record at Request of
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