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Nov 3 3 06 PM 1978

JAMES H. WHEELEY
COUNTY RECORDER

1670

PILOT HILL ESTATES
UNIT III

SUPPLEMENTARY DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS

Pilot Hill Investments A, a limited partnership, and Pilot Hill Investments B, a limited partnership, hereinafter called Declarant, is the owner in fee simple of certain real property located in El Dorado County, California, recorded on a subdivision map and designated as "Pilot Hill Estates", pursuant to a map recorded on NOVEMBER 3, 1978 in the office of the county recording officer of El Dorado County, California in Volume F, Page 89.

For the purpose of enhancing and protecting the value, attractiveness, and desirability of the lots or tracts constituting such subdivision, declarant hereby declares that all of the real property described above and each part thereof shall be held, sold and conveyed only subject to the following easements, covenants, conditions, and restrictions, which shall constitute covenants running with the land and shall be binding on all parties having any right, title, or interest in the above described property or any part thereof, their heirs, successors, and assigns; and shall inure to the benefit of each owner thereof.

Declarant has previously filed a Declaration of Covenants, Conditions and Restrictions pertaining to Pilot Hill Estates, which declaration was recorded on October 7, 1976 in the office of the county recording officer of El Dorado County, California in Book 1436, Page 263.

Article II of said declaration provides for annexation of Pilot Hill Estates Unit III to the Pilot Hill Estates Subdivision. It further provides that subsequent to annexation, the owner of a lot in Unit III shall have all the rights and privileges and obligations given and required of owners in Pilot Hill estates (Unit I) subdivision, particularly including membership in the Homeowner's Association.

The purpose of this Supplementary Declaration of Covenants, Conditions and Restrictions is to accomplish annexation in the original Declaration described above.

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ARTICLE I. DEFINITIONS

Section 1. "Association" shall mean and refer to Pilot Hill Estates Homeowner's Association, a California Non-Profit Corporation, its successors and assigns.

Section 2. "Common Area" shall mean all real property owned, leased, or maintained by the Association for the common use and enjoyment of the owners (including private roads and recreational areas).

(a) Roads have been dedicated or offered for dedication to the County of El Dorado for public use. As of the recording of this instrument this offer has not been accepted with reference to Unit III. However, if the roads are accepted by the County for public use at some future time, the Association is still required to maintain them.

(b) The recreational common area (Pilot Hill Estates Unit I, Lot A) is currently held by the Association for recreational use under the terms of that certain "Recreational Use Easement" dated October 8, 1976, and recorded October 8, 1976 in Official Records of El Dorado County, California at Book 1436, Page 778.

(c) The recreational common area is to be conveyed in fee to the Association when Pilot Hill Estates Unit I and a portion of Unit II is sold out. The exact terms of said conveyance are set forth in that certain "Holding Agreement" dated October 8, 1976.

Section 3. "Declarant" shall mean the above named limited partnerships and their successors and assigns, provided such successors or assigns acquire more than one undeveloped lot from declarant for the purpose of development.

Section 4. "Lot" shall mean any plot of land shown on the recorded subdivision map referred to above with the exception of the common area designated as Lot "A", Unit #1.

Section 5. "Maintenance" shall mean the exercise of reasonable care to keep buildings, roads, landscaping, lighting, and other related improvements and fixtures in a condition comparable to their original condition, normal wear and tear excepted. Maintenance of landscaping shall further mean the exercise of generally accepted garden management practices necessary to promote a healthy, weed-free environment for optimum plant growth.

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Section 6. "Member" shall mean every person or entity who holds membership in the Association.

Section 7. "Mortgage" shall mean a conventional mortgage or deed of trust.

Section 8. "Mortgagee" shall mean a holder of a conventional mortgage or a beneficiary under or holder of a deed of trust.

Section 9. "Owner" shall mean the record owner, whether one or more persons or entities, of a fee simple title to any lot which is a part of the property, and shall include contract sellers, but shall not include those holding title merely as security for performance of an obligation.

Section 10. "Subdivision" shall mean the subdivided real property hereinbefore described and such additions thereto as may be brought within the jurisdiction of the Association as hereinafter provided.

ARTICLE II. ANNEXATION

It is the intent of declarant, and declarant shall have the right to annex additional property to the subdivision. Such additional property is specifically described in Exhibit _____ attached hereto and incorporated herein by reference. Such additional property is also designated as "Pilot Hill Estates Unit II" and "Pilot Hill Estates Unit III" on the above referenced subdivision map, a copy of which is attached as Exhibit _____, and is incorporated herein by reference. Subsequent to annexation, the owner of the lot in Unit II or Unit III shall have all the rights and privileges and obligations given and required of owners in the subdivision (Unit I), particularly including membership in the Association.

Annexation shall be accomplished by filing for record a Supplemental Declaration of Covenants, Conditions and Restrictions with regard to Units II and III. Such supplemental declarations shall in no way modify, change or affect these restrictions now in effect.

Annexation of Units II and III must occur prior to the third anniversary of the original issue of the most recently issued Department of Real Estate Subdivision Public Report covering either the subdivision (Unit I) or Units II and III. In the event annexation of Units II and III does not occur within that time, annexation will be subject to the written consent of two-thirds of each class of members.

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With the exception of the foregoing, all other annexations of additional property and/or common area may be accomplished only with the written consent of two-thirds of each class of members.

**ARTICLE III. MEMBERSHIP IN ASSOCIATION:
VOTING RIGHTS**

Section 1. Every owner of a lot shall be a member of the Association; membership shall be appurtenant to and may not be separated from ownership of a lot.

Section 2. The Association shall have two classes of voting members as follows:

CLASS A - Class A members shall be all owners with the exception of declarant, and shall be entitled to one (1) vote for each lot owned. When more than one person holds an interest in a given lot, all such persons shall be members and the vote for such lot shall be exercised as they may determine among themselves. In no event shall more than one vote be cast with respect to any lot owned by Class A members.

CLASS B - The Class B member shall be declarant, who shall be entitled to exercise three (3) votes for each lot owned by it, provided that Class B membership shall be converted to Class A membership and shall forever cease to exist on the occurrence of whichever of the following is first in time:

(i) The total outstanding votes held by Class A members equal the total outstanding votes held by the Class B member.

(ii) The second anniversary of the original issuance of the most recently issued D.R.E. Subdivision Public Report for either Unit I, II, or III as described above.

(iii) June 15, 1980.

Section 3. Any action by the association which must have the approval of the Association membership before being undertaken shall expressly require the vote or written assent of a prescribed percentage of each class of membership during the time that there are two outstanding classes of membership.

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ARTICLE IV. ASSESSMENTS

Section 1. Lien and Personal Obligation of Assessments.
 Declarant hereby covenants for each lot within the subdivision, and each owner of a lot is hereby deemed to covenant by acceptance of his deed of such lot, whether or not it shall be so expressed in his deed, to pay to the Association (1) annual assessments, and (2) special assessments for capital improvements. Such assessments will be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and a continuing lien on each lot against which such an assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees shall also be the personal obligation of the person or persons who owned the lot at the time the assessment fell due, but such personal obligation shall not pass to the successors in title of such person or persons unless expressly assumed by them.

Section 2. Purpose of Annual Assessments. The annual assessments levied by the Association shall be used exclusively to promote the health, safety and welfare, and recreation of the residents in the subdivision, and for the improvements and maintenance of the common areas and roads within the subdivision. Annual assessments shall include, and the Association shall acquire and pay for out of the funds derived from annual assessments, the following:

- (a) Maintenance repair of the common area.
- (b) Water, sewer, garbage, electrical, lighting, telephone, gas, and other necessary utility service for the common area.
- (c) Acquisition of furnishings and equipment for the common area as may be determined by the Association.
- (d) Maintenance and repair of roads and drainages within the subdivision until such time as the County undertakes such maintenance and repair.
- (e) Fire insurance covering the full insurable replacement value of any common area structures, with extended coverage.
- (f) Liability insurance insuring the Association against any and all liability to the public, to any owner, or to the invitees or tenants of any owner arising out of their use and/or occupation of the common area. The policy limits shall be set by the Association, and shall be reviewed at least annually and increased or decreased in the discretion of the Association.

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(g) Workmen's Compensation insurance to the extent necessary to comply with applicable law, and any other insurance deemed necessary by the board of trustees of the Association.

(h) A standard fidelity bond covering all members of the board of the Association and all other employees of the Association in an amount to be determined by the board of trustees.

(i) Any other materials, supplies, labor, services, maintenance, repairs, structural alterations, insurance, taxes or assessments which the association is required to secure or pay pursuant to the terms of this declaration or by law, or which shall be necessary or proper in the opinion of the board of trustees of the Association for the operation of the common areas, for the benefit of lot owners, or for the enforcement of these restrictions.

Section 3. Maximum Annual Assessment.

(a) Until January 1 of the year immediately following the conveyance of the first lot by declarant to owner, the maximum annual assessment shall be One Hundred (\$100.00).

(b) From and after January 1 of the year immediately following the conveyance of the first lot by declarant to an owner, the maximum annual assessment may be increased each year not more than twenty percent (20%) above the maximum assessment for the previous year without a vote of the members.

(c) From and after January 1 of the year immediately following the conveyance of the first lot by declarant to an owner, the maximum annual assessment may be increased above twenty percent (20%) by the vote or written assent of a majority of each class of members.

(d) The board of trustees of the Association may fix the annual assessment at an amount not in excess of the maximum.

Section 4. Special Assessments for Capital Improvements.
In addition to the annual assessments authorized above, the Association may levy in any assessment year, a special assessment applicable to that year only for the purpose of defraying in whole or in part, the cost of any construction, reconstruction, repair, or replacement of a capital improvement in or on the common areas, including fixtures and personal property related thereto. Any such assessment which in the aggregate exceeds five percent (5%) of the budgeted gross expenses of the Association for that fiscal year must be approved by a majority of each class of members.

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Special assessments shall be levied upon the same basis as that prescribed for the levying of regular assessments.

The above provisions with respect to special assessments do not apply in the case where the special assessment against a member is a remedy utilized by the board of trustees to reimburse the Association for costs incurred in bringing the member and his lot into compliance with this declaration.

Section 5. Notice and Quorum for Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized by Section 3 or 4 shall be sent to all members not less than ten (10) days nor more than thirty (30) days in advance of such meeting. In the event the proposed action is favored by a majority of the votes cast at such meeting, but less than the requisite majority of each class of members, members who were not present in person or by proxy may give their assent in writing within thirty (30) days after the date of such meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all lots.

Section 7. Commencement and Collection of Annual Assessments. The annual assessments provided for herein shall commence as to all lots on the first day of the month following the conveyance of the first lot by declarant to an owner. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The board of trustees shall fix the amount of the annual assessment against each lot at least thirty (30) days in advance of the due date thereof and shall fix the dates such amounts become due. Assessments may be made payable monthly. Notice of the annual assessments shall be sent to every owner subject thereto. The Association shall, on demand and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments against a specific lot have been paid, and shall, on or before February 15 of each year, cause to be recorded in the office of the county recording officer of El Dorado County, a list of delinquent assessments as of that date.

Section 8. Effect of Nonpayment of Assessments; Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall be deemed in default and shall bear interest from the due date at the rate of ten percent (10%) per annum. The Association may bring an action at law against the owner personally obligated to pay the same, or may foreclose the lien against the property. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the common area or abandonment of his lot.

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Section 9. Subordination of Assessment Lien to Deeds of Trust or Mortgages. The assessment lien provided for herein shall be subordinate to the lien of any first deed of trust or mortgage. A sale or transfer of any lot shall not affect the assessment lien. However, the sale or transfer of any lot pursuant to a foreclosure of a deed of trust or mortgage or any proceeding in lieu thereof, shall extinguish the assessment lien as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such lot from liability for any assessment thereafter becoming due or from the lien thereof.

ARTICLE V. PROPERTY RIGHTS

Section 1. Owner's Easements of Enjoyment. Every owner of a lot shall have a right and easement of enjoyment in and to the common area which shall be appurtenant to and shall pass with the title to such lot, subject to the following rights of the Association:

- (a) The right to charge reasonable admission and other fees for the use of any recreational facility situated within the common area;
- (b) The right to suspend the right of use of recreational facilities and the voting rights of any owner for periods during which assessments against his lot remain unpaid, and the right after hearing by the board of directors, to suspend such rights for a period not exceeding thirty (30) days for any infraction of the published rules and regulations of the Association;
- (c) The right to dedicate or transfer all or any part of the common area to any municipality, public agency, authority or utility for such purposes and subject to such conditions as may be agreed upon by the members. No such dedication or transfer shall be effective unless an instrument executed by two-thirds of each class of members agreeing to such dedication or transfer has been duly recorded.

Section 2. Delegation of Use. Subject to such limitations as may be imposed by the bylaws, each owner may delegate his right of enjoyment in and to the common areas and facilities to the members of his family, his guests, tenants, and invitees.

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Section 3. Easements.

(a) Easements for installation and maintenance of utilities and drainage facilities are shown on the recorded subdivision map. Within these easements, no structure, planting, or other materials shall be placed or permitted to remain which may damage or interfere with or change the direction of flow of drainage facilities in the easements. The easement area of each lot and all improvements therein shall be continuously maintained by the owner of such lot, except for improvements for maintenance of which a public authority or utility company is responsible.

(b) No dwelling unit or other structure of any kind shall be built, erected, or maintained on any such easement, reservation, or right-of-way, and such easements, reservations, and rights-of-way shall at all times be open and accessible to public and quasi-public utility corporations, their employees and contractors, and shall also be open and accessible to declarant, its successors and assigns, all of whom shall have the right and privilege of doing whatever may be necessary in, or, under and above such locations to carry out any of the purposes for which such easements, reservations, and rights-of-way are reserved.

Section 4. Right of Entry. The Association, through its duly authorized employees and contractors, shall have the right after reasonable notice to the owner thereof, to enter any lot at any reasonable hour on any day to perform such maintenance as may be authorized herein.

Section 5. No Partition. There shall be no judicial partition of the common area, nor shall declarant, or any owner or part thereof, seek judicial partition thereof. However, nothing contained herein shall be construed to prevent judicial partition of any lot owned in co-tenancy.

ARTICLE VI. BUILDING AND USE RESTRICTIONS

The following building and use restrictions shall apply to all lots in the subdivision, saving and excepting the common area:

Section 1. With the exception of the common area, no buildings other than a detached single family private residence with garage for the use of the occupants of such residence, and other usual and appropriate out-buildings and structures incident and appurtenant to a rural private residence shall be erected or

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maintained on any lot in the subdivision, and no use whatsoever except in connection with its use and improvement as a site for such buildings, shall be made of any lot therein. "Private Residence" as defined herein is intended specifically to exclude boarding houses, lodging houses, sanitariums and hospitals, but not a guest house in connection with and for use with a private residence of entertainment of social guests, nor quarters for servants employed on the premises.

Section 2. No form of business, commercial, manufacturing or storage enterprise or activity for exploration of minerals, stone, gravel, oil, gas, or any other use than residential shall be allowed, provided that a small commercial use of a service type and nature may be made provided that the same is done with the Association, and this shall be the only exception to Section 1 above.

Section 3. Architectural Committee. No building of any sort shall be erected on the real property unless and until plans for the same shall have been approved by an architectural committee as follows:

- (a) The committee shall consist of three (3) members.
- (b) Declarant may appoint all of the original members of the committee and all replacements until the first anniversary of the issuance of the D.R.E. Subdivision Public Report for the subdivision.
- (c) Declarant shall have the right to appoint a majority of the members of the committee until ninety (90) percent of all of the lots in the overall development (Units I, II, and III) have been sold, or until the fifth anniversary of the issuance of the final public report for the first unit of the subdivision, whichever occurs first.
- (d) After one year from the date of the sale of the first lot in the subdivision, the board of trustees of the association shall have the power to appoint one member to the committee. This right shall continue until ninety (90) percent of all the lots in the overall development have been sold, or until the fifth anniversary of the issuance of the final public report for the first unit of the subdivision, whichever occurs first. Thereafter the board of trustees of the association shall have the power to appoint all of the members of the committee.
- (e) Members appointed to the committee by the board of trustees shall be from the membership of the Association.

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Members appointed to the committee by the declarant need not be members of the Association.

(f) The committee, upon receipt of proposed building plans, shall within thirty (30) days, approve or reject the same with comments as to how rejection may be corrected; and if the committee shall take no action for a period of thirty (30) days from and after delivery of the plans to them, the plans shall be deemed approved. The committee shall not use arbitrary judgment but shall review the plans with the intent of assuring that they are compatible with rural residential type subdivision, are of sufficiently large square footage as to be commensurate with existing structures, if any, and of an economic cost area consistent with the selling price of the lot as of the time of commencement of sales herein, and contribute to an orderly form of development of the subdivision.

(g) The committee shall charge a fee of Twenty-Five Dollars (\$25.00) for reviewing a set of plans. This fee may be changed from time to time by a majority vote of both classes of members of the Association.

Section 4. Livestock. No pigs or turkeys shall be allowed to be maintained or kept on any lot in the subdivision. A maximum of thirty (30) chickens may be maintained on any lot. Any and all facilities erected for the housing, care, or maintenance of fowl or livestock must be kept in a reasonably clean condition and must be constructed, kept in repair, and maintained in a condition commensurate with the development in the subdivision and in regard for good taste, and kept in good repair and condition at all times.

Section 5. No camping shall be allowed on the subdivision and no camping trailers or mobile homes may be used thereon, saving and excepting by permission from the trustees of the Association, and then for a period not to exceed one year, and further provided that such shall be allowed only during the time of actual construction on a regular basis, specifically excluding weekend type construction.

ARTICLE VII. RIGHTS OF DECLARANT DURING DEVELOPMENT

Declarant or the transferees of declarant shall undertake the work of developing all lots included within the subdivision. The completion of that work, and the sale of lots is essential to the establishment and welfare of the subdivision as an ongoing residential community. In order that such work may be completed and the subdivision be established as a fully occupied residential community as soon as possible, nothing in this declaration shall be

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understood or construed to prevent declarant, declarant's transferees, or the employees, contractors, or subcontractors of declarant or declarant's transferees from doing on any part or parts of the subdivision owned or controlled by declarant or declarant's transferees or their representatives, whatever they may determine to be reasonably necessary or advisable in connection with the completion of such work and the sale and marketing of subdivision lots. As used in this Section, the words "its transferees" specifically exclude purchasers of individual lots or lots improved with residences.

ARTICLE VIII. OWNER'S OBLIGATION TO REPAIR OR REBUILD

Section 1. Each owner shall, at his sole cost and expense repair his residence, keeping the same in a condition comparable to the condition of such residence at the time of its initial construction, excepting only normal wear and tear.

Section 2. If all or any portion of a residence is damaged or destroyed by fire or other casualty, it shall be the duty of the owner thereof, with all due diligence, to rebuild, repair, or reconstruct such residence in a manner which will substantially restore it to its appearance and condition immediately prior to the casualty. Reconstruction shall be undertaken within two (2) months after the damage occurs, and shall be completed within six (6) months after the damage occurs, unless prevented by causes beyond the control of the owner or owners.

ARTICLE IX. CONDEMNATION OR DESTRUCTION OF COMMON AREA

In the event of condemnation, destruction or extensive damage to all or any portion of the common area owned by the Association, all money damages, awards or insurance proceeds arising therefrom shall be payable to the Association. Disposition of such money damages, awards or insurance proceeds must be approved by a majority of each class of members of the Association. The board of trustees shall call a special meeting for taking action under this provision in accordance with the notice and quorum provisions of Article IV, Section 5 hereinabove.

ARTICLE X. GENERAL PROVISIONS

Section 1. Enforcement. Declarant, the Association, or any owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, easements, reservations, liens, and charges now or hereafter imposed by the provisions of this declaration. Failure by declarant, the Association or any owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

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

Section 3. Amendments. Covenants and restrictions of this declaration may be amended by duly recording an instrument executed and acknowledged by not less than seventy-five percent (75%) of each class of members.

Section 4. Subordination. No breach of any of the conditions herein contained or re-entry by reason of such breach shall defeat or render invalid the lien of any mortgage made in good faith and for value as to the subdivision or any lot herein; provided, however, that such conditions shall be binding on any owner whose title is acquired by foreclosure, trustee's or otherwise.

Section 5. Duration. The covenants and restrictions of this declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association or any member thereof for a period of thirty-five (35) years from the date hereof, and thereafter shall be automatically extended for additional periods of ten (10) years unless otherwise agreed to in writing by the then owners of at least three-quarters of the subdivision lots.

Executed at Roseville, California on October 25, 1978.

PILOT HILL INVESTMENTS A,
a Limited Partnership

By 

PILOT HILL INVESTMENTS B,
a Limited Partnership

By 

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