

MASTER DECLARATION OF PROTECTIVE COVENANTS

FOR

THE RESIDENTIAL AREAS
OF ASPEN, MOUNTAIN VIEW,
A RURAL COMMUNITY,
EAGLE COUNTY, COLORADO

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MASTER DECLARATION OF PROTECTIVE COVENANTS

FOR

THE RESIDENTIAL AREAS

OF ASPEN, MOUNTAIN VIEW,

A RURAL COMMUNITY

IN EAGLE COUNTY, COLORADO

This Master Declaration is made this ^{2ND} ~~1ST~~ day of APRIL, 1981, by BASALT MOUNTAIN ASSOCIATES, a Colorado general partnership ("Declarant")

Aspen, Mountain View, desires to provide for the submission and subjection of portions of the real property owned by it to the covenants, restrictions, liens and charges, hereinafter set forth each and all of which is and are for the benefit of the portions of the subject real property to which the same are applied as hereinafter provided and each owner thereof. To further the general purposes herein expressed, Declarant for itself, its successors and assigns, hereby declares that each portion of the Property made subject to this Declaration in the manner hereinafter provided, shall, at all times, be owned, held and occupied subject to the provisions of this Declaration

I.

DEFINITIONS

1.1 Aspen, Mountain View. Aspen, Mountain View shall mean the general partnership named and styled as Basalt Mountain Associates, consisting of Richard M. Jennings, Walter Stenger and Hermann Reinert, owner of the Property and any successor or assign of Basalt Mountain Associates under an instrument specifically designating such successor or assign as a successor or assign under this Declaration. A successor or assign other than by merger or consolidation shall be deemed a successor or assign under this Declaration only to the extent and only as to the particular rights or interests specifically designated in a written instrument. Where the consent of Aspen, Mountain View is required under this Declaration, or any other document herein referred to, nothing herein or therein contained shall prohibit the waiver of such consent either with respect to a specific matter or in gross, but shall always be required to be by affirmative action, and the silence or inaction of Aspen, Mountain View shall never be deemed such a waiver or asserted to estop or prevent Basalt Mountain Associates from the exercise of its rights.

1.2 Association. Association shall mean Aspen, Mountain View Homeowners' Association, a nonprofit Colorado corporation, formed and incorporated to be and constitute the Association to which reference is made in this Declaration and to further the common interests of some or all owners of any real property which may become subject to some or all of the provisions, covenants, conditions and restrictions contained in this Declaration or in any Supplemental Declaration as hereinafter provided.

1 3 Dwelling Unit Dwelling Unit shall mean a single room or series of interconnected rooms within a single family structure or multi-family structure, separate from, and not connected by private, direct, interior access with, any other room or rooms in said structure other than a common or public hall or lobby and served by a separate and private entrance or entrances. Dwelling Unit shall not include guest or servants' facilities or quarters appurtenant to a Dwelling Unit as hereinafter provided for

II

PURPOSES

2 1 General Purposes Aspen, Mountain View expects to develop certain portions of real property in Eagle County, Colorado as residential areas. It is expected that all will be developed with certain common objectives and that owners of property within these areas will have certain common interests. They will be developed with the objective of establishing the areas as scenic mountain residential areas of the highest possible quality, desirability and attractiveness. The natural beauty and unspoiled state of the property will be preserved as near as may be, providing residents with seclusion and a pleasant environment. All of said residential areas will be developed with objectives designed to enhance the value of and to benefit all property within the Property as defined in Article III.

2 2 Particular Purposes This Declaration is executed to define and describe certain land or property classifications which will be established in some or all of said areas to define and describe certain provisions, covenants, conditions and restrictions which may be made applicable to some or all property within said areas, to provide for a homeowners' association to perform certain obligations with respect to some or all property within said residential areas and to further the common interests of some or all owners of property within said areas, to establish the manner and extent to which property may be made subject to some or all of the provisions, covenants, conditions and restrictions set forth in this Declaration, or may be made subject to additional or supplemental or different provisions, covenants, conditions and restrictions, and to establish the effect of such provisions, covenants, conditions and restrictions.

III

SUBJECTION OF PROPERTY TO DECLARATION

3 1 Property Which May Be Covered Any of that portion of the real property located in Eagle County, Colorado, which is then owned by Aspen, Mountain View, as described in the Subdivision by that name executed by the Board of County Commissioners of Eagle County, Colorado, may pursuant to the provisions of the remainder of this Article III, be made subject, at the option of Aspen, Mountain View, in whole or in part, to any or all of the provisions, covenants, conditions and restrictions contained in this Declaration and to additional or different, supplemental provisions, covenants, conditions and restrictions as hereinafter provided for. Any property so submitted may hereinafter be cumulatively referred to as the "Property "

3 2 Supplemental Declaration Any real property as aforesaid, may be made subject in whole or in part to any or all of the provisions, covenants, conditions and restrictions or restrictions contained in this Declaration and to additional or different provisions, covenants, conditions and restrictions by the recording in the office of the County Clerk and Recorder of Eagle County, Colorado, of an instrument (hereinafter called a Supplemental Declaration) executed by Aspen, Mountain View, specifically describing the property, and stating that, except as may be specifically stated in such Supplemental Declaration, the real property described in the Supplemental Declaration shall be subject to the provisions, covenants, conditions and restrictions contained in this Declaration, in any previously recorded Supplemental Declaration and to the additional or different or supplemental provisions, covenants, conditions and restrictions which may be contained in such Supplemental Declaration

3 3 Effect of Supplemental Declaration Upon the recording of a Supplemental Declaration in the office of the County Clerk and Recorder of Eagle County, Colorado, all of the real property described in the Supplemental Declaration shall be and shall be deemed subject to all of the provisions, covenants, conditions and restrictions contained in this Declaration and in any previously recorded Supplemental Declaration, except as specifically stated in the Supplemental Declaration, and to the additional or different or supplemental provisions, covenants, conditions and restrictions which may be stated in the Supplemental Declaration

3 4 Additional Provisions in Supplemental Declaration It is intended that all lots and ranchettes will be governed by a Supplemental Building Envelope Map. A Supplemental Declaration may define and describe additional or different land classifications other than the land classifications set forth in this Declaration, may set forth additional or different provisions, covenants, conditions and restrictions applicable to property within such additional or different land classifications, may contain additional or different provisions, covenants, conditions and restrictions applicable only to the property described in the Supplemental Declaration, and may contain additional or different provisions, covenants, conditions and restrictions applicable both to the property described in the Supplemental Declaration and, except to the extent stated in a subsequent Supplemental Declaration, to any property described in a subsequent Supplemental Declaration. No provisions, covenants, conditions and restrictions contained in a Supplemental Declaration may be made or shall be considered applicable to any property

except property described in that Supplemental Declaration or property described in a Supplemental Declaration recorded subsequent to that Supplemental Declaration. In the event of a conflict or inconsistency between a Supplemental Declaration and this Declaration or any previously recorded Supplemental Declaration, the terms of the Supplemental Declaration shall prevail as to the particular property described in that Supplemental Declaration.

3.5 Duration and Amendment The covenants and restrictions of this Declaration shall run with and bind the Property submitted hereto by any Supplemental Declaration, and shall inure to the benefit of and be enforceable by the Aspen, Mountain View, the Association, any Member, or the Owner of any land subject to that Supplemental Declaration, their respective legal representatives, heirs, personal representatives, successors and assigns until forty (40) years from the recording thereof in the records of Eagle County, Colorado, unless otherwise expressly limited herein, after which time said covenants and restrictions shall be automatically extended for successive periods of ten (10) years unless an instrument signed by not less than eighty (80%) percent of the then Members, with the consent of Aspen, Mountain View if it shall then be the Owner of any portion of the Property agreeing to terminate or change said covenants and restrictions in whole or in part, shall be recorded in the real property records of Eagle County, Colorado, provided, however, that no such agreement to change shall be effective unless made and recorded six (6) months in advance of the effective date of such change, and unless written notice of the proposed agreement is sent to every Owner at least ninety (90) days in advance of any action taken. Any provision contained in this Declaration or any Supplemental Declaration may be amended or repealed, or additional provisions may be added to this Declaration, with the written consent of Declarant, by the recording of a written instrument or instruments specifying the amendment or the repeal, executed by Declarant and by not less than eighty (80%) percent of the members. Notwithstanding the foregoing, the easements, licenses, rights and privileges established and created with respect to the Common Areas, and the reservations of rights made by Aspen, Mountain View herein shall be perpetual, run with the land and shall survive any destruction, reconstruction and relocation of the physical structures, unless said provisions are abrogated by the unanimous written consent of all the Members. No such amendment or repeal shall be effective with respect to the holder or successor or assign of the holder of mortgage or deed of trust recorded prior to recording of the instrument specifying the amendment or repeal unless more than eighty (80%) percent of such holders execute said instrument.

3.6 Disposition of Assets Upon Dissolution of Association Upon dissolution of the Association as provided for in its Articles of Incorporation, its real and personal assets, including the Common Areas, shall be dedicated to an appropriate public agency or utility to be devoted to purposes as nearly as practicable the same as those to which they were required to be devoted by the Association. In the event such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any nonprofit corporation, association, trust or other organization to be devoted to purposes as nearly as practicable the same as those to which they were required to be devoted by the Association. No such disposition of the Association Properties shall be effective to divest or diminish any right or title of any Member vested in him under the licenses, covenants and easements of this Declaration, any applicable Supplemental Declaration or under any subsequently recorded covenants and deeds applicable to the Properties, unless made in accordance with the provisions of this Declaration or said covenants and deeds.

3 7 Severability. Invalidation of any of the covenants, limitations or provisions of this Declaration or any applicable Supplemental Declaration by judgment or court order shall in nowise affect any of the remaining provisions hereof, and the same shall continue in full force and effect

3 8 Obligations of Aspen, Mountain View as Association Member Notwithstanding anything to the contrary contained in this Declaration, any applicable Supplemental Declaration, in the Articles of Incorporation or By-Laws of the Association, or any other instrument or document executed in connection herewith, the Aspen, Mountain View as the holder of a Special Membership of the Association shall not have any duties, liabilities or obligations to pay assessments or responsibilities of any type or kind whatsoever hereunder, unless and until Aspen, Mountain View, if ever, converts said Special Membership to Regular Memberships by virtue of platting and submission of portions of the Property hereto, at which time Aspen, Mountain View shall have only the duties and responsibilities of a Regular Member as to such property so platted and submitted

3 9 Sale of Aspen, Mountain View's Interest In the event of a bulk sale or conveyance of all of the right, title and interest of Aspen, Mountain View in and to the unplatted portions of the Property, Aspen, Mountain View shall be released from further obligation hereunder in respect to the property so conveyed, the purchasing party shall assume the position of Aspen, Mountain View herein and be bound by Aspen, Mountain View's obligations herein contained. The intent of this Section shall in no way be construed as a disclaimer of Aspen, Mountain View's obligations as to Property platted by it, but merely to limit its liability in the event that all or portions of the undeveloped and unplatted Property shall be sold to and developed by others in accordance with Aspen, Mountain View's proposed plan of development

IV

LAND CLASSIFICATION AND DEFINITIONS

4 1 Lot A Lot shall mean any parcel of property shown on a recorded plat or described in a recorded instrument which is not clearly identified on the recorded plat or the recorded instrument as a Ranchette, Common Area or Central Horse Ranch, or as a parcel of property under some other land classification designation described in this Declaration or in any applicable Supplemental Declaration. Development of a Lot shall be restricted as hereinafter provided. No resubdivision of a Lot shall be permitted.

4 2 Ranchette A Ranchette shall mean any parcel of property which is four acres or more in size and identified with an "H" on the recorded plat or in the recorded instrument. Because of their larger size, as compared to a Lot, any Supplemental Declaration relating to Ranchettes may provide alternate restrictions to those contained herein. No resubdivision of a Ranchette shall be permitted.

4 3 Common Area Common Area shall mean any parcel of property shown on a recorded plat or described in a recorded instrument which is clearly identified as Common or Common Area on the recorded plat or in the recorded instrument. Any parcel of property identified under any land classification designation may be changed to Common Area by Aspen, Mountain View by declaration recorded prior to conveyance of the parcel by Aspen, Mountain View.

4 4 Agricultural Green Area (Central Ranch) The Central Ranch, of about 100 acres, shall be restricted as an agricultural green area and equestrian center. No resubdivision of the Central Ranch shall be permitted.

4 5 Property Property shall mean any property which is now or may hereafter be subject to this Declaration or any Supplemental Declaration, including Lots, Ranchettes, Common Areas, the Central Ranch, and any other parcels of property under any other land classification designation, and including any and all improvements on any of the foregoing.

PROVISIONS APPLICABLE TO PARTICULAR LAND CLASSIFICATIONS

5.1 Lot Restrictions Each Lot shall be used exclusively for residential living purposes and such purposes as are customarily incident thereto. Unless otherwise specified on a recorded plat or in a Supplemental Declaration covering the Lot, no Lot shall be improved except with a residence structure or complex designed to accommodate no more than a single family and its servants and occasional guests plus such other improvements and structures as are necessary or customarily incident to a single family residence. No structures or above-ground improvements shall be permitted on any Lot which are detached or separated from the principal residence structure unless located within a reasonably compact area adjacent to the principal residence structure and unless designed as a single visual element, connected or related visually with the principal residence structure by fencing or other architectural features. The residence structure or complex shall have a minimum living floor area of 1,600 square feet, exclusive of garages, porches, patios and accessory structures, shown on the recorded plat or specified in a Supplemental Declaration covering the Lot, no residence structure and no other structure or above-ground improvement shall rise more than the height designated on the Supplemental Building Envelope Map, the same to be measured in the manner set forth in the applicable Supplemental Declaration, and all above-ground improvements, except landscaping and necessary crossings by access driveways, bridges or paths, shall be contained within the boundaries of the building envelope as defined on the applicable Building Envelope Map. All Lots shall be required to connect to the central water system within the property at such time as improvements are constructed thereon and all water service therefrom for Lots shall be provided from the central water system. No private wells will be permitted. Individual septic systems will be permitted for Lots provided the same comply with applicable law.

5.2 Ranchette Restrictions No more than two horses may be kept on any Ranchette. Each Ranchette may be improved with a barn or similar improvement or structure as are customarily incident to the keeping of horses. Aspen, Mountain View reserves the right within its sole discretion to impose, by Supplemental Declaration hereto, such protective covenants upon Ranchettes as it shall deem appropriate but such covenants shall not be contrary to the orderly and high quality development of the Property.

5.3 Common Area Restrictions. Subject to the recreational facilities hereafter permitted by this Section 5.3 and those provided by the Declarant and maintained by the Association as provided in Article IX, and except as may be specifically provided on the recorded plat or in the Supplemental Declaration submitting and covering the Common Area, Common Areas shall be kept exclusively as a scenic and as a natural forested or natural open area. Portions of Common Area, not extensive in proportion to the total Common Area then subject to this Declaration or any Supplemental Declaration may be developed by Aspen, Mountain View or the Association for nonprofit recreation and leisure-time activities for the benefit of owners of property

subject to this Declaration or any Supplemental Declaration, their guests and invitees, and portions of the Common Area may be developed as may be reasonably necessary for installation of below-surface utilities, as may be necessary or desirable to provide or improve access to or from or to enhance the use and enjoyment of any Property, or as may be necessary or desirable to protect, support or preserve any Property Common Areas shall at all times be held by Aspen, Mountain View or by the Association, or, with the consent of Aspen, Mountain View, by an appropriate governmental authority, including a park or recreation district, which is existing and willing to accept and maintain the same For so long as any Common Area is owned or held by Aspen, Mountain View or by the Association and until and unless conveyed to a governmental authority, any such Common Area shall be maintained by the Association and shall be held by Aspen, Mountain View or the Association for the exclusive use of owners of Property, their invitees and guests, although Aspen, Mountain View, or, upon conveyance thereof to the Association the Association may at any time, and from time to time, limit or restrict use of all or portions of any Common Area to certain uses and/or to certain persons or classes of persons, may prescribe rules and regulations governing the use of Common Areas and may, if some owners wish to use and develop a portion of Common Area for recreation facilities and are willing to pay the cost of developing and maintaining the same, permit such development on such terms and conditions as may be deemed advisable

5 4 Central Ranch Restrictions The Central Ranch shall be operated as a green, productive ranch and an equestrian center, though it shall be in private rather than common ownership The equestrian center may be operated by the Ranch owner as a commercial enterprise but members of the Association shall have priority over others in using the facilities for boarding and training horses or for equestrian events Such facilities shall include a training arena and a jumping course A reasonable fee may be charged such members for the use and maintenance of the equestrian facilities The Central Ranch may be used for the production of hay or similar crops and for horse shows or similar events A small number of cattle, sheep or other farm animals may be kept on the Central Ranch by the Owner, but the bulk of its facilities are to be used for horses Residential structures on the Central Ranch shall be restricted to a main Ranch house, a foreman's or caretaker's house, and bunk building for Ranch employees Outbuildings and structures incident to the operation of the Central Ranch and equestrian center are permitted

VI

PROVISIONS APPLICABLE TO ALL PROPERTY

6 1 Subdivisions of Property No Lot, Ranchette, Common Area or the Central Ranch may be divided or subdivided or a fractional portion thereof sold or conveyed so as to be held in divided ownership. Notwithstanding the foregoing, adjoining property owners may sell or purchase adjoining property to accomplish relocation of the boundary line between such properties if such sale and purchase will not cause or result in a violation of any setback, or building envelope, building or other restriction herein contained. In such cases, the new boundary line between the respective properties but, not setback or building envelope lines, easements or land classifications established for such properties with respect to the former boundary line or otherwise shall be changed or shifted by reason of the change of boundary line.

6 2 Combining Parcels Two or more adjoining Lots, Ranchettes or other parcels of Property of the same land classification which are under the same ownership may, at the option of the owner thereof, be combined and developed as one parcel. Setback lines along the boundary lines of the combined parcels or building envelopes thereon, may be removed and shall be deemed removed if the written consent of the Design Committee is obtained and if the Design Committee, prior to giving its consent, finds and determines that any improvements to be constructed within these setback lines or building envelopes will not cause unreasonable diminution of the view from other property. If any setback lines or building envelopes are so removed, the Design Committee shall establish alternate setback lines or building envelopes to be reflected in a supplemental plat of the combined parcels to be filed for record in the records of Eagle County, Colorado. Such plat shall be prepared at the expense of the owner of such combined parcels. Easements created or established by Aspen, Mountain View along the common boundary line of the combined parcels may be changed without the consent of any person entitled to use thereof if the written consent of Aspen, Mountain View is obtained and if alternate easements are granted or created, satisfactory to Aspen, Mountain View, by the owner of the combined parcels. If setback lines or building envelopes are removed or easements changed along the common boundary lines of combined parcels, the combined parcels shall thereafter be deemed one parcel, and may not thereafter be split and developed as two parcels. The combination of two or more adjoining parcels shall not relieve the owner thereof from responsibility for applicable connection or tap fees for utility services for all of the parcels combined, it being an express provision that such fees shall be assessed for each of the parcels so combined. In the event the combination of two or more Lots total 3 9 acres or more, the owner of such combined Lots may, upon receiving the written approval of the Design Committee, be granted a status equivalent to that of a Ranchette entitling the owner and the combined Lots to the benefit and burdens of a Ranchette as provided herein.

6 3 No Business or Commercial Activity No Property shall be used at any time for business or commercial activity, provided, however, that Aspen, Mountain View or its nominee or agent may use any unsold Property for model homes, real estate sales offices, temporary construction facilities and related activities. Rental or leasing of a Dwelling Unit subject to the use restrictions contained in this Declaration shall not be considered a business or commercial activity.

6 4 Occupancy Limitations. No residence structure on any Lot or Ranchette shall be used for living purposes by more persons than it was designed to accommodate comfortably. No portion of any Property shall be used as a residence for living purposes other than the permitted structure constructed on a Lot, Ranchette or other parcel of property.

6 5 Maintenance of Property All Property, including Common Areas, and all improvements on any Property shall be kept and maintained by the owner thereof in clean, safe, attractive and slightly condition and in good repair. Common Areas shall be so maintained by the Association notwithstanding the fact that the Common Area may not have been conveyed to the Association by Aspen, Mountain View.

6 6 No Noxious or Offensive Activity No noxious or offensive activity shall be carried on upon any Property nor shall anything be done or placed on any Property which is or may become a nuisance or cause embarrassment, disturbance or annoyance to others.

6 7 No Hazardous Activities No activities shall be conducted on any Property and no improvements constructed on any Property which are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms shall be discharged upon any Property, and no open fires shall be lighted or permitted on any Property except in a contained barbecue unit while attended and in use for cooking purposes or within a safe and well-designed interior fireplace or except such campfires or picnic fires in portions of Common Areas designated for such use by Aspen, Mountain View or by the Association or except such controlled and attended fires required for clearing or maintenance of land.

6 8 No Unsightliness No unsightliness shall be permitted on any portion of the Property. Without limiting the generality of the foregoing: (a) All unsightly structures, facilities, equipment, objects and conditions shall be enclosed within an approval structure or appropriately screened from view, (b) unlicensed cars or trucks, licensed or unlicensed trailers, mobile homes, motor homes or campers (recreational vehicles) trucks other than pickups, heavy equipment, boats, tractors, campers not on a truck, snowcats, ski-doo's, snow removal equipment and garden or maintenance equipment shall be kept at all times, except when in actual use, in an enclosed structure or screened from view, (c) refuse, garbage and trash shall be kept at all times in a covered, noiseless container and any such container shall be kept within an enclosed structure or appropriately screened from view, (d) service areas, storage piles, compost piles and facilities for hanging, drying or airing clothing or household fabrics shall be appropriately screened from view, (e) pipes for water, gas, sewer, drainage or other purposes and wires, poles, antenna and other facilities for the transmission or reception of audio or visual signals or electricity, and utility meters or other utility facilities and gas, oil, water or other tanks, and individual sewage disposal systems or devices shall be kept and maintained within an enclosed structure below the surface of the ground or screened from view, (f) no grass, shrub or tree clippings or plant waste, or refuse or trash shall be kept, stored or allowed to accumulate on any portion of the Property, and (g) lumber, metals, materials or scrap may be stored in small quantities provided the same shall be appropriately screened from view. Notwithstanding the foregoing, if at the time of the occupancy of any approved structure connections to a nearby underground electricity line or telephone line are not available, then temporary poles or

wires for electricity, or telephone service, as the case may be, may be installed to a reasonably necessary height provided that they shall be promptly removed at the expense of the owner after the availability of connections to nearby underground lines or cables. If, at the time of the occupancy of any approved structure, a connection to a nearby television cable is not available, and if a signal from a booster or translator is not being produced into the area, an owner may install a temporary television antenna to a reasonable height. If at any subsequent time a signal from a booster or translator is being produced but a connection to a nearby television cable is still not available, an owner may install a television antenna no larger or more conspicuous than is necessary and in any event shall remove promptly at his expense any larger television antenna previously installed. If at any time a connection to a nearby television cable is or becomes available, each owner shall remove promptly at his expense all television antennae previously installed. Extensions to utility lines shall be placed within service driveways to avoid any extra scars in the natural vegetation.

6.9 No Annoying Sounds or Odors No sound shall be emitted on any Property which is unreasonably loud or annoying and no odor shall be emitted on any Property which is noxious or offensive to others.

6.10 No Temporary Structures No tent, tepee, or shack or other temporary building, improvement or structure shall be placed upon any Property, PROVIDED, HOWEVER, that the foregoing shall not prohibit temporary structures normally associated with construction activities as provided for in Section 6.17.

6.11 Restrictions on Fences All fencing shall be subject to approval of the Declarant or the Design Committee. Fencing on Lots shall be limited to the enclosure of landscaped areas in the immediate vicinity of a residence. Screen fences with a maximum enclosed area not to exceed the building envelope or setback as shown on the Plat to be filed for record in conjunction with each Supplemental Declaration submitting specific Lots or Tract. No wildlife-proof fences shall be constructed that will enclose an area greater than ¼ acre. "Wildlife-proof" fences shall be considered to be all fences over 42" in height. No barbed wire fences shall be permitted except along the perimeter of the Property.

6.12 No Annoying Lights; Restriction on Exterior Lighting No light shall be emitted from any Property which is unreasonably bright or causes unreasonable glare. All exterior lights and light standards, and the orientation thereof shall be approved in writing by the Design Committee. No type of high intensity discharge lights shall be permitted.

6.13 Restriction on Animals Dogs shall be permitted only subject to the strictest interpretation of the following restrictions. No dog shall be permitted to trespass beyond the boundaries of the lot or homestead owned by the person or persons where the dog is housed unless accompanied by a person in full control of the animal's behavior. Declarant or the Homeowners Association shall have the right (and obligation) to assess and enforce payment of a fine by the dog's owner of Fifty Dollars (\$50.00) for the first violation, One-hundred Dollars (\$100.00) for the second violation of this restriction, and Two-hundred Dollars (\$200.00) for the third. (The Association may increase the amount of such fines in future years as appropriate.) In addition to the foregoing penalty, any dog caught chasing or molesting deer, elk, poultry or domestic animals may be disposed of by Declarant or the Association, or by the owner of the molested animal or land. No animals, birds, insects or livestock shall be kept on any Lot except household

pets which do not unreasonably bother or constitute a nuisance to other , and which shall always be subject to the reasonable rules and regulations of the Association, and except horses on Ranchettes or on such portions of Common Area, roads and other public ways or easements as may be designated for such use from time to time by Aspen, Mountain View or the Association, if and at such time as any such facilities shall have been conveyed to it, and except for such numbers of horses or livestock and support facilities therefor such as corral and paddocks on the Central Ranch, a particular Ranchette or other parcel of property, all as may be specifically designated for such Property on the recorded plat or in the map attached to a Supplemental Declaration covering such Ranchette or other parcel of Property

6 14 Restriction of Signs No signs or advertising devices of any nature shall be erected or maintained on any Property except as necessary to identify ownership of the Property and its address, or to show the Property is for sale or for rent, or as may be necessary or desirable to give direction, advise of rules and regulations, or caution or warn of danger, and such signs as may be otherwise required by law. Any signs which are permitted under the foregoing restrictions shall be erected or maintained on Property only with the prior written approval of the Design Committee which approval shall be given only if such signs shall be of attractive design in keeping with the scenic and rustic nature of the area and shall be as small in size as is reasonably possible and shall be placed or located as directed or approved by the Design Committee.

6 15 No Mining and Drilling No Property shall be used for the purpose of mining, quarrying, drilling, boring or exploring for or removing water, oil, gas or other hydrocarbons or minerals, provided, however, that the Central Ranch may drill and maintain water wells for agricultural and domestic uses thereon. A portion of all oil, gas and mineral rights is owned by Declarant with the remaining owned by others. Declarant shall not exercise such oil, gas or mineral rights and shall convey them to the Homeowners Association. Purchasers of parcels may be indemnified for surface damage which might occur from the exercise by other owners of said oil, gas or mineral rights by requesting additional protective coverage in their policies of title insurance at the time of purchase, and purchaser shall pay any additional title insurance premium for such coverage.

6.16 Individual Septic Systems. Individual septic systems are allowed only after approval by the Design Committee and any governmental authority having jurisdiction thereover.

6.17 Construction Period Exception. During the course of actual construction of any permitted structures or improvements, the provisions, covenants, conditions and restrictions contained in this Declaration or in any Supplemental Declaration shall be deemed waived to the extent necessary to permit such construction, provided that, during the course of such construction, nothing is done which will result in a violation of any of said provisions, covenants, conditions and restrictions upon completion of construction.

6 18 Variances by Design Committee The Design Committee may authorize variances from compliance with any of the provisions, covenants, conditions and restrictions contained in this Declaration or any Supplemental Declaration

when circumstances such as topography, natural obstructions or hardship may require. Such variances must be evidenced in writing. If such variances are granted, no violation of the provisions, covenants, conditions and restrictions contained in this Declaration or any Supplemental Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such a variance shall not operate to waive any of the provisions, covenants, conditions and restrictions contained in this Declaration or any Supplemental Declaration for any purpose except as to the particular property and particular provision covered by the variance.

6 19 Watering and Irrigation Restrictions,
Restriction on Removal of Trees or Vegetation Subject to reasonable rules and regulations of the Association, the provisions of Article VII hereof and any Supplemental Declaration, and restrictions which may be imposed, from time to time, by the supplier of water under the central water system within the Property, each Lot and Ranchette shall be permitted to sprinkle or irrigate not more than aggregate areas of 4,000 square feet and 10,000 square feet, respectively, from the central system for lawn and/or garden cultivation, which is consistent with good conservation practices, provided, that a Lot's cultivated area(s) shall be contiguous and adjacent to a residential dwelling structure situate on the Lot. These amounts may be adjusted by future action of the Declarant or the Association. Ranchettes and the Central Ranch will be provided specific portions of the irrigation ditch rights of Aspen, Mountain View. Except as provided in this Section 6 19 and as approved pursuant to Article VII hereof, there shall be no removal of living trees or vegetation except that which must be removed in connection with construction with prior approval under Article VII. All debris from approved construction and/or landscaping shall be removed or chipped. An easement is hereby granted to all owners of ditch rights and irrigation water rights conveyed by said ditches to enter upon any parcel or parcels within the subdivision at reasonable times for the purpose of repair, construction or maintenance of irrigation canals or ditches located upon existing easements. Declarant or the Association shall further be entitled to apply irrigation water at reasonable times to common green belt easements located upon any parcel or parcels as in its discretion it may determine necessary and desirable. Lot or homestead owners similarly shall be entitled to apply irrigation water at reasonable times to the land they own.

6 20 Restriction on Tanks No elevated tanks of any kind shall be erected, placed or permitted on any Lot. Any tank used in connection with any Lot, Ranchette or the Central Ranch including those for the storage of gas, fuel oil, gasoline, oil or water shall be buried, or, if located above ground, the location of such tank and screening thereof shall be, prior to construction submitted to the Design Committee for approval, which approval may be granted or withheld in the sole discretion of the Design Committee.

6 21 Drainage Control Each Lot or Ranchette shall provide one or more culverts where driveways join or cross any road or irrigation ditch. The minimum size culvert shall be eighteen (18) inches in diameter unless approval is given by the Design Committee for a smaller size. No building may be erected closer than fifteen (15) feet from any irrigation ditch, whether or not said ditch appears on the subdivision plat as a surveyed easement. No lateral irrigation ditch may be blocked in any way which would impede the flow of water to or from adjoining lands. Lateral ditches may be relocated provided such change does not adversely affect the flow of irrigation water to or from adjacent lands, and then only with the written consent of the Declarant or the Association.

VII

REQUIRED APPROVAL OF ALL CHANGES TO PROPERTY

7 1 Change in the Existing State of Property

Change in the Existing State of the Property shall mean and include, without limitation, the construction of any building, structure or other improvement, including, without limitation, fencing and utility facilities, the excavation, filling or similar disturbance of the surface of land including, without limitation, change of grade, stream bed, ground level or drainage pattern, the clearing, marring, defacing or damaging of trees, shrubs or other growing things, the landscaping or planting of trees, shrubs, lawns or plants, or any change or alteration, including without limitation, any use or change of color, texture or exterior appearance, of any previously approved Change in the Existing State of Property

7 2 Approval of Change in Existing State Required

No Change in the Existing State of Property shall be made or permitted, except by Aspen, Mountain View, without the prior written approval of the Design Committee and without compliance with the provisions, covenants, conditions and restrictions set forth in this Article VII. The following paragraphs of this Article VII shall not be applicable to any Change in the Existing State of Property by Aspen, Mountain View, except as specifically provided therein

7 3 Design Committee Criteria for Approval

The Design Committee shall have complete discretion to approve or disapprove any Change in the Existing State of Property. The Design Committee shall exercise such discretion with the following objectives in mind among others: To carry out the general purposes expressed in this Declaration, to prevent violation of any specific provision of this Declaration or any Supplemental Declaration, to prevent any change which would be unsafe or hazardous to any persons or property, to prevent any obstruction or diminution of the view of others, to preserve visual continuity of the area and to prevent a marked or unnecessary transition between improved and unimproved areas and any sharp definition of boundaries of property ownership, to assure that any change will be of good and attractive design and in harmony with the rustic and natural setting of the area and will serve to preserve and enhance existing features of natural beauty to promote the use of solar and other energy-saving techniques, to assure that materials and workmanship for all improvements are of high quality comparable to other improvements in the area, and to assure that any change will require as little maintenance as possible so as to assure a better appearing area under all conditions. Any Change in the Existing State of Property by Aspen, Mountain View shall be made with the same objectives in mind. In order to effect such desired objectives, Aspen, Mountain View has developed "DESIGN REQUIREMENTS AND GUIDELINES," dated APRIL 1, 1981, copies of which are available from the Association. Said Design Requirements and Guidelines shall be considered the initial rules and regulations of the Design Committee which may be amended only by that Committee with the written consent of the Association's Board of Directors and Aspen, Mountain View.

7 4 Conditions Precedent to Approval

Prior to expenditures of any substantial time or funds in the planning of any proposed Change in the Existing State of Property, the owner of Property shall advise the Design Committee in

writing of the general nature of the proposed change, shall submit for approval as required in the Design Requirements and Guidelines as then in effect. Said owner shall have previously read or become familiar with and shall furnish the Design Committee with all materials necessary under the Design Requirements and Guidelines for comment and review. After the nature and scope of a proposed Change in the Existing State of Property is determined and prior to the commencement of work to accomplish such Change, the Design Committee shall be furnished in duplicate, by the owner of the Property, with a complete and full description of the proposed Change in writing and with a plot plan covering the particular Lot, Ranchette, Common Area or other parcel of property, drawn to such scale as may be reasonably required by the Design Committee, showing all boundaries, showing existing and proposed contour lines and elevations at reasonably detailed intervals, showing all existing and proposed improvements, showing the existing and proposed drainage pattern, showing the existing and proposed utility and sanitation facilities and showing the existing or proposed substantial trees or shrubs. There shall also be furnished to the Design Committee by any owner of property any and all further information with respect to the Existing State of Property or the proposed Change in Existing State of Property which the Design Committee may reasonably require to permit it to make an informed decision on whether or not to grant approval to the Change. If the drainage pattern of any Property will be affected by any Change, the Design Committee may require submission of a report on the effect by a qualified engineer or geologist. With respect to all buildings and other structures, the Design Committee shall require submission, in duplicate, of floor plans, elevation drawings, and final working drawings, all drawn to scale as may be reasonably required by the Design Committee, descriptions of exterior materials and colors and samples of the same, and final construction specifications. Where buildings or structures or other improvements other than Dwelling Units which reasonably require plans and specifications are proposed to be constructed or built, the Design Committee shall require that the plans and specifications be prepared by a practicing licensed architect and that a fee of \$200 be paid to the Association to cover costs and expenses to review. The Design Committee or the Association may increase this fee in future years as appropriate. All plans and specifications for dwelling units shall be prepared by a licensed practicing architect and the same application fee provision as above stated shall apply. Prior to giving of approval to a proposed Change in the Existing State of Property, at least one member of the Design Committee shall physically inspect the Property. No proposed Change in the Existing State of Property shall be deemed to have been approved by the Design Committee unless its approval is in writing, executed by the Chairman provided that approval shall be deemed given if the Design Committee fails to approve or disapprove a proposed Change or to make additional requirements or request additional information within forty-five (45) days after a full and complete description of the proposed Change has been furnished in writing to the Design Committee with a written and specific request for approval.

7.5 Prosecution of Work After Approval After approval by the Design Committee of any proposed Change in the Existing State of Property, the proposed Change shall be accomplished as promptly and diligently as possible and in complete conformity with the description of the proposed Change and with any plans and specifications therefor given to the Design Committee. Failure to accomplish the Change within one year after the date of approval or failure to

complete the proposed Change strictly in accordance with the description thereof and plans and specifications therefor shall operate to automatically revoke the approval of the proposed Change and, upon demand by the Design Committee, the Property shall be restored as nearly as possible to its state existing prior to any work in connection with the proposed Change. The Design Committee and its duly appointed agents may enter upon any Property at any reasonable time or times to inspect the progress or status of any Change in the Existing State of Property being made or which may have been made. The Design Committee shall have the right and authority to record a notice to show that any particular Change in the Existing State of Property has not been approved or that any approval given has been automatically revoked.

VIII.

DESIGN COMMITTEE

8 1 Design Committee Members Subject to the rights of Aspen, Mountain View to appoint members of the Design Committee, the Design Committee shall consist of three members. There may be designated one or more alternate members of the Design Committee for each member appointed by the Board of Directors of the Association, each of whom shall be authorized to act in the place and stead of the member for whom he is an alternate upon the request of his regular member counterpart in the event of that member's absence or inability to act. Such alternate member shall be qualified as was his regular member counterpart. Members and alternate members of the Design Committee shall serve three year terms to be staggered at the time of the appointment of the first Design Committee, PROVIDED, HOWEVER, such three year appointment notwithstanding, such membership shall be at the pleasure of the Board of Directors of the Association. The Association shall be obligated to pay reasonable compensation to members and alternate members for actual services rendered and to reimburse them for actual and reasonable expenses incurred.

8 2 Action by Design Committee The vote of written consent of any three members shall constitute action of the Design Committee. The Design Committee shall report in writing all approvals and disapprovals of any Changes in the Existing State of Property to Aspen, Mountain View or to the Association whichever then has the right to appoint and remove a majority of the members.

8 3 Estoppel Certificate Aspen, Mountain View or the Association, depending on whom shall have the right to appoint the Design Committee, shall, upon written request of any interested person, furnish a certificate with respect to approval or disapproval by the Design Committee of any Change in the Existing State of Property and any person, without actual notice to the contrary, shall be entitled to rely on said certificate by either Aspen, Mountain View or the Association with respect to all matters set forth therein.

8 4 Limitation on Liability Neither the Design Committee nor any member thereof, nor the Association nor any director, officer or member thereof, nor Aspen, Mountain View nor any joint venturer therein nor any director, officer or stockholder of any joint venturer therein, nor any member, agent or employee of any of the foregoing shall be liable to any party for any action or for any failure to act under or pursuant to or with respect to any provision of this Declaration provided only that the person or entity sought to be charged with any liability shall have proceeded in good faith and without malice.

IX.

HOMEOWNERS' ASSOCIATION

9 1 General Purposes and Powers Aspen, Mountain View Homeowners' Association will be formed and incorporated as a Colorado corporation not for profit when fifty (50%) percent of the Lots and Ranchettes have been sold by Aspen, Mountain View. It will be and constitute the Association to which reference is made in this Declaration, to perform functions and hold and manage property as provided in this Declaration and to further the common interests of all owners of property or particular groups of owners of property which may be subject, in whole or in part, to any or all of the provisions, covenants, conditions and restrictions contained in this Declaration. The Association shall be obligated to and shall assume and perform all functions and obligations imposed on it or contemplated for it under this Declaration and any similar functions or obligations imposed on it or contemplated for it under any Supplemental Declaration with respect to any Property now or hereafter subject to this Declaration. The Association shall have all powers necessary or desirable to effectuate these purposes.

9 2 Property Maintenance Function The Association shall be obligated to and shall accept title to any real property or interest therein, including improvements thereon, or to any personal property or equipment granted or furnished by Aspen, Mountain View to the Association and, with respect to any such property and to any other property acquired and held by the Association shall be obligated to and shall pay all taxes and assessments of whatever nature relating to any of said property, adequately and fully insure all of said property against casualty loss as hereinafter provided, provide for the best and highest quality care, operation, management, maintenance, repair and replacement of the same, remove snow from the same as necessary for their customary use and enjoyment, maintain plants, trees and shrubs provided or existing thereon, maintain lighting provided or existing thereon, maintain roads, walks, drives and irrigation ditches and/or structures provided or existing thereon, and maintain tennis and swimming facilities.

9 3 Road and Easement Maintenance Function The Association may provide for the care, operation, management, maintenance, repair and replacement of all public and private roads, streets, lanes, avenues, courts and circles which shall be deemed appropriate by the Association in supplement to the service provided in relation thereto by the public road maintenance function of Eagle County, Colorado, or other governmental entity succeeding thereto, of all skiing, equestrian or other easements established or provided for some or all owners of any property which may be made subject to this Declaration, and of any and all drainage easements and drainage pipes or facilities within the same which may be established or provided with respect to any property which may be made subject to this Declaration. Maintenance shall include the removal of snow to the extent necessary to assure full use of any public or private roads, streets, lanes, avenues, courts and circles. These obligations shall be obligations of the Association without regard to whether or not the Association has any right, title or interest in any of the foregoing.

9 4 Television Function The Association may obligate itself to pay a fair share of the costs and expenses of any system provided in the Aspen, Mountain View area in Eagle County, Colorado, by a suitable areawide, nonprofit

organization to assure suitable and adequate television reception in the area through a television booster, translator or cable system.

9 5 Insurance Function The Association shall be obligated to and shall obtain and keep in full force and effect at all times at least the following insurance coverage. The Association shall obtain casualty insurance with respect to all insurable property of the Association, insuring the full replacement thereof, including coverage for fire and extended coverage, vandalism and malicious mischief and war risk coverage if available and if deemed appropriate by the Association. The Association shall obtain broad form comprehensive liability coverage, covering both public liability and automobile liability, with limits of not less than \$1,000,000.00 for each person and not less than \$300,000.00 for each occurrence and with property damage limits of not less than \$500,000.00 for each accident. All insurance may contain such deductible provisions as good business practice may dictate. All insurance shall name the Association, shall name Aspen, Mountain View as an additional insured and shall, to the extent reasonably possible, cover each owner of property now or hereafter subject to this Declaration without any such owner necessarily being specifically named. The Association shall provide Aspen, Mountain View, upon request, with certificates evidencing such insurance and copies of the insurance policies.

9 6 Water Supply Function Declarant shall convey to the Association or a private water company sufficient water rights to provide adequate domestic water for all Dwelling Units constructed on the Property, including but not limited to thirty (30) shares of stock in the Missouri Heights Irrigation Company. Such conveyance shall be subject to the provisions of Declarant's Augmentation Plan as set forth in the decree in Civil Action Nos. 79CW150 and 79CW151 of the District Court in and for the County of Garfield, State of Colorado. The Association shall have the right to own, lease, operate, regulate, manage and maintain any such water rights, water transmission lines, wells, pumps, mains, and the like within the Property furnished by Declarant and to do all things necessary on the premises, and to levy tap fees and other charges on the members to support such activities in connection with the supply of domestic water in Aspen, Mountain View. In the event a domestic water system is operated by the Association each owner shall be required to obtain all domestic water from the Association. No water from any other source shall be allowed without the written consent of the Board of Directors of the Association being first obtained. The water shall be delivered to each Lot and Ranchette through a water distribution system with the regulation of flow of water obtained either by the sizing of line to each lot or the metering of the water delivered, or a combination of both. Charges for such water shall be sufficient to pay the cost of obtaining the water from the well head source, distributing the same, maintaining the distribution system, providing a capital reserve for reconstruction of the system as necessary and to meet assessment obligations imposed by the Missouri Heights Irrigation Company and said Augmentation Decree.

In addition, Declarant shall convey to the individual purchasers of the Central Ranch and the Ranchettes within the Property adequate irrigation water rights to maintain such properties in accordance with historical practices. The Association shall provide for the construction, care, operation, management, maintenance, repairs, replacement of all ditches and laterals which are deemed necessary by the Association for the efficient transportation of such water rights to and from the Ranchettes.

The Association shall have the right to refuse to supply domestic or irrigation water to any owner or owners of any parcel who fail to pay any assessments levied as provided herein.

9 7 Right to Make Rules and Regulations The Association shall be authorized to and shall have the power to adopt and enforce rules and regulations to regulate use of any and all facilities and property of the Association to assure fullest enjoyment and use by the persons entitled to enjoy and use the same, which rules and regulations shall be consistent with this Declaration. The Association may provide for enforcement of any such rules and regulations through reasonable and uniformly applied fines and penalties, including the exclusion of violators from property, recreational facilities, privileges and activities of the Association or otherwise. Each owner of any property which may be subject to this Declaration and such owner's guests and invitees shall be obligated to comply with and abide by any such rules and regulations.

9 8 Reserved Rights with Respect to Property Furnished by Aspen, Mountain View Any real property or interest in real property furnished by Aspen, Mountain View to the Association may be and shall be deemed conveyed, granted or furnished subject to then existing easements for utilities, including gas, electricity, water, sewer, telephone, television and intercommunication, alarm or other systems, easements for drainage and drainage facilities, easements for public or private equestrian, skiing and hiking trails and facilities, easements for ingress, egress and access for the benefit of any property, whether or not subject to this Declaration, and shall be deemed subject to and deemed accepted by the Association subject to an exception and reservation by Aspen, Mountain View, whether or not expressed at the time, of the right, power and authority to thereafter create and grant any such easements and to enter upon and further improve or develop any such property, at its own cost and expense, for the benefit of the Association or any of the owners of property which may be subject to this Declaration.

9 9 No Sale or Abandonment of Property Furnished by Aspen, Mountain View No real property interest in real property conveyed, or water rights granted or furnished by Aspen, Mountain View to the Association may be, and any such real property interest therein or water rights shall be deemed, conveyed, granted or furnished, whether or not expressed in the deed or instrument of conveyance or grant, on and subject to the condition that it shall not be sold, conveyed, leased, transferred, abandoned or disposed of by the Association without the written consent of Aspen, Mountain View. No improvements on real property granted or furnished by Aspen, Mountain View to the Association may be destroyed, permitted to deteriorate or waste or disposed of by the Association without the written consent of Aspen, Mountain View unless a suitable and adequate replacement or substitute is constructed, purchased or acquired by the Association which replacement or substitute shall be deemed to be the property furnished by Aspen, Mountain View.

9 10 No Commercial Enterprise on Property Furnished by Aspen, Mountain View Except for isolated and occasional activities, normally classified as organized civic events, charitable benefits or fund raisers, and the rental of dwelling units for the occupancy and use intended, no real property or interest in real property, including improvements thereon, and no personal property or equipment granted or furnished by Aspen, Mountain View to the Association shall be used or operated by the Association or by any other person or entity for commercial use, profit or gain without the written consent of Aspen, Mountain View and no charges shall be imposed by the Association for use of property or facilities granted or furnished by Aspen, Mountain View to the Association without the written consent of Aspen, Mountain View.

9 11 Charges for Use of Facilities Subject to the provisions of this Declaration requiring the consent of Aspen,

Mountain View with respect to property or facilities furnished by Aspen, Mountain View to the Association, the Association may establish reasonable and uniformly applied charges for use of property and facilities of the Association to assist the Association in off-setting the costs and expenses of the Association attributable thereto

9 12 Right to Dispose of Property Subject to the provisions of this Declaration requiring the consent of Aspen, Mountain View with respect to property furnished by Aspen, Mountain View to the Association, the Association shall have full power and authority to sell, lease, grant rights in, transfer, abandon or dispose of any property or facilities owned or held by the Association

9 13 Governmental Successor Any property or facility owned or held by the Association and any function or activity required to be performed by the Association under the terms of this Declaration may be turned over to a governmental authority which is willing to accept and assume the same upon such terms and conditions as the Association shall deem to be appropriate with the written consent of Aspen, Mountain View

9 14 Owner's Enjoyment of Functions and Facilities Each owner of any property which may be subject to this Declaration and such owner's guests and invitees shall be entitled to the use and enjoyment of all property, property interests, and facilities owned or held by the Association and of all functions and activities undertaken by the Association subject to such reasonable and uniformly applied rules and regulations which the Association may adopt to assure the fullest and best possible use and enjoyment of the same by all persons entitled thereto and subject to such reasonable and uniformly applied charges which the Association may, subject to the other provisions of this Declaration, impose to offset costs and expenses in connection therewith

9 15 Implied Rights of Association The Association shall have and may exercise any right or privilege given to it expressly in this Declaration or, except to the extent limited by the terms and provisions of this Declaration, given to it by law, and shall have and may exercise every other right or privilege or power and authority necessary or desirable to fulfill its obligations under this Declaration, including, without limiting the generality of the foregoing, the right to engage necessary labor and acquire use of or purchase necessary property, equipment or facilities, employ personnel necessary to manage affairs of the Association and obtain, and pay for, legal, accounting and other professional services as may be necessary or desirable

9 16 Indemnification The Association shall be obligated to and shall indemnify Aspen, Mountain View and hold it harmless from all liability, loss, cost, damage and expense, including attorney's fees, arising with respect to any operations of the Association or any property of the Association including property granted or furnished to the Association by Aspen, Mountain View

9 17 Regular Membership There shall be one Regular Membership in the Association for each Lot, each Ranchette and for the Central Ranch and for each parcel of property under any land classification designation specified in any Supplemental Declaration and, each such Membership shall be appurtenant

to the fee simple title to such parcel of property. The owner of the parcel of property shall be deemed the owner or owners of the Regular Membership appurtenant to that property and title to and ownership of the Membership for that property shall automatically pass upon transfer of fee simple title to that property. Each owner or owners of a Lot, Ranchette, or the Central Ranch or other parcel of property as aforesaid shall be at all times entitled to the benefits and subject to the burdens and obligations relating to the Regular Membership for such property. If fee simple title to a parcel of property, as aforesaid, is held by more than one person or entity, jointly or in common, the Regular Membership and the benefits and burdens appurtenant to that property and membership shall be shared by all such persons or entities in the same proportionate interest and by the same type of ownership in which fee simple title to that property is held, PROVIDED, HOWEVER, that for purposes of voting, where undivided interests are as held by more than one person, one person shall be designated to vote the entire interest entitled thereto. Such designation shall be in writing signed by the designor(s), and shall be effective until revoked by written signed instrument. Membership in the Association shall be limited to owners of parcels of property with respect to the Special Membership of Aspen, Mountain View. The term Member as used herein shall mean a Special Member as well as a Regular Member.

9 18 Aspen, Mountain View Special Membership Aspen, Mountain View shall, at all times, have and be deemed to hold, in addition to any Regular Memberships it may hold by virtue of its ownership of unsold Lots or Ranchettes, a Special Membership in the Association without regard to whether Aspen, Mountain View is the owner of a Lot, Ranchette or other parcel of property. As the holder of this Special Membership, Aspen, Mountain View shall be entitled to notice of all meetings of Regular Members of the Association and shall be entitled to speak and be heard at any such meetings and shall have the vote of one regular membership on all matters submitted to a vote of Regular Members. As the holder of this Special Membership, Aspen, Mountain View shall also have the power and authority to designate sixty (60%) percent of the members of the Board of Directors of the Association until the second annual meeting of Regular Members of the Association and for two years thereafter, the power and authority to designate forty (40%) percent of the members of the Board for the following three years, and the power and authority to designate at least one member of the Board of the Association for the following 10 years, such designations to be made at least annually and immediately following election of members of the Board by Regular Members of the Association. As holder of the Special Membership, the approval of Aspen, Mountain View shall be required as a condition to merger, consolidation or dissolution of the Association. Except as herein stated, Aspen, Mountain View, as the holder of this Special Membership shall have no other rights and be subject to no other obligations by reason of such Special Membership.

9 19 Board of Directors The affairs of the Association shall be managed by a Board of Directors as provided for in the Articles of Incorporation of the Association which may, however, delegate any portion of its authority, by resolution, to an Executive Committee, or to an Executive Manager or Director for the Association who shall be paid reasonable compensation as shall be established by the Board of Directors.

Members of the Board of Directors, other than those designated by Aspen, Mountain View, shall be elected annually by the Members as hereinafter provided. Members of the Board of Directors shall be entitled to such reasonable compensation for the performance of their duties as shall from time to time be determined by vote of the Board to be appropriate. So long as Aspen, Mountain View shall have the right to appoint forty (40%) percent or more of the members of the Board of Directors of the Association, the said Board of Directors shall be vested with absolute control of the Association's budgets to be established from time to time

9 20 Voting of Members Each Regular Member shall have one vote for each Lot, each Ranchette, for the Central Ranch and for each parcel of property under any other land classification designation specified in a Supplemental Declaration, in the election of members of the Board of Directors of the Association, other than members to be designated by Aspen, Mountain View, and in all other matters submitted to the vote of Regular Members. In all voting by Members, cumulative voting and voting by Proxy shall be allowed and permitted

9 21 Notices to Members Aspen, Mountain View, as the holder of a Special Membership, and each regular Member shall be entitled to not more than sixty (60) days and not less than thirty (30) days notice of all meetings in which a vote of Members is to be taken and of the amount of all assessments which the Member is obligated to pay. Notice shall be considered given when written notice is mailed or telegraphed to a Member addressed to the Member under the name and address for the Member furnished by the Member to the Association and, in any event shall be deemed given when the Member actually receives notice. If a Member fails to furnish a name or address to the Association to which notices may be mailed, the Association shall be entitled to give notice by mail, telegraph or delivery of a written notice to the address of such Member's property addressed "Care of Owner "

9 22 Certificate of Incorporation and By-Laws The purposes and powers of the Association and the rights and obligations inherent in membership set forth in this Declaration may and shall be amplified by provisions of the Certificate of Incorporation and By-Laws of the Association, including any reasonable provisions with respect to establishing a record date for determination of Members entitled to notice or to vote, with respect to quorum required at meetings of Members and with respect to other corporate matters, but no such provisions may be, at any time, inconsistent with any provision of this Declaration

9 23 Member's Obligation to Pay Assessments and Other Amounts Aspen, Mountain View with respect to all property which may now or hereafter be subject to this Declaration, hereby covenants and each owner of any such property or any right, title or interest therein, whether or not it be so expressed at the time of acquisition of such right, title or interest, shall be deemed to covenant and agree with each other and with the Association to pay to the Association assessments as provided in this Declaration and such reasonable and uniformly (as provided in Section 9 24 hercof) applied charges for the use of association facilities which may be established by the Association as provided in this Declaration and such reasonable and uniformly applied fines and penalties imposed for violation of rules and regulations adopted by the Association as provided in this Declaration

9 24 Assessments Each Member of the Association shall be obligated to pay and shall pay to the Association at least annually, an amount which shall be levied on each parcel. The initial basis for assessment shall be a ratio wherein an unimproved Lot shall be assessed at 1 unit, an unimproved Ranchette at 1 2 units, a Lot with a Dwelling Unit at 2 units, a Ranchette with a Dwelling Unit at 2 4 units, and the Central Ranch at 3 units. Aspen, Mountain View reserves the right to establish the formula or basis for assessment against each parcel of property, provided the same shall be equitable, in its reasonable opinion, to each member of the Association. The total amount required to be raised by assessment shall be determined as provided in the section of this Declaration entitled Determination of Total Amount of Assessments.

9 25 Determination of Total Amount of Assessments
The total amount required to be raised by assessments for the Association shall be determined at least annually in accordance with the following procedure. The Board of Directors of the Association shall prepare a budget, covering at least a one-year period, showing, in reasonable detail, the various functions and matters proposed to be covered by the budget, showing the estimated costs and expenses of such functions or matters, showing the estimated income and other funds which may be received by the Association, and showing the estimated total amount of assessments required to cover costs and expenses and to provide a reasonable reserve, shall call a meeting of the Members and give not more than sixty (60) days and not less than thirty (30) days notice of the time and place thereof to all such Members; and shall furnish a copy of the budget to all such Members not more than sixty (60) days or less than thirty (30) days prior to such meetings. The total amount to be raised by assessments shall be that amount necessary to cover the costs and expenses of functions required to be undertaken or performed by the Association under this Declaration and to fulfill any and all long-term or continuing commitments of the Association made in connection with or contemplated under any previously approved budget plus such additional amount, if any, determined or approved by the majority of the Members either at or after such meeting. The Association shall, except as emergencies may require, make no commitment or expenditures in excess of the funds reasonably expected to be available to the Association, PROVIDED, HOWEVER, anything herein to the contrary notwithstanding, there may be by virtue of this provision alone be special assessments in an amount sufficient to meet any sums payable by the Association to a Water Company or District, or to some other community organization.

9 26 Approval of New Functions or Facilities Prior to acquisition of a new facility, except from Aspen, Mountain View, or undertaking a new function (a new facility or new function being hereby defined as a facility or function not incidental to or reasonably required in connection with an existing facility, or the performance of an existing function, and not a replacement of an existing facility), and prior to acquisition of any facility costing in excess of \$5,000 not included in an approved budget and prior to making a commitment with respect to any of the foregoing, the Board of Directors of the Association shall estimate the initial cost and subsequent income, cost and expense of the facility or function, shall furnish a copy of its estimate to all Members, shall call a meeting to discuss the same and give not more than sixty (60) days and not less than thirty (30) days written notice thereof to all Members, and shall, at or after such meeting, obtain the approval of sixty (60%) percent of the Members, and the written consent of Aspen, Mountain View.

9 27 Lien for Assessment and Other Amounts The Association, its successors in interest and/or assigns, shall have a lien against each parcel of property which may be subject to this Declaration to secure payment of any assessment, charge, fine, penalty or other amount due to the Association from the owner of that property which is not paid, plus interest from the date of demand for payment at the rate of eighteen (18%) percent per annum, plus all costs and expenses of collecting the unpaid amount, including reasonable attorney's fees. The lien may be foreclosed in the manner for foreclosure of mortgages in the State of Colorado. The priority of the same may be perfected by recording a lien statement in the office of the Clerk and Recorder of Eagle County, Colorado, against the property affected. In addition, the Water Company or District, its successors, and/or assigns, shall have a lien against each parcel of property which may be subject to this Declaration to secure payment of any unpaid special assessment due to said Water Company from the Association, plus interest from the date of demand for payment at the rate of eighteen (18%) percent per annum, plus costs and expenses of collecting the unpaid amount, including reasonable attorney's fees. The lien may be foreclosed in the manner for foreclosure of mortgages in the State of Colorado. The priority of the same may be perfected by recording a lien statement in the office of the Clerk and Recorder of Eagle County, Colorado, against the property.

9 28 Personal Liability of Member The amount of any assessment, charge, fine or penalty payable by a Member shall be a joint and several personal obligation to the Association of the persons or entities who constitute the Member at the time the amount was payable, their heirs, personal representatives, successors and assigns and may be recovered together with reasonable attorney's fees by a suit for a money judgment by the Association without foreclosing or waiving any lien securing the same.

9 29 Liability of Purchasers and Encumbrances A purchaser of any property subject to this Declaration shall be jointly and severally liable with the seller of the property for all unpaid assessments, charges, fines or penalties with respect to the owner of the property, or the Membership appurtenant thereto which had accrued or were payable at the time of the grant or conveyance of the property to such purchaser, without prejudice to such purchaser from the seller. No holder of a lien or encumbrance on any property shall be personally liable for any such assessment, charges, fines or penalties and the lien for such assessments, charges, fines or penalties shall be junior to any lien or encumbrance on any property taken or acquired in good faith and for value without notice and perfected by recording prior to the time a notice of failure to pay any such amount is recorded in the office of the County Clerk and Recorder of Eagle County, Colorado, against the property affected.

9 30 Estoppel Certificate Upon payment of a fee of \$15 and upon written request of any person with an interest in any property subject to this Declaration or intending to acquire an interest in such property, the Association shall furnish a written statement setting forth the amount of any unpaid assessments, charges, fines or penalties, if any, with respect to the owner of the property or the Membership appurtenant with respect to the property, which statement shall be conclusive upon the Association. The Association may increase this fee in future years as appropriate.

MISCELLANEOUS

10 1 Effect of Provisions of Declaration Each provision of this Declaration, and an agreement, promise, covenant and undertaking to comply with each provision of this Declaration, and any necessary exception or reservation or grant of title, estate, right or interest to effectuate any provision of this Declaration (a) shall be deemed incorporated in each deed or other instrument by which any right, title or interest in any portion of the property is granted, devised or conveyed, whether or not set forth or referred to in such deed or other instrument, (b) shall, by virtue of acceptance of any right, title or interest in the Property by an Owner or the Association, be deemed accepted, ratified, adopted and declared as a personal covenant of such Owner or the Association, as the case may be, and, as a personal covenant, shall be binding on such Owner or the Association and such Owner's or the Association's heirs, personal representatives, successors and assigns and, as a personal covenant of an Owner, shall be deemed a personal covenant to, with and for the benefit of Declarant and to, with and for the benefit of any other Owner, and, if a personal covenant of the Association, shall be deemed a personal covenant to, with and for the benefit of Declarant and to, with and for the benefit of each Owner within the Property, (c) shall be deemed a real covenant by Declarant, for itself, its successors and assigns, and also an equitable servitude, running, in each case, as a burden with and upon the title to each parcel of the Property and, as a real covenant and also as an equitable servitude, shall be deemed a covenant and servitude for the benefit of any real property now or hereafter owned by Declarant within any portion of the Property (d) shall be deemed a covenant, obligation and restriction secured by a lien binding, burdening and encumbering the title to each parcel of real property within any portion of the Property which lien, with respect to any portion of the Property, shall be deemed a lien in favor of Declarant and the Association, jointly and severally, and, with respect to any real property owned by the Association, shall be deemed a lien in favor of Declarant, (e) shall be deemed a condition subject to which title to each parcel of the Property is and shall at all times be held, enforceable by a power of termination and right of re-entry vested in the Declarant as hereinafter provided

10 2 Enforcement and Remedies Each provision of this Declaration with respect to the Association or property of the Association shall be enforceable by Declarant or by any Owner by a proceeding for a prohibitive or mandator, injunction Each provision of this Declaration with respect to an Owner or property of an Owner shall be enforceable by Declarant or the Association by a proceeding for a prohibitive or mandatory injunction or by a suit or action to recover damages, or, in the discretion of the Association, for so long as any Owner fails to comply with any such provisions, by exclusion of such Owner and such Owner's Guests from use of any Facility and from enjoyment of any Function In addition to the remedies stated above, if, with respect to any of the Property there is a violation or breach of or failure to comply with, any of the provisions of this Declaration, then Declarant shall be deemed to have and shall have a power of termination and the right immediately upon or at any time during the continuation of any such violation, breach or failure, to re-enter and take possession of the real property and, upon exercise of this right of re-entry, title to the real property shall thereupon vest in Declarant This right of re-entry and for re-vesting of title shall be subject to the provisions of the Section hereof entitled Protection of Encumbrancer If Court proceedings are instituted in connection

with the rights of enforcement and remedies provided in this Declaration, the prevailing party shall be entitled to recover its costs and expenses in connection therewith, including reasonable attorney's fees

10 3 Protection of Encumbrancer No violation or breach of, or failure to comply with, any provision of this Declaration and no action to enforce any such provision shall affect, defeat, render invalid or impair the lien of any mortgage, deed of trust or other lien on any property taken in good faith and for value and perfected by recording in the office of the County Clerk and Recorder of Eagle County, Colorado prior to the time of recording in said office of an instrument describing such property and listing the name or names of the owner or owners of fee simple title to the property and giving notice of such violation, breach or failure to comply, nor shall such violation, breach, failure to comply or action to enforce affect, defeat, render invalid or impair the title or interest of the holder of any such mortgage, deed of trust, or other lien or the title or interest acquired by any purchaser upon foreclosure of any such mortgage, deed of trust or other lien or result in any liability, personal or otherwise, of any such holder or purchaser. Any such purchaser on foreclosure shall, however, take subject to this Declaration except only that violations or breaches of, or failures to comply with, any provisions of this Declaration which occurred prior to the vesting of fee simple title in such purchaser shall not be deemed breaches or violations hereof or failures to comply herewith with respect to such purchaser, his heirs, personal representatives, successors or assigns

10 4 Successors and Assigns Except as otherwise provided herein, this Declaration shall be binding upon and shall inure to the benefit of Declarant, the Association, and each Owner and the heirs, personal representatives, successors and assigns of each

10 5 Severability Invalidity or unenforceability of any provision of this Declaration in whole or in part shall not affect the validity or enforceability of any other provision or any valid and enforceable part of a provision of this Declaration

10 6 Captions The captions and headings in this instrument are for convenience only and shall not be considered in construing any provisions of this Declaration

10 7 No Waiver Failure to enforce any provision of this Declaration shall not operate as a waiver of any such provision or of any other provision of this Declaration

IN WITNESS WHEREOF the foregoing Declaration was executed on the day and year above first written

BASALT MOUNTAIN ASSOCIATES,
ASPEN, MOUNTAIN VIEW

By *Richard M. Jennings*
Richard M Jennings, General Partner

STATE OF COLORADO)
) ss
COUNTY OF EAGLE)

The foregoing instrument was acknowledged before me this 2nd day of APRIL, 1981, by Richard M Jennings, General Partner of BASALT MOUNTAIN ASSOCIATES.

Witness my hand and official seal.

My commission expires: December 16, 1984

Suzanne A. Chang-King
Notary Public



FIRST SUPPLEMENTAL DECLARATION

FOR

ASPEN, MOUNTAIN VIEW,

OAK RIDGE I,

EAGLE COUNTY, COLORADO

This First Supplemental Declaration is made this 2ND day of APRIL, 1981, by BASALT MOUNTAIN ASSOCIATES, a Colorado general partnership.

I.

CERTAIN DEFINITIONS

1.1 Declarant. Declarant shall mean Basalt Mountain Associates, a Colorado general partnership, consisting of Richard M. Jennings, Walter Strenger and Hermann Reinert.

1.2 Master Declaration. Master Declaration shall mean that certain Master Declaration of Protective Covenants for the Residential Areas of Aspen, Mountain View, Eagle County, Colorado, made and executed by Declarant, dated APRIL 2ND, 1981, and recorded APRIL 14TH, 1981, in the records in the office of the County Clerk and Recorder of Eagle County, Colorado, in Book ___ at Page ___.

1.3 Supplemental Declaration. The First Supplemental Declaration shall mean this Supplemental Declaration.

II.

DECLARATION - PROPERTY AFFECTED

2.1 Declaration. Declarant, as owner of all of the hereinafter described real property, hereby declares, for itself, its successors and assigns, that all of said property shall, at all times, be owned, held, used and occupied subject to all of the provisions, covenants, conditions and restrictions contained in the Master Declaration except as is hereinafter specifically stated in this First Supplemental Declaration, each of which is

hereby adopted and incorporated herein by this reference, and to the additional provisions, covenants, conditions and restrictions contained in this Supplemental Declaration.

2.2 Other Supplemental Declarations. The hereinafter described property shall not be subject to any of the provisions, covenants, conditions or restrictions contained in any other Supplemental Declaration or instrument prepared or recorded with respect to any other property unless and except to the extent any such provision, covenant, condition or restriction is herein or hereafter specifically adopted and made applicable to the hereinafter described property.

2.3 Property Affected. The real property herein referred to is more particularly described as:

Lots 1 and 2 and 5 through 19, constituting and forming a part of Aspen, Mountain View, Oak Ridge I, Eagle County, Colorado according to the plat thereof dated FEB. 25, 1981, and recorded APRIL 14th, 1981, in the office of the County Clerk and Recorder of Eagle County, Colorado in Plat Book ___ at Page ___, Reception Number _____, (hereinafter called "Oak Ridge").

Lots 3 and 4 shall not be subject to any of the provisions, covenants, conditions or restrictions, contained in the Master Declaration or this Supplemental Declaration nor shall the owner or owners thereof be members of the Association or entitled to any of the rights, benefits, privileges or facilities of the Association or Aspen, Mountain View, unless and until by instrument duly executed and recorded, the owner or owners of said lots accept and agree to be bound by the Master Declaration or this Supplemental Declaration.

2.4 Amendment or Revocation. As provided in Paragraph 3.5 of the Master Declaration, this Supplemental Declaration may be amended or repealed, with the written consent of Declarant, by the recording of a written instrument, specifying the amendment or the repeal, executed by Declarant and by the owners of not less than eighty (80%) percent of the members then subject to this Supplemental Declaration, including any such Lots owned by Declarant. No such amendment or repeal shall be effective with

respect to the holder or successor or assign of the holder of a mortgage or deed of trust recorded prior to recording of the instrument specifying the amendment or repeal unless more than eighty (80%) percent of such holders execute said instrument.

III.

LAND CLASSIFICATIONS

3.1 Lots. Each numbered lot of the Property shown on the recorded plat of the Property is and shall be a Lot as that term is defined and used in the Master Declaration.

3.2 Common Areas. A portion of the Property shown on the recorded plat marked "Common Area" shall be or constitute Common Area as that term is defined and used in the Master Declaration.

3.3 Easements. None of the Property shall be and constitute Greenbelt Area as that term is defined and used in the Master Declaration. Any portion of the Property encumbered by any easement specified in the Dedication on the recorded plat of the Property may be utilized and improved to the extent reasonably necessary to proper use and enjoyment of the easement for the purpose(s) designated thereon only as permitted under the Master Declaration.

IV.

SUPPLEMENTAL PROVISIONS APPLICABLE TO LOTS

4.1 Residence Floor Area. The minimum floor area required of any residence structure which may be constructed on a Lot shall be as provided in the Master Declaration.

4.2 Height Limits. No residence structure or other structure, or above-ground improvement on a Lot shall rise more than the height limits shown on Building Envelope Map for Oak Ridge I. All such height limits shall be measured vertically from any point of the existing grade to the highest point of the roof at that point of existing grade, unless otherwise specified on the Building Envelope Map, which is attached hereto and made a part hereof.

4.3 Building Location Requirements. All above-ground improvements on any Lot except permitted landscaping and necessary crossings by access drives, bridges or paths and except improvements necessary or desirable in connection with any easements referred to herein or in the dedication on the recorded Plat of the Property or other easements approved by the Owner of the Lot and by Declarant, shall be located within the building envelope established for that Lot as shown on the map attached hereto and identified as the Building Envelope Map for the Property.

4.4 Areas designated for specific recreation areas, if any, are shown on the map attached hereto and identified as the Building Envelope Map for the Property.

V.

ADDITIONAL PROVISIONS APPLICABLE TO PROPERTY

5.1 Reserved Right To Enter For Development. Declarant, in continuation of its development in the area, shall at any time up to and including DECEMBER 31, 1984, have and retain the right to enter upon any Lot to clear to remove trees, shrubs and growing plants and to do such development work as may be necessary or desirable in connection with the installation of drainage or utilities facilities; in connection with the completion and finishing of roads, including grading, banking and paving; in connection with planting or landscaping work on any nearby or adjacent parcels of property; in connection with the filling and grading of any nearby or adjacent parcels of property; or in connection with any improvements necessary or desirable in connection with any easements referred to in the Master Declaration or in the Dedication on the recorded Plat of the Property or other easements approved by the owner of the Property affected and by Declarant, provided the same is accomplished without cost or expense to the owner of the Lot and no damage is done to any improvements thereon.

133
575

FIRST SUPPLEMENTAL DECLARATION
FOR
ASPEN, MOUNTAIN VIEW
OAK RIDGE II
EAGLE COUNTY, COLORADO

278267

381

959

JOHNETTE PHILLIPS
EAGLE CTY. RECORDER

A-R 2 10 07 AM '84

This First Supplemental Declaration is made this 1st day of March, 1984, by ASPEN, MOUNTAIN VIEW, LTD., a Colorado limited partnership.

I.

CERTAIN DEFINITIONS

1.1 Declarant. Declarant shall mean Aspen, Mountain View, Ltd., a Colorado limited partnership, including, as general partners, Jennings & Co., Grange Rangeview, and Reinert & Co.

1.2 Master Declaration. Master Declaration shall mean that certain Master Declaration of Protective Covenants for the Residential Areas of Aspen, Mountain View, Eagle County, Colorado, made and executed by Basalt Mountain Associates, and recorded April 14, 1981 in Book 321 at Page 619 in the records of the office of the Clerk and Recorder of Eagle County, Colorado.

1.3 Supplemental Declaration. The First Supplemental Declaration shall mean this Supplemental Declaration.

II.

DECLARATION - PROPERTY AFFECTED

2.1 Declaration. Declarant, as owner of all of the hereinafter described real property, hereby declares, for itself, its successors and assigns, that all of said property shall, at all times, be owned, held, used and occupied subject to all of the provisions, covenants, conditions and

restrictions contained in the Master Declaration except as hereinafter specifically stated in this First Supplemental Declaration, each of which is hereby adopted and incorporated herein by this reference, and to the additional provisions, covenants, conditions and restrictions contained in this Supplemental Declaration.

2.2 Other Supplemental Declarations. The hereinafter described property shall not be subject to any of the provisions, covenants, or conditions or restrictions contained in any other Supplemental Declaration or instrument prepared or recorded with respect to any other property unless and except to the extent any such provision, covenant, condition or restriction is herein or hereafter specifically adopted and made applicable to the hereinafter described property.

2.3 Property Affected. The real property herein referred to is more particularly described as:

Lots 1 through 29, constituting and forming a part of Aspen, Mountain View, Oak Ridge II, Eagle County, Colorado according to the final plat thereof recorded in Book 365 at Page 922 in the office of the Clerk and Recorder of Eagle County, Colorado.

2.4 Amendment or Revocation. As provided in Paragraph 3.5 of the Master Declaration, this Supplemental Declaration may be amended or repealed, with the written consent of Declarant, by the recording of a written instrument, specifying the amendment or the repeal, executed by Declarant and by the owners of not less than eighty (80%) percent of Lots and Ranchettes then subject to this Supplemental Declaration,

including any such Lots or Ranchettes owned by Declarant. No such amendment or repeal shall be effective with respect to the holder or successor or assign of the holder of a mortgage or deed of trust recorded prior to recording of the instrument specifying the amendment or repeal unless more than eighty (80%) percent of such holders execute said instrument.

III.

LAND CLASSIFICATIONS

3.1 Lots. Each numbered lot of the Property shown on the recorded plat of the Property is and shall be a Lot as that term is defined and used in the Master Declaration, except No. 4, which qualifies as a Ranchette. Lots 15, 16 and 17 may be classified as a Ranchette if combined and used as a single unit. If combined, they may be used for horse grazing and agricultural purposes.

3.2 Common Areas. Portions of the Property shown on the recorded plat marked "Open Space" shall be or constitute Common Area as that term is defined and used in the Master Declaration, except as hereinafter provided. For purposes of reducing the maintenance and tax burdens on the future Homeowners Association and still keeping the green area aspect, the Declarant may, within 30 days of the date hereof, lease the Open Space areas east of Lot 15 on a long-term basis for grazing and agricultural purposes, provided that all Homeowners retain the right to use an equestrian easement across those areas and the Lessee agrees to maintain the property, protect the trees thereon, and pay the taxes on those Open Space areas.

3.3 Easements. None of the Property shall be and constitute Greenbelt Area as that term is defined and used in the Master Declaration. Any portion of the Property

encumbered by any easement specified in the Dedication on the recorded plat of the Property may be utilized and improved to the extent reasonably necessary to proper use and enjoyment of the easement for the purpose or purposes designated thereon only as permitted under the Master Declaration.

IV.

SUPPLEMENTAL PROVISIONS APPLICABLE TO LOTS
AND RANCHETTES

4.1 Residence Floor Area. The minimum floor area required of any residence structure which may be constructed on a Lot or Ranchette shall be 1800 square feet.

4.2 Height Limits. No residence structure or other structure, or above-ground improvement on a Lot or Ranchette shall rise more than the height limits shown on existing Building Envelope Maps A and B for Oak Ridge II and a future Building Envelope Map C (covers Lots 18 through 29). All such height limits shall be measured vertically from any point of the existing grade to the highest point of the roof at that point of existing grade, unless otherwise specified on the Building Envelope Maps, Maps A and B of which are attached hereto and incorporated by reference herein as Exhibit "A", and Map C of which will be subsequently recorded.

4.3 Building Location Requirements. All above-ground improvements on any Lot or Ranchette except permitted landscaping and necessary crossings by access drives, bridges or paths and except improvements necessary or desirable in connection with any easements referred to herein or in the dedication on the recorded Plat of the Property or other easements approved by the Owner of the Lot or Ranchette and by Declarant, shall be located within the building envelope established for that Lot or Ranchette as shown and identified on the attached Building Envelope Maps for the Property. Lots 1, 2, and 3 may have garages separate from the house as shown on said map.

4.4 Areas designated for specific recreation areas are shown and identified on the attached Building Envelope Map for the Property.

V.

ADDITIONAL PROVISIONS APPLICABLE TO PROPERTY

5.1 Reserved Right To Enter For Development. Declarant, in continuation of its development in the area, shall at any time up to and including October 31, 1986, have and retain the right to enter upon any Lot or Ranchette to clear to remove trees, shrubs and growing plants and to do such development work as may be necessary or desirable in connection with the installation of drainage or utilities facilities; in connection with the completion and finishing of roads, including grading, banking and paving; in connection with planting or landscaping work on any nearby or adjacent parcels of property; in connection with the filling and grading of any nearby or adjacent parcels of property; or in connection with any improvements necessary or desirable in connection with any easements referred to in the Master Declaration or in the Dedication on the recorded Plat of the Property affected and by Declarant, provided the same is accomplished without cost or expense to the owner of the Lot or Ranchette and no damage is done to any improvements thereon.

5.2 Reserved Right To Enter For Enforcement. Declarant shall have and retain at any time the right to enter upon any Lot or Ranchette to remove any object or structure that violates any protective covenant of the Master Declaration or this Supplemental Declaration.

5.3 Provisions Herein Incorporated in Deeds. Each provision, covenant, condition and restriction contained in this Supplemental Declaration and contained in the Master Declaration shall be deemed incorporated in each deed or

other instrument by which any right, title or interest in any of the Property is granted, devised or conveyed, whether or not set forth or referred to in such deed or other instrument.

IN WITNESS WHEREOF Declarant has executed this Supplemental Declaration the day and year first above written.

ASPEN, MOUNTAIN VIEW, LTD., a limited partnership

By: Jennings & Co., a Colorado corporation

By: Richard M. Jennings
Richard M. Jennings, President

General Partner

STATE OF COLORADO)
COUNTY OF GARFIELD) ss.

The foregoing instrument was acknowledged before me this 29th day of March, 1984, by Richard M. Jennings, President of Jennings & Co., a Colorado corporation and General Partner of Aspen, Mountain View, Ltd., a Colorado limited partnership, for and as the act of the limited partnership.



Witness my hand and official seal.

My commission expires: 07/06/87

Dennis E. Rayburn
Notary Public

EXHIBIT A-1

BUILDING ENVELOPE MAP
SPEN, MOUNTAIN VIEW
K RIDGE II & THE MEADOWS

MAP A

DEVELOPMENT

BUILDING
ASPEN, MO
OAK RIDGE II

M/A

OAK RIDGE I

11

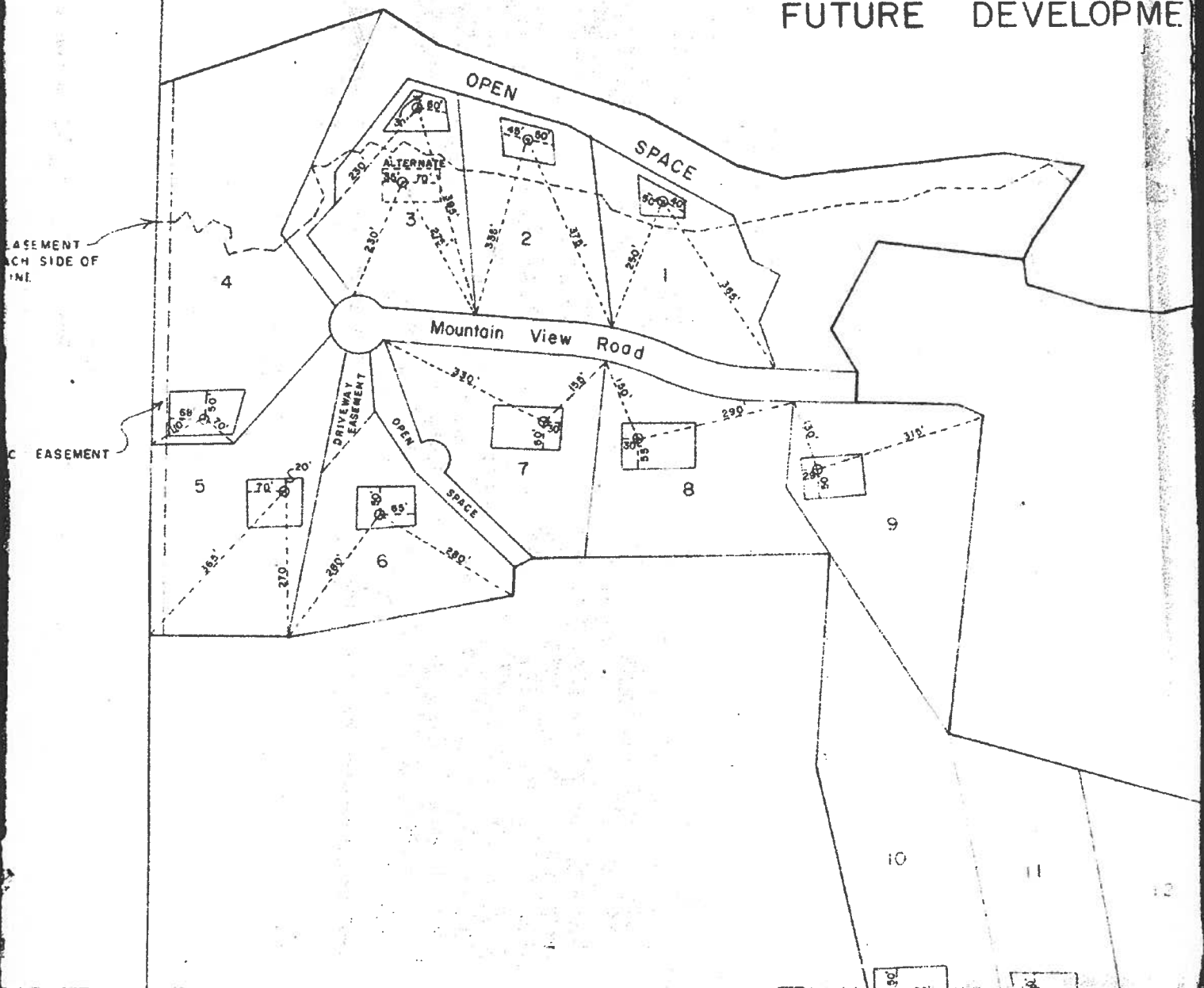
12

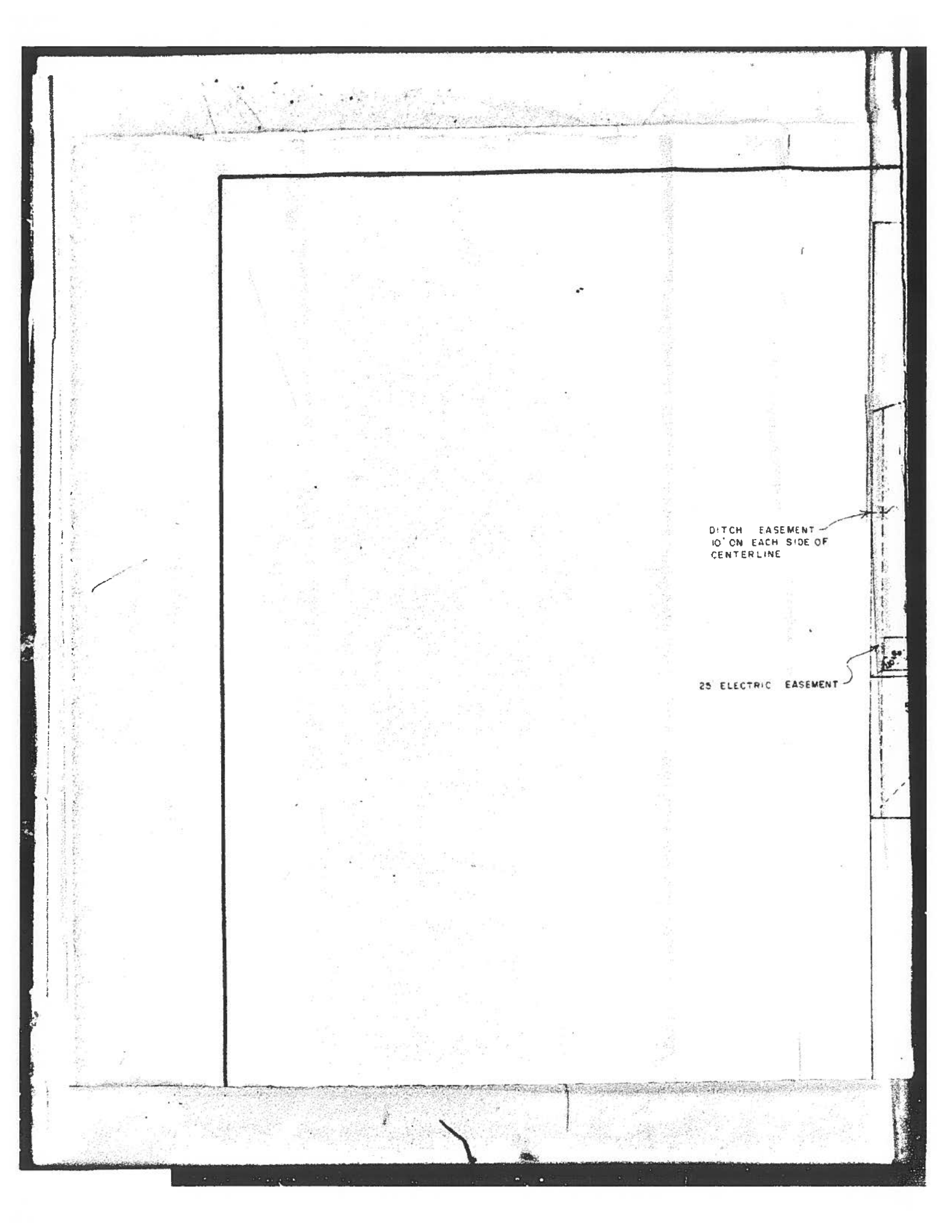
13

14

95 18
41

FUTURE DEVELOPMENT





DITCH EASEMENT
10' ON EACH SIDE OF
CENTERLINE

25' ELECTRIC EASEMENT

FUTURE DEVELOPMENT

CENTRAL RANCH

OAK RIDGE II
THE MEADOWS

Green

Mag

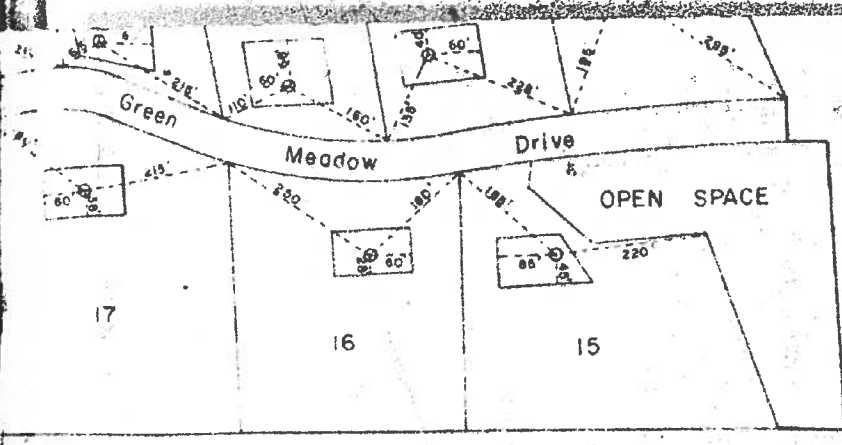
16

17

E DEVELOPMENT

RANCH

20
E
UNLESS
THE
BUILDING
RESTRICTED
1, 2, 3



SCALE: 1 inch = 200 feet

HEIGHT RESTRICTIONS
 Unless otherwise noted, building heights are restricted to 27 ft.

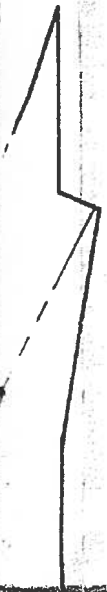
Building heights on the following lots are restricted to 25 ft.: Oak Ridge II, Lots 4, 7, 8, 9, 15, 16, 17.

NOTE: See Final Plat for further detail.

EXHIBIT A-2

DING ENVELOPE MAP
PEN, MOUNTAIN VIEW
RIDGE II & THE MEADOWS

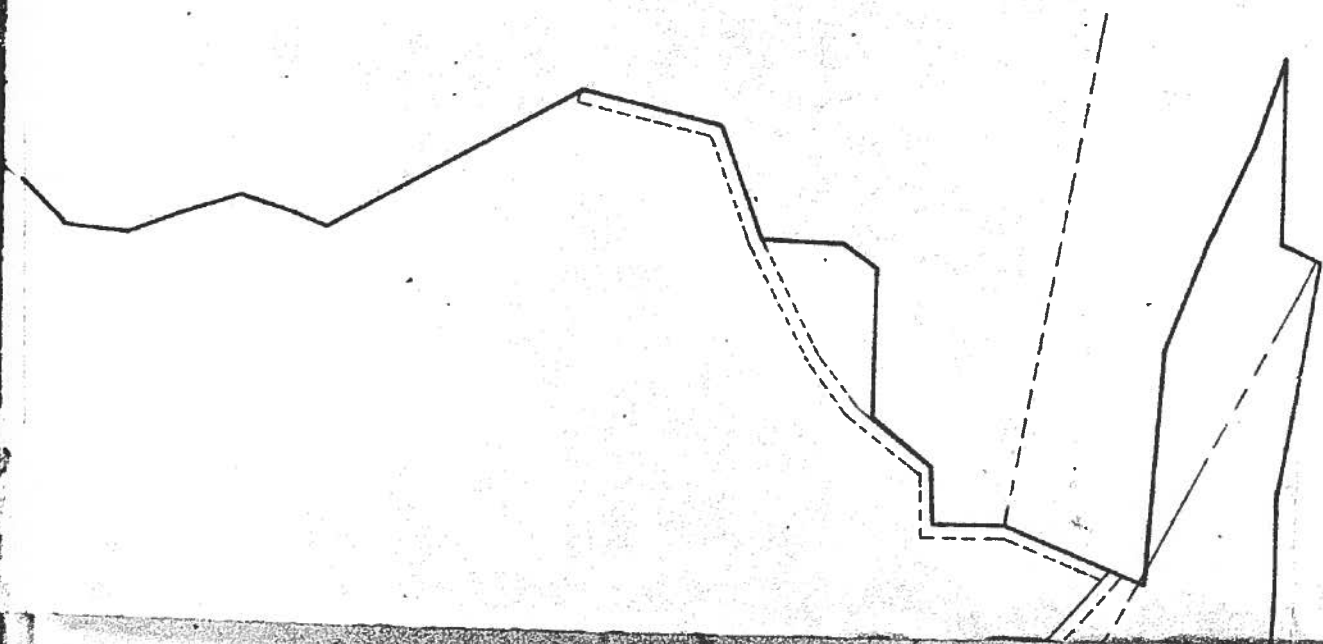
MAP B



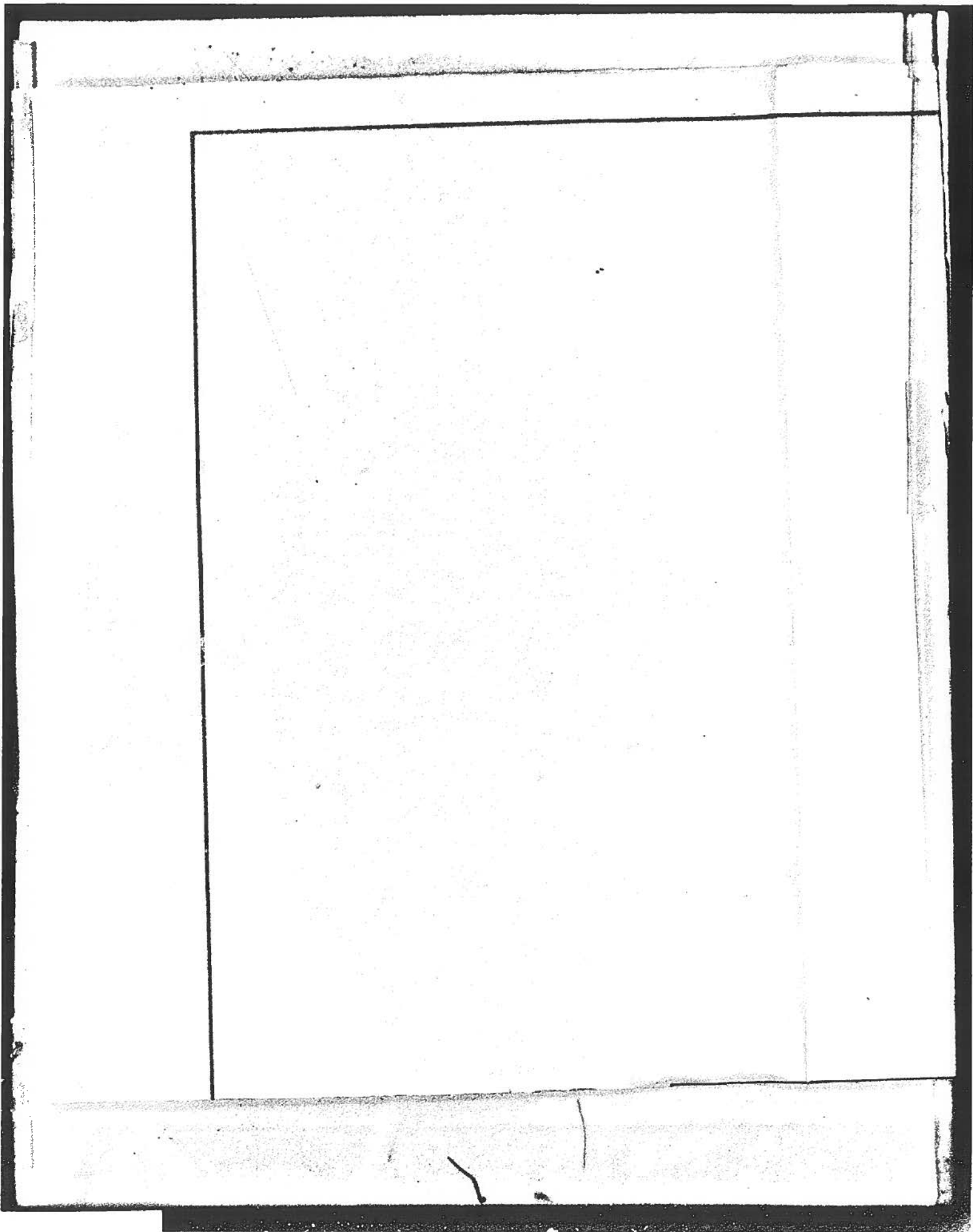
BUILDING
ASPEN, M
OAK RIDGE II

MA

UTURE DEVELOPMENT



FUTURE DE



CE

FUTURE DEVELOPMENT

EQUESTRIAN & WATER
SERVICE EASEMENT

LOT 1

60' 12"
Alternate



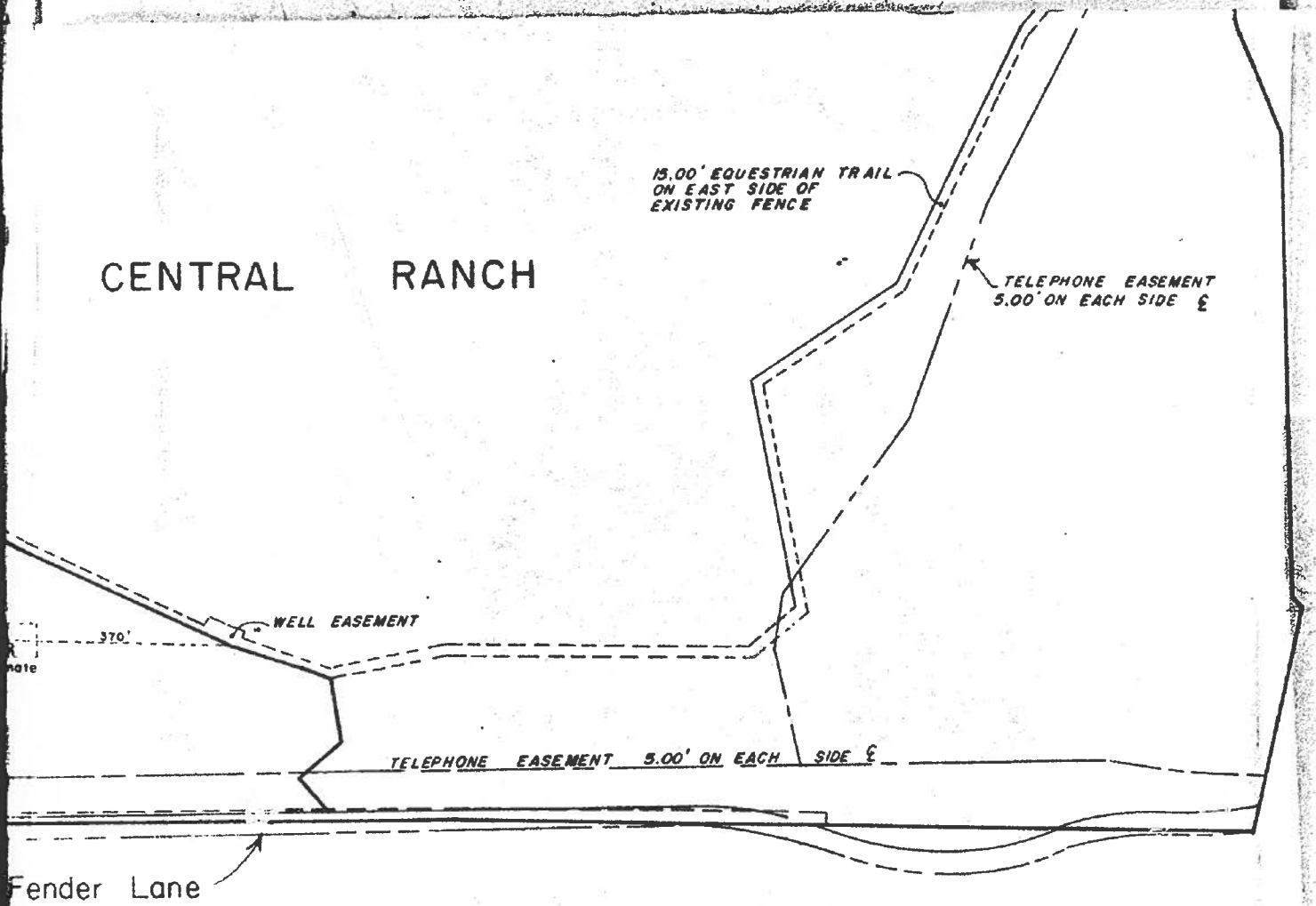
20' ELECTRIC EASEMENT

C Fender La

NOTE: See Final

HEIGHT RESTRICTIONS:
unless otherwise
restricted to 27'

CENTRAL RANCH



See Final Plat for further detail.

INSTRUCTIONS:

Unless otherwise noted, building heights are 11 to 27 feet.

ONE EASEMENT
EACH SIDE E

N



SCALE: 1 inch = 200 feet

48/20/80
#00000
4480
3800
3800 9

9073
YOUR RECEIPT
THANK YOU

135
1543

22/111

**DECLARATION OF PROTECTIVE COVENANTS
FOR SOPRIS MESA SUBDIVISION,
EAGLE COUNTY, COLORADO,
A PORTION OF ASPEN, MOUNTAIN VIEW**

This Declaration is made and effective this 31st day of August, 1998, by FENDER LANE DEVELOPERS, LTD.

RECITALS

A. Declarant is the owner of that certain real property platted as Sopris Mesa Subdivision, Eagle County, Colorado, and more particularly described on Exhibit A attached hereto and incorporated herein by this reference (hereinafter Sopris Mesa).

B. Sopris Mesa constitute a portion of that subdivision known as Aspen, Mountain View, Eagle County, Colorado and Declarant wishes by this Declaration to subject Sopris Mesa to the Master Declaration of Protective Covenants for the Residential Areas of Aspen, Mountain View, Eagle County, Colorado, recorded April 14, 1981 in Book 321 at Page 619 of the records of Eagle County, Colorado (hereinafter Master Declaration), as the same may be amended from time to time, in accordance with applicable provisions of the Master Declaration. Declarant further wishes to impose additional covenants, conditions and restrictions upon Sopris Mesa as provided in the within Declaration.


NOW, THEREFORE, in accordance with the purposes set forth in the Master Declaration and to further the desire of the Declarant that Sopris Mesa be a community of uncommon quality, value, desirability and attractiveness, Declarant hereby declares as follows:

**ARTICLE 1.
DECLARATION**

1.1 **Master Declaration.** Declarant, as owner of all of Sopris Mesa, as the same is described on Exhibit A attached hereto, and as a qualified successor to Declarant as defined in the Master Declaration, hereby declares that Sopris Mesa is annexed to and made a part of Aspen, Mountain View and shall, at all times, be owned, held, used and occupied subject to all of the provisions, covenants, conditions and restrictions contained in the Master Declaration except as is hereinafter specifically stated in this Declaration, and to the additional provisions, covenants, conditions and restrictions contained in this Declaration.

1.2 **Colorado Common Interest Ownership Act.** Sopris Mesa is a Common Interest Community as defined by the Colorado Common Interest Ownership Act, C.R.S. 38-33.3-101 *et seq.*, as the same may be amended from time to time (hereinafter the Act). The provisions of the Act, together with the provisions of the Master Declaration and this Declaration, shall regulate and

*Declaration of Protective Covenants
Fender Lane Developers, Ltd.*


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control the ownership, maintenance and use of all Lots within Sopris Mesa. As stated hereinabove, Sopris Mesa is hereby annexed to and made a part of the larger community known as Aspen, Mountain View. Aspen, Mountain View was created and the Master Declaration was recorded prior to the effective date of the Act. On April 29, 1998 the Aspen, Mountain View Homeowners Association elected to be treated as a Common Interest Community under the Act. Thus, upon the recording of the within Declaration, and the recording of the Statement of Election as provided in C.R.S. 38-33.3-118, there shall be one Common Interest Community known as Aspen, Mountain View, which shall consist of several filings, one of which is Sopris Mesa. The owners of all Lots within Sopris Mesa shall become members of the Aspen, Mountain View Homeowners Association as provided in Article 5 hereof. The maximum number of Lots within Sopris Mesa shall be twenty-four (24), and the maximum number of Lots within Aspen, Mountain View, including Sopris Mesa, shall be ninety-two (92).

**ARTICLE 3.
LAND CLASSIFICATIONS**

3.1 **Lots.** Each numbered lot of Sopris Mesa as depicted on the Final Plat of Sopris Mesa is and shall be a Lot as that term as defined and used in the Master Declaration.

3.2 **Common Area.** No portion of Sopris Mesa constitutes Common Area as that termed is defined and used in the Master Declaration.


3.3 **Easements.** No portion of Sopris Mesa shall constitute Greenbelt Area as that term is defined and used in the Master Declaration. Any portion of Sopris Mesa encumbered by any easement as depicted upon the Final Plat may be utilized and improved to the extent reasonably necessary to properly use and enjoy the easement for the purposes designated thereon as permitted by the Master Declaration.

**ARTICLE 4.
ADDITIONAL COVENANTS APPLICABLE TO SOPRIS MESA**

4.1 **Building Envelopes.** The Final Plat for Sopris Mesa depicts a building envelope for each Lot within Sopris Mesa. All above ground improvements on any Lot, except permitted landscaping and necessary crossings by access drives, bridges or paths and except improvements necessary or desirable in connection with any easements referred to herein or depicted upon the Final Plat, or other easements approved by the owner of any Lot and by Declarant, shall be located within the building envelope established for that Lot as depicted upon the Final Plat.

4.2 **Wildlife Mitigation Agreement.** The ownership, use, and occupancy of all Lots within Sopris Mesa and improvements constructed thereon shall be subject to all terms and conditions of the Wildlife Mitigation Agreement for Sopris Mesa Subdivision dated June, 1998, which is attached hereto as Exhibit B and incorporated herein by this reference. The Association is

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hereby authorized to enforce all provisions of the Wildlife Mitigation Agreement in accordance with its terms and applicable provisions of the Master Declaration. In the event of any conflict between the provisions of the Wildlife Mitigation Agreement and the Master Declaration, the provision more suitable for the protection of wildlife within and surrounding Sopris Mesa shall prevail. All provisions of the Wildlife Mitigation Agreement shall serve as guidelines in any decision by the Association or the Design Review Committee regarding the use of any Lot within Sopris Mesa or the location or design of any improvement constructed thereon.


4.3 Wildfire Protection Measures. All roofs of any improvement constructed within Sopris Mesa shall be made of materials which meet, or which are chemically or otherwise treated in such a way that they meet, the standards necessary to obtain a "non-combustible class A" fire rating as determined by the Basalt and Rural Fire Protection District. Additionally, each improvement shall have an adequate "defensible space" as requested by the Basalt and Rural Fire Protection District. "Defensible space" is defined as an area surrounding a structure where grasses, brush, trees and other common wildfire fuels, living and dead, have been thinned, removed, or modified to eliminate or reduce the presence of flammable material. Creation of a "defensible space" surrounding improvements within Sopris Mesa shall be consistent, to the greatest extent reasonably practicable, to the provisions of the Wildlife Mitigation Agreement.

4.4 Fire Sprinkler System. Any improvement constructed within Sopris Mesa which is in excess of 5,000 square feet exclusive of garages and patios, shall include an automatic fire sprinkler system constructed in accordance with the standards for the installation of sprinkler systems applicable to dwellings of the size and type of the improvement in question as established from time to time by the National Fire Protection Association, or its successor.

ARTICLE 5. ASSOCIATION

5.1 The Association. Aspen, Mountain View Homeowners Association (hereinafter Association) has heretofore been formed and is the Association to which reference is made in the Master Declaration and the within Declaration. Its members presently consist of the owners of all Lots within other filings of Aspen, Mountain View. Each owner of a Lot within Sopris Mesa shall automatically, upon acceptance of a deed for a Lot within Sopris Mesa, become a member of the Association. The person or persons who constitute the owner of a Lot shall automatically be the holder of the membership appurtenant to that Lot, and the membership appurtenant thereto shall automatically pass with the fee simple title to the Lot. Declarant shall hold a membership in the Association for each Lot owned by Declarant. Membership in the Association shall not be assignable separate and apart from fee simple title to a Lot except that a owner may assign some or all of his rights as an owner and as a member of the Association to a tenant or mortgagee and may arrange for a tenant to perform some or all of such owner's obligation as provided in either the Master Declaration or this Declaration, but no owner shall be permitted to relieve himself of the responsibility for the fulfillment of the obligations of an owner under either of such Declarations.

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5.2 **Affairs of the Association.** The affairs of the Association shall be governed by the Board of Directors in accordance with the applicable provisions of the Master Declaration, as the same may be amended from time to time, and by the applicable provisions of the Act. The duties and powers of the Association shall be as provided in the Master Declaration and the Act.

5.3 **Allocated Interests.** "Allocated interest" means the common expense liability and the votes in the Association allocated to each Lot, which interests are allocated as follows:

5.3.1 The common expense liability for each Lot is calculated on the basis of a fraction, the numerator of which is one (1) and the denominator of which is the total number of Lots within Aspen, Mountain View, as of the date of the calculation. Such fraction is then multiplied by the common expenses or the assessment in question to determine that Lot's share thereof. The common expense liability of a Lot is determined without reference to the size, location, value or use of the Lot in question.

5.3.2 One (1) vote in the Association is allocated to each Lot within Aspen, Mountain View.


5.3.3 The foregoing allocation may not discriminate in favor of Lots owned by Declarant or an affiliate of Declarant.

5.3.4 If Lots are added to or withdrawn from Aspen, Mountain View, (i) the common expense liability for each Lot shall be reallocated on the basis of a fraction, the numerator of which is one (1) and the denominator of which is the total number of Lots in Aspen, Mountain View following the addition or withdrawal of such Lot(s), and (ii) one (1) vote in the Association shall continue to be allocated to each Lot within Aspen, Mountain View following the addition or withdrawal of such Lot(s).

ARTICLE 6. DESIGN REVIEW COMMITTEE

6.1 **Design Review Committee.** The Design Review Committee shall be composed of between three (3) and five (5) natural persons. Prior to Declarant's sale of twenty (20) Lots, Declarant may from time to time appoint and remove the members of the Design Review Committee in Declarant's sole discretion. Upon the sale of the twentieth (20th) Lot, any new members of the Design Review Committee shall be appointed by the remaining members of the Design Review Committee. The persons serving on the Design Review Committee shall serve at the pleasure of Declarant, and Declarant may appoint a new member at any time, provided there shall at all times be a least three (3) persons serving on the Design Review Committee. The Design Review Committee shall have and exercise all the powers, duties and responsibilities set out in this instrument.


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6.2 Approval by Design Review Committee. In addition to the review and approval of the Design Review Committee as specified in the Master Declaration, no improvements of any kind, including, but not limited to, dwelling units, greenhouses, garages, tool sheds, work areas, fences, walls, driveways, towers, antennae, satellite dishes, kennels, exterior lighting, corrals, flagpoles, curbs and walks shall be constructed, erected, altered or permitted to remain within Sopris Mesa, nor shall any excavating, tree cutting and clearing or landscaping be done within Sopris Mesa, unless the complete architectural and site development plans and specifications (and such other items as are included in the "Plans" defined below) for such construction, alteration or landscaping are approved by the Design Review Committee prior to the commencement of such work, except as Declarant may be specifically permitted to do by this Declaration or required to do by any subdivision improvements agreement between the Declarant and Eagle County. In particular, but without limiting the generality and scope of the foregoing, no roof may be placed on any structure unless the finished exterior material and color of such roof is specifically approved by the Design Review Committee. Revegetation of all infills and cuts will be required. Plans addressing the revegetation of infills and cuts shall provide for adequate weed control, the use of native grasses, shrubs or trees, and the use of certified, weed-free seed. Such plans will be submitted to the Design Review Committee prior to any excavation, and the Design Review Committee's approval of such plans shall be required before such excavation begins.

At least three (3) complete sets of the architectural and site development plans and specifications shall be submitted to the Design Review Committee along with a grading and drainage plan, a soils and foundation report and an individual sewage disposal system (ISDS) design both prepared and certified by a professional engineer, and a complete list of all finished exterior materials and colors to be used (collectively referred to herein as the "Plans"). All copies of the Plans shall be signed and dated for identification by the Owner or his architect. The Design Review Committee shall have the right to request whatever additional specification information, plans, specifications, reports and the like it deems necessary to evaluate the development proposal throughout the approval and construction process. In addition, the Design Review Committee may adopt rules and regulations which shall specify additional information, reports, plans, specifications and the like required to be submitted to the Design Review Committee and to be deemed part of the Plans for all purposes hereunder. In the event the Design Review Committee fails to take any action within sixty (60) days after three (3) copies of the Plans have been submitted to it and the submittal has been certified in writing by the Design Review Committee as complete, then all of such submitted architectural plans shall be deemed to be approved. The Design Review Committee shall not unreasonably disapprove any Plans. The majority vote of the full number of members of the Design Review Committee then in office shall be required for any approvals described herein, but unless such majority votes to approve, the vote of two members of the Design Review Committee to disapprove shall constitute disapproval. In the event the Design Review Committee shall disapprove any Plans, the person or entity submitting such Plans may appeal the matter to the next annual or special meeting of the Members of the Association where a vote of sixty-six and two-thirds percent (65 $\frac{2}{3}$ %) of the Members' votes entitled to be cast at said Members' meetings shall be required to change the decision of the Design Review Committee.

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6.3 **Building Permit.** An Owner may apply for a building permit from the Eagle County Building Department at any time; provided, however, that the Plans approved by the Building Department shall not differ in any substantial way from the Plans approved by the Design Review Committee. If the plans approved by the Building Department differ in any substantial way as determined by the Design Review Committee, then all approvals of the Design Review Committee shall be deemed automatically revoked.


6.4 **Variances.** Unless specifically prohibited by a provision of this Declaration, the Design Review Committee may, by an affirmative vote of a majority of the full number of members of the Design Review Committee then in office, allow reasonable variances as to any of the covenants and restrictions governing architectural control contained in this Declaration and/or policies or rules promulgated by the Design Review Committee, on such terms and conditions as it shall require. No variance shall be granted which contravenes any provision of this Declaration which was required by an approval obtained by Declarant from Eagle County for Sopris Mesa or which violates the Eagle County Land Use and Building Codes. No variance shall be granted without written notice of the request for such variance provided ten (10) days prior to the hearing for said variance to all Owners. Notice to such Owners shall be deemed effective when placed in the United States mail, first-class postage prepaid, certified with return receipt requested, and addressed to the last known address for each Owner as provided to the Association.

6.5 **General Requirements.** The Design Review Committee shall exercise its best judgment to see that all improvements, construction, alterations, excavating, tree-cutting and clearing and landscaping within Sopris Mesa harmonize (to the greatest extent possible) with the natural surroundings within Sopris Mesa and with other structures and improvements within Sopris Mesa as to design, materials, color, siting, height, grade, finished ground elevation of neighboring lots and other design features.

6.6 **Materials and Landscaping.** The Design Review Committee shall evaluate, among other things, the materials and colors to be used on the outside of buildings or structures, and the harmony of landscaping and finished grade and floor elevation with the natural setting and the native trees and other vegetation within Sopris Mesa. It shall encourage "xeriscape" landscaping which emphasizes the use of indigenous foliage.

6.7 **Lighting.** The Design Review Committee shall consider exterior lighting plans and, with possible exception for lighting necessary for safety, will require that all exterior lighting be directed downward and towards the applicant's property. It will also recommend that all Owners make every effort possible to limit the use of exterior lighting at night. It shall encourage Owners to build in such a fashion that all light sources not be directly visible from outside of the Owners' respective Lot. The intent behind these considerations is to preserve the rural character of Sopris Mesa by limiting exterior lighting as much as possible while maintaining a safe atmosphere.

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6.8 **Preliminary Approvals.** Lot Owners who anticipate constructing or modifying structures or improvements on a Lot or excavating, tree-cutting and cleaning or landscaping on a Lot may submit preliminary sketches or plans thereof to the Design Review Committee for informal and preliminary approval or disapproval. All preliminary sketches should be submitted in at least three (3) sets and should contain sufficient general information on those matters required to be in the complete Plans to allow the Design Review Committee to act intelligently in giving an informed preliminary approval or disapproval. The Design Review Committee shall never be committed or bound by any preliminary or informal approval or disapproval. The preliminary approval process is offered as an accommodation only, and the Design Review Committee may set fees for this service.

6.9 **Architectural and Site Development Plans.** The Design Review Committee shall disapprove any Plans submitted to it which do not contain sufficient information for it to exercise the judgment required of it by this Declaration.

6.10 **Design Review Committee Not Liable.** Neither the Design Review Committee nor any member thereof shall be liable for damages to any person or entity submitting any Plans for approval, or to any Owner or Owners of Lots, by reason of any action, failure to act, approval, disapproval or failure to approve or disapprove with regard to such Plans. Neither the Design Review Committee nor any member thereof shall have any liability or responsibility for any representations made to any Owner or prospective Owner by any third parties. The decisions of the Design Review Committee shall be governed by this Declaration and any rules or regulations duly adopted by the Design Review Committee pursuant to this Declaration.


6.11 **Written Records.** The Design Review Committee shall keep and safeguard for at least three (3) years complete permanent written records of all approved applications, including one (1) set of the finally approved Plans, and of all actions of approval or disapproval and all other formal actions taken by it under the provisions of this Declaration.

6.12 **Authority to Promulgate Rules and Regulations.** The Design Review Committee may promulgate and adopt rules and regulations necessary to implement this Declaration. These rules and regulations may include submission requirements concerning the type of information, reports, plans and specifications, and other information necessary to make an informed decision regarding requests for development, alterations and the like.

**ARTICLE 7.
DECLARANT'S RESERVED RIGHTS**

Declarant hereby expressly reserves to itself and its successors and assigns the following described rights which may be exercised, in the sole and absolute discretion of Declarant, at any time and from time to time during the period commencing upon the recording of this Declaration and ending on the date of termination of such rights as established in this Article. The reserved rights

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hereinafter set forth may not be amended, modified, terminated or otherwise altered in any way without the express prior written consent of Declarant. All conveyances of Lots within Sopris Mesa hereafter made, whether by Declarant or otherwise, shall be deemed and construed to reserve to Declarant and/or to grant to Declarant all of the rights reserved by and to Declarant in this Article, even though no specific reference to such rights appears in the conveyancing instruments. Nothing in this Article shall limit or impair any other rights granted or reserved to Declarant by other provisions of this Declaration.

The following rights are hereby reserved to Declarant and its successors and assigns:

7.1 Completion of Improvements. The right throughout Sopris Mesa to complete improvements indicated on the Final Plat of Sopris Mesa, as such Plat may be amended from time to time. Furthermore, the right to construct and complete improvements required by the terms of the Subdivision Improvements Agreement regarding Sopris Mesa Subdivision which has been executed by the Declarant and the Board of County Commissioners of Eagle County, Colorado, as said Agreement may be amended from time to time. Furthermore, the right to create, grant and/or use and enjoy additional non-exclusive easements, and to relocate existing platted easements, upon or across any portion of Sopris Mesa, except building envelopes, as may reasonably be required for the completion by Declarant of the above described improvements or the effective exercise by Declarant of any of the other reserved rights described in this Article.

7.2 Sales, Marketing and Management. The right to construct, locate, maintain, operate, and remove from Lots owned by Declarant, any of the following, in such number, size and location as may be reasonably required by Declarant in connection with the completion of improvements, the management of Sopris Mesa, or the promotion, marketing, sale or rental of Lots:

7.2.1 Sales offices, management offices, and construction offices, and structures containing or relating to the same. Such offices shall be removable by Declarant or its successors promptly upon the Declarant ceasing to be a Lot owner;

7.2.2 Signs identifying and advertising Sopris Mesa and the Lots therein, or relating to development or construction thereon;


7.2.3 Model residences constructed or to be constructed on Lots;

7.2.4 Parking areas and facilities, and lighting necessary or desirable in the marketing of Sopris Mesa and the Lots therein to prospective owners;

7.2.5 Employees in offices;

7.2.6 Equipment;

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7.2.7 Vehicles; and

7.2.8 Marketing and construction materials.

Together with the right to attract, invite or bring prospective purchasers of Lots into Sopris Mesa at all times, and to permit them to use and enjoy any common area.

7.3 Withdrawal Rights and Procedure. The right at any time to withdraw from Sopris Mesa any Declarant owned Lot or Lots. Withdrawal may only be accomplished by the recording by Declarant of an amendment to this Declaration and an amendment to the Final Plat. Upon the recording of such amendments, the withdrawn Lot(s) shall no longer be a part of Sopris Mesa or subject to the Master Declaration or the within Declaration. Each Declarant owned Lot is hereby described and declared to be a separate portion of real estate that is subject to this right of withdrawal, and Declarant expressly reserves the right to withdraw one or more Declarant owned Lots from Sopris Mesa. Once a Lot has been conveyed to an owner other than Declarant, that portion of the real estate is no longer subject to this right of withdrawal. The withdrawn property shall be subject to whatever easements, if any, may be reasonably necessary for access or utility service to, or operation, management, use or enjoyment of Sopris Mesa or any part thereof. Similarly, the owner(s) of the withdrawn property shall have whatever easements, if any, are reasonably necessary for access or utility service to or for use or enjoyment of the withdrawn property. At the time any withdrawal of real estate is accomplished, Declarant shall record whatever documents are necessary to establish such reciprocal easements in the Eagle County records.


7.4 Transfer of Declarant's Reserved Rights. Any one or more rights created or reserved under this Article for the benefit of Declarant may be transferred to any person by an instrument describing the right or rights transferred and recorded in Eagle County. Such instrument shall be executed by the Declarant and the transferee.

7.5 Termination of Declarant's Reserved Rights. The rights reserved to Declarant in this Article shall automatically terminate and expire upon the first to occur of (i) the date which is ten (10) years after the recording of this Declaration, or (ii) Declarant's relinquishment and surrender of such rights by recorded instrument.

**ARTICLE 8.
GENERAL PROVISIONS**

8.1 Declaration to Run. All of the covenants, conditions and restrictions contained in the within Declaration shall be a burden on the title to all of the Lots within Sopris Mesa, the benefits thereof shall inure to the owners of all Lots, and the benefits and burdens of all said covenants, conditions and restrictions shall run with the title to all of the lands within Sopris Mesa.

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8.2 Termination of Declaration. In the event this Declaration has not been sooner lawfully terminated pursuant to any applicable law of the State of Colorado or Eagle County, Colorado, and the provisions herein contained, this Declaration may be terminated on January 1, 2025, by the affirmative vote of seventy-five percent (75%) of the owners of Lots within Sopris Mesa at a meeting of such owners dully held. If this Declaration is not so terminated, then it shall continue to be in full force and effect for successive twenty-five (25) year periods unless, at the close of any such twenty-five (25) year period, this Declaration is terminated by the affirmative vote of seventy-five percent (75%) of the owners of Lots within Sopris Mesa. In the event of any such termination, a properly certified copy of the Resolution of Termination shall be placed on record in Eagle County, Colorado, not more six (6) months after the meeting at which such vote is cast.


8.3 Amendment of Declaration. This Declaration may be amended by the affirmative vote of sixty-seven percent (67%) of the owners of the Lots within Sopris Mesa, said vote to be cast at a meeting of such owners dully held, provided that a properly certified copy of the Resolution of Amendment shall be placed on record in Eagle County, Colorado, no more six (6) months after said meeting.

8.4 Severability. Shall any part or parts of this Declaration be declared invalid or unenforceable by any Court of jurisdiction, such decision shall not effect the validity of the remaining provisions of this Declaration.

8.5 Paragraph Headings. The paragraph headings within this Declaration are for convenience only and shall not be construed to be a specific part of the terms hereof.

8.6 Limited Liability. The Declarant and the Association and its Board of Directors shall not be liable to any party for any action or for any failure to act with respect to any matter if the action taken or failure to act was in good faith without malice. The owners of Lots within Sopris Mesa severably agree to indemnify the Declarant and the Association and its Board of Directors against loss resulting from such action or a failure to act if the Declarant and the Association and the Board of Directors acted or failed to act in good faith and without malice.

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IN WITNESS WHEREOF, this Declaration of Protective Covenants for Sopris Mesa Subdivision has been executed as of the day and year first above written.

FENDER LANE DEVELOPERS, LTD.,
a Florida Limited Partnership.
By: J.N.M. Missouri Heights, Inc.,
a Florida Corporation, General Partner
By: [Signature]
James N. McGarvey, Jr., President

STATE OF FLORIDA)
) ss
COUNTY OF Duval)

The above and foregoing instrument was acknowledged and sworn to before me this 8th day of September, 1998, by James N. McGarvey, Jr., as President of J.N.M. Missouri Heights, Inc., General Partner of Fender Lane Developers, Ltd.

Witness my hand and official seal.

My commission expires: 5-21-2002
My address is: 2453 So. Third Street
Jacksonville Beach, FL 32250

[Signature]
Notary Public



Patricia H. Kelley
MY COMMISSION # CC722880 EXPIRES
May 21, 2002
BONDED THRU TROY FAIR INSURANCE, INC.

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EXHIBIT A

LEGAL DESCRIPTION OF SOPRIS MESA

Sopris Mesa Subdivision, according to the Final Plat thereof, recorded September _____, 1998 at Reception No. _____, in the office of the Clerk and Recorder of Eagle County, Colorado.



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Western Ecosystems, Inc.

Ecological Consultants

905 West Coach Road, Boulder, CO 80302 (303) 442-6144

**WILDLIFE MITIGATION AGREEMENT
FOR
SOPRIS MESA SUBDIVISION, EAGLE COUNTY, COLORADO**

June, 1998

Fender Lane Developers, Inc., the proponent, proposes developing 24, 2.5-7.0 acre lots on 88.7 acres in the southwestern portion of Eagle County, Colorado. The proposal is known as Sopris Mesa Subdivision and is adjacent to, and will be associated with, the Aspen, Mountain View Subdivision. This undeveloped agricultural property is surrounded by partly built-out subdivisions, including three approved filings of the Aspen, Mountain View Subdivision to the north and east, King's Row Subdivision to the west, Harmony View Subdivision to the south, and Red Table Acres Subdivision to the east. Central Ranch, a large irrigated pasture functioning as open space, occurs within these subdivisions, and borders Sopris Mesa property to the south and east.

The largest portion of the property is irrigated pasture land which was once part of Grange Ranch and which is contiguous with the Central Ranch pasture. The pasture contains a mixture of non-native hay grasses and common dandelions, the former of which were planted historically after the native sagebrush shrubland was removed. Shallow upland slopes surrounding the irrigated portions of the pasture contain remnant native vegetation, including sagebrush, arrowleaf balsamroot, a variety of less-dominant native grasses and forbs, and a small clump of Gambel's oak.

This property and the surrounding subdivisions are classified on current Colorado Division of Wildlife (CDOW) Wildlife Resource Information System (WRIS) maps as deer winter range and elk winter range, severe winter range, and critical habitat. A wide variety of other wildlife are associated with the property, but their ranges are not delineated on CDOW WRIS maps.

This wildlife mitigation and enhancement plan was developed to avoid, minimize, and mitigate wildlife impacts resulting from proposed residential development associated with Sopris Mesa Subdivision. The wildlife planning process involved conducting field surveys to identify important wildlife habitats and providing that information to planners who reconfigured the conceptual design to avoid and minimize conflicts. The specifics contained herein have evolved from existing wildlife information, results of field surveys, discussions, and meetings with CDOW and Aspen, Mountain View Subdivision Homeowners Association representatives, input from Eagle County (County) and the public, and meetings and



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discussions with staff and professionals representing the proponent. This plan not only considers the Sopris Mesa portion of the Aspen, Mountain View Subdivision, but also considers how this development can be integrated into existing and approved, but unbuilt, residential developments to facilitate continued wildlife use.

This plan is organized by wildlife issues. Where mitigation measures apply to more than one issue, they are discussed under the most appropriate issue and only mentioned under other issues.

Fender Lane Developers, Inc. (developer), its successors or assigns, including the Sopris Mesa Subdivision and/or Aspen, Mountain View Subdivision Homeowners Association (association), which might undertake some or all of the owner's commitments, as delineated below, propose to commit to the following wildlife mitigation measures, at or before approval by Eagle County of the first Final Plat for Sopris Mesa Subdivision. By signature below, the developer and association recognize that the measures herein committed to adequately mitigate wildlife-related impacts associated with construction and habitation of Sopris Mesa Subdivision.

1.0 WILDLIFE MOVEMENT CORRIDORS

The proposed development has incorporated a wildlife movement corridor through the subdivision to allow animals to migrate between and within their summer and winter ranges. The corridor bisects the property between Lots 5 and 18 on the east and Lot 6 on the west, as shown on the July, 1997 Preliminary Plan map. No additional development, other than for roads and utilities, shall be permitted within this designated corridor. The minimum width of this corridor shall be 600 feet. The effective minimum corridor width may expand slightly depending upon where owners of contiguous lots site their homes. Use of this corridor will also be facilitated by the establishment of building envelopes, and fencing, dog, and other restrictions that are part of this agreement. Some animals will additionally use broader gaps between homes for movements.

This corridor is the first corridor that has been established in this area as part of the Eagle County planning process. This corridor is intended to allow elk and other wildlife to continue their present access from the northeast to winter forage in the Central Ranch open space, then depart through the subdivision to a large block of presently undeveloped lands to northwest. It should be recognized that for this corridor to continue functioning, these corridors will have to be protected through adjacent private lands, ultimately connecting them to the National Forest.

2.0 BUILDING ENVELOPES

Building envelopes, defining a general area on each lot in which all structural development is permitted, have been established on each parcel. These approximately 20,000 square foot envelopes are outside of the wildlife movement corridor and have been additionally sited to avoid, to the extent practical, native habitats (of higher value to wildlife). It is the


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developer's intention that all structures (e.g., house, garage, all fencing, dog runs, etc.), as well as surrounding landscaping, and all disturbance to native vegetation, with the possible exceptions of utilities and driveways, be contained within the designated building envelope established on each parcel. This will allow homeowners some flexibility in the exact siting of their home and ancillary facilities, while insuring that development follows a design minimizing habitat losses and facilitating continued wildlife use of the property.

No vegetative manipulation will be permitted outside of building envelopes, except where manipulation is required as part of a valid winter range enhancement program and/or as may be required to revegetate those areas disturbed by construction along access and utility easements. No vegetative clearing for wildfire mitigation shall extend beyond the designated building envelope. For example, if a 30 foot clearing is required around a residence to reduce wildfire hazard, the residence must be located at least 30 feet from the edge of the designated building envelope. The objective of this measure is to minimize the amount of natural habitat loss.

Homeowners will be educated to appreciate and maintain the existing and restored vegetative community, particularly shrubby areas which provide critical cover and forage values. The area of fertilized, irrigated landscaping each residence is permitted to have will be restricted to $\leq 7,500$ square feet. This figure may be further reduced or restricted based on conditions which may be imposed by a future water augmentation plan. Residents will also be educated to recognize that they have moved into wildlife habitat, that some wildlife will have strong compulsions to eat what homeowners plant, and that the CDOW, developer, and the association will not be liable for damage to landscaping.

3.0 BIG GAME WINTER RANGE

The entire Sopris Mesa property is contained within CDOW-designated deer winter range and elk winter range, severe winter range, and critical habitat. To compensate for elk displaced from developed portions of Sopris Mesa (i.e., from the construction of homes, garages, driveways, and other developed areas), a no net loss of forage policy has been established. This will require seeding and/or transplanting sagebrush onto suitable portions of lots presently containing non-native (i.e., pasture) vegetation. This compensation will be implemented by the developer of Sopris Mesa at the same time that the construction of the infrastructure for the subdivision occurs. This will allow vegetative restoration to occur prior to the construction of any dwellings. It should also be recognized that restored sagebrush areas may have to be temporarily fenced to exclude horse access from the Central Ranch before vegetation can withstand grazing. Furthermore, the intended, ultimate goal of this effort is to restore a sagebrush community to a species composition and density approaching that of adjacent, undisturbed sagebrush stands. The seed mix developed for the site could, therefore, contain native grasses and forbs as well as big sagebrush. Development of a mature sagebrush community will take years to accomplish. Therefore, while initial reclamation efforts may be implemented by the proponent, it will eventually be the responsibility of the homeowners association and some individual lot owners to manage the reclaimed sagebrush community toward its ecological climax.


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As an approximate quantification of native sagebrush habitat lost to development, a total of 2.75 acres (6 lots whose likely 20,000 ft.² building envelope locations would be located in native habitat), plus road and driveway acreage, will be assumed to be impacted and, therefore, require replacement, as defined in this section. Based on the Preliminary Plan lot configuration (July 1997), anticipated road and driveway acreage would be unlikely to result in impacts to more than 1.0 acre of native habitat. Thus, a total of 3.75 acres of sagebrush habitat requires restoration.

Other methods may also be employed to maintain the functional value of the acreage of critical big game winter range lost to this development. Compensatory enhancement is usually accomplished by aerial fertilization, but a variety of other techniques may also be implemented, including controlled burning, brush beating, etc. Not all of these methods would be appropriate on-site. On-site mitigation generally has the highest efficacy, followed by mitigation or enhancement in adjacent areas. It is the intention that all mitigation efforts be focused on those animals affected by Sopris Mesa development.

4.0 PRESERVATION OF CENTRAL RANCH

It is the developer's intention that the Central Ranch be preserved as open space for use, in part, by wildlife.


5.0 RECLAMATION/ LANDSCAPING

Wildlife habitats disturbed by construction activity outside of building envelopes should be reseeded or replanted with those native plant species originally present. Where service access is required, trees could be excluded from buried or overhead utility corridors. Posted speed limits within the development will be slow enough that road shoulders could be reseeded with plants palatable to big game without increasing the probability of road-kills.

Homeowners are strongly encouraged to landscape with native plant species to avoid wildlife damage. The CDOW, developer, and the association will not be liable for wildlife damage to landscaping.

6.0 DOGS AND PET CONTROL

Each residential lot will be permitted to have up to two dogs and offspring up to three months old. Residents will be prohibited from harboring dogs on their property unless they have adequate facilities (i.e., a fenced yard, dog run, or kennel) to contain the animals. Enclosed runs must be located immediately adjacent to the home, within the lot's building envelope, and shall not exceed 1,000 square feet. Homeowners are encouraged to enclose runs to protect dogs from possible mountain lion predation. If facilities are inadequate to contain the resident's dog(s), the animals will be immediately removed from the subdivision until adequate structures can be built.


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At no time are dogs or cats to be allowed to run freely. When dogs move beyond their owner's property line, the dog must be controlled by a leash of no more than 12 feet in length, under the direct control of its owner or authorized representative, unless the dog is legally hunting with its owner or authorized representative, or is being trained for such a purpose. Guests of homeowners shall comply with all Sopris Mesa pet control measures.

If residents have cats, they shall be kept inside the homes at all times. Sagebrush and other native habitats support moderate numbers of birds and cats are a major, if not the major, predator.

The Home Owners' Association for Sopris Mesa Subdivision shall be responsible for enforcing dog and pet covenants. Stray dogs and cats may also be controlled by the County and CDOW. Such control may include the destruction of stray pets under Colorado law. Homeowners not in compliance with these pet restrictions will be responsible for any and all costs incurred by the Homeowners Association, County, and/or CDOW for enforcing these provisions. Should the Homeowners Association knowingly fail to enforce these covenants, the County and/or CDOW may enforce the covenants and recover any and all costs incurred. Association penalties for first, second, and subsequent violations will be a \$50.00 fine, \$100.00 fine, and a \$200.00 fine. At any time after the first offense and warning that the pet owner fails to comply, the Association may request removal of the pet from Sopris Mesa. Non-payment of a fine or failure to remove the pet(s) from Sopris Mesa property, shall be considered a separate violation for each day that a violation continues after notice, and shall be enforced (i.e., fined) accordingly.

Sopris Mesa residents will be educated regarding Sopris Mesa's pet policy. Homeowners should be educated that they should not feed dogs and other pets outside their homes, including decks, to avoid attracting nuisance wildlife or predators.

7.0 FENCING

Fencing will be restricted throughout the Sopris Mesa property to facilitate local and migratory wildlife movements, optimize habitat availability, and reduce wildlife mortality. Fencing approval will be under the purview of the Design Review Board or Homeowners Association. There shall be no fencing of perimeter lot lines, nor of the perimeter of the designated building envelope.

Homeowners will be permitted a privacy fence to enclose up to 4,000 square feet (e.g., around a hot tub), provided it is immediately adjacent to the house and it is entirely within the designated building envelope. Fencing is also permitted around a swimming pool and garden, provided they are also contained within the building envelope. Fencing may be subject to more restrictive provisions as stated in the Protective Covenants or other documents related to the property.

Fencing will be prohibited in the designated movement corridor to facilitate corridor use. With respect to buck & rail fencing, maximum fence height shall not exceed 42 inches, maximum fence width (from a top view) shall not exceed 12 inches.



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Internal barbed-wire fences (used as pasture fences to contain livestock) on the property that are no longer needed will be removed. If fencing is required to restrict domestic livestock grazing on the Central Ranch or other adjacent properties, Sopris Mesa will attempt to work with the adjacent landowners (where those landowners are willing to work with Sopris Mesa) in an attempt to install a three-strand wire fence, with strands located at 18, 30, and 42 inches above mean ground level, with gates in the fence that can be opened outside the period when livestock are present to further facilitate wildlife movements. Other fence designs, including a three-strand wire and pole fence with the top strand being a three inch wide strip of white vinyl, may also be compatible with wildlife movements and the type of livestock being excluded.

8.0 BEARS AND MOUNTAIN LIONS/ TRASH REMOVAL/ NUISANCE WILDLIFE

Sopris Mesa is located in high quality black bear habitat. Most bears do not cause damage where residential areas have encroached into bear habitat. The key is that if a bear doesn't find food it will move on. Black bears are omnivorous and while they mostly eat vegetation, they will eat almost anything. They will eat human food, garbage, hummingbird nectar, bird seed, pet food, grease off grills, suntan lotion, etc. Garbage generally provides the greatest attraction for bears to residential developments. Once a bear has found an easily accessible, consistent food source, it will often overcome its wariness of people and visit the site regularly. This increases the chance of a bear-human encounter. After repeated use of the food source, the bear may even act aggressively toward residents, their pets, or their unsuspecting neighbors. When this happens and wildlife authorities are notified, the bear is usually killed to protect human safety.

The following measures will be required to reduce potential bear problems:

1. There shall be no outside storage of any trash or garbage, no matter how briefly (e.g., overnight), at any residence or anywhere within the development, unless it is contained within individual bear-proof containers which meet North American Bear Society, CDOW, or U.S. National Park Service specifications. These containers presently cost around \$300.00 and can contain one 32 gallon trash can. They are nonmobile and are generally cemented on a stand at the junction of a resident's driveway and the local road. Most homeowners need two containers.
2. Prior to disposal, any refuse that might attract bears should be kept within the garage in a suitable receptacle with a tight-fitting lid. Refuse should not be kept within detached garages or sheds because these structures are more likely to be broken into by bears. Trash containers should be taken to the collection points (e.g., the end of driveways) the morning of collection.

However, following these recommendations may not eliminate bear problems. Bears have broken into attached residential garages in the surrounding area for garbage. Bear-proof containers are the most secure approach to garbage disposal.



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3. There shall be no dumps or underground disposal of refuse within the development. Buried garbage will attract bears.

4. Residents will also be educated that household and garden waste contributions to compost piles compose the materials that can attract bears and create problems. Composted yard waste consisting of leaves, grass, small branches, etc. do not usually attract bears.

5. Pets shall not be fed outside. Bowls of pet food left on the back deck will attract bears and other predators (e.g., coyotes) and nuisance species (e.g., skunks) of wildlife. Some of these wildlife species may carry disease that can be transmitted to pets.

6. With the exception of bird feeders, the feeding, baiting, salting, or other means of attracting wildlife to individual yards will be prohibited.

7. Homeowners will be educated about bears and other local wildlife via the CDOW's brochure entitled "Living with wildlife in bear country". One copy of the brochure shall be provided to each homeowner at closing.

Mountain lions are occasionally present year-round in the vicinity of Sopris Mesa, but may be more common when large numbers of deer and elk (prey species) are present in the area. In other areas of Colorado, where subdivisions have encroached upon mountain lion habitat containing high concentrations of prey species, encounters between lions, humans, and their pets and livestock have increased. The following measures will be implemented to minimize lion-human conflicts:

1. All residents and perspective residents will receive a copy of the CDOW's brochure entitled "Living with wildlife in mountain lion country" explaining what residents should be aware of, what to do if a close encounter occurs, and measures they can take to increase their safety and that of their pets.

2. With the exception of bird feeders, the feeding, baiting, salting, or other means of attracting wildlife to individual yards will be prohibited on Sopris Mesa property.

9.0 HORSES

There will be no boarding of horses on individual lots within the Sopris Mesa property. Any horses owned by residents of the subdivision must be maintained off-site. Lot owners will not be permitted a temporary "saddle-up" area, corral, or other fenced areas to allow horses to be kept overnight, over a weekend, or for any length of time on their property. These measures are intended to minimize the loss of wildlife habitat and to reduce movement restrictions that would be imposed by horse fencing.



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10.0 WILDLIFE MORTALITY ON LOCAL ROADS

Vehicle speeds on proposed roads within the Sopris Mesa and surrounding developments will be slow enough to avoid killing most wildlife that may be crossing roads. However, residents, and particularly contractors, frequently exceed posted limits in some areas. Obeying posted speed limits would not only reduce wildlife mortality, but would also reduce the risks of damage to personal property and injury to motorists.

11.0 EDUCATING RESIDENTS

Homeowners moving to Sopris Mesa will do so partly because of the natural setting and the wildlife it contains. Many homeowners will be unfamiliar with the wildlife of Colorado and its mountains and the responsibility that goes with living in this setting. Homeowners generally don't want to disturb, harass, or impact wildlife, but they often unwittingly do. Homeowners will be educated about local wildlife issues by providing each prospective resident a signed copy of this agreement with initial contract documents, and providing each resident a signed copy of this agreement and the CDOW bear and mountain lion brochures at the time of closing.


12.0 ADDITIONAL COMMITMENTS

The Restrictive Covenants, as set forth above in this Agreement and as they solely relate to the wildlife issues noted above, shall not be amended without the written consent of the County and the Sopris Mesa Homeowners Association. If any conflict occurs between Sopris Mesa control documents, the more restrictive provisions shall take precedent. This entire wildlife mitigation plan and, specifically, those sections addressing pets, fencing, and bears, can be enforced by the association and/or County through the Restrictive Covenants. It is the intention of Sopris Mesa that this Wildlife Mitigation Agreement be made a plat or deed restriction that runs with the land.

Copies of this final signed agreement shall be provided to all prospective residents of the development with initial contract documents and at the time of closing.

13.0 ENDORSEMENT

By its execution of this document, the developer and the association hereby agree that the wildlife impacts associated with residential development at Sopris Mesa have been, and would be, adequately mitigated if this plan were implemented, and further hereby recommends approval of the development proposal and mitigation plan.


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If our agreement is correctly set forth above, please execute and return to the undersigned one copy of this letter.

Sincerely,

(Sopris Mesa) Fender Lake Developers, Ltd

BY:

[Signature]
Name and Title of Authorized Official
President of Gen. Partner

Accepted and agreed to this 1 day of June, 1998.

~~Colorado Division of Wildlife~~

~~BY: _____
Name, Title~~

~~Accepted and agreed to this _____ day of _____, 199_____~~

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Aspen Mountain View Homeowners Association

Where the provisions of the Wildlife Mitigation Agreement for Sopris Mesa Subdivision are in conflict with the Master Declarations of Protective Covenants (and any Supplemental Declarations) for Aspen Mountain View Homeowners Association the above referenced Declarations for Aspen Mountain View Homeowners Association will prevail.

BY: Rod Carnie
Rod Carnie, President

Accepted and agreed to this 3rd day of July, 1998.



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