

017217

TONY BERNHARD
COUNTY RECORDER

Recorded at request of
and return to:

017217

91 JUL 12 PM 2:19

WEST DAVIS ASSOCIATES
2323 Shasta Drive #9
Davis, CA 95616

OFFICIAL RECORDS
YOLO CO.-CALIF.
RECORD REQUESTED BY:

53

PLACER TITLE COMPANY

Attention: Deborah Roscoe

DECLARATION AND ESTABLISHMENT OF PROTECTIVE CONDITIONS,
COVENANTS & RESTRICTIONS

ASPEN UNIT 4

PREAMBLE

The real property described below is subjected to the covenants, restrictions and conditions hereby declared, to insure the best use and the most appropriate development and improvement of each building site thereof; to protect the owners of building sites against improper use of surrounding building sites that will depreciate the value of their property; to preserve, so far as practicable, the natural beauty of said property; to guard against the reaction thereon of poorly designed or proportioned structures, and structures built of improper and unsuitable materials; to insure the highest and best development of said property; to encourage and secure the erection of attractive homes thereon, with appropriate locations thereof on building sites; to prevent haphazard and inharmonious improvement of building sites; to secure and maintain proper setbacks from streets, and adequate free spaces between structures, and in general to provide adequately for a high type and quality of improvements on said property, and thereby to enhance the values of improvements made by purchases of building sites thereon.

WITNESSETH

WHEREAS, Declarants West Davis Associates, a General Partnership as owners and trustees control all of that certain tract of land situated in the County of Yolo, State of California, described as follows:

Lots 179 through 240, inclusive in Aspen Unit 4, according to a certain map filed in the office of the Recorder of Yolo county, California on June 18, 1991 in Book 16 of Maps, Pages 89-92.

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WHEREAS, Declarants are about to sell property subject to certain restrictive conditions between themselves and the purchasers of said property, and between said purchasers, and

WHEREAS, DECLARANTS intend hereby to make a covenant running with the land of both covenantor and covenantee pursuant to Section 1468 of the Civil Code of the State of California.

NOW THEREFORE, Declarants declare that said property is held and shall be conveyed subject to the following conditions, covenants and restrictions, collectively referred to herein as the "Restrictions."

1. Definitions. The word "Lot" as used herein is defined to mean one of the numbered lots delineated upon the said recorded map. The word "building" as used herein is defined to mean any structure with a roof or overhead structure of any kind, whether such roof be enclosed, covered or open framework.

The word "improvement" as used herein is defined to mean, but is not limited to: any building, fence, planting, pool, auxiliary structure, exterior lighting, deck patio cover, arbor or structure of any type.

2. Land Use. All lots designated as single family lots shall have no improvement other than one detached single-family private residence, a private garage for the use of the occupants of such residence and other usual and appropriate structures, strictly incidental to and appurtenant to a private residence, as permitted by law and the Architectural Review Committee.

3. Building Setback Zones and Height Restrictions. No improvement shall be located on any lot nearer to the front street line or nearer to the side street line than permitted by the minimum setback lines established by the City of Davis. It is the responsibility of all lot owners to research the building setbacks on their lots. All buildings shall be constructed on said Lots in accordance with the requirements of the City of Davis.

No single-family residential building height is to exceed 30 feet or two stories. All improvements must be designed to harmonize with their surroundings, including pre-existing homes in the neighborhood.

4. Easements. Right of ways and public utility easements, as indicated upon the recorded Map, are reserved for the installation and maintenance of sewers, streets, utilities and other public and quasi-public uses. Within these easements, no improvement, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of

said utilities, or that change the direction of or retard the flow through any drainage channels located in these easements. The easement area of each Lot and all improvements in it shall be maintained continuously by the owner of the Lot, except for those improvements for which a public authority or utility company is responsible.

5. Architectural Control. All improvements proposed to be constructed within the Aspen Subdivision are subject to approval by and in accordance with the Architectural Review Committee. The Architectural Review Committee's approval process and design requirements are contained in the attached Appendix 1, Architectural and Fencing Requirements and Guidelines as a part of this document.

a. Architectural Review Committee. The Architectural Review Committee ("Committee") is initially composed of three members appointed by Declarants. The Committee may designate a representative to act for it. In the event of death or resignation of any member of the Committee, the remaining members shall have full authority to designate a successor. The Committee shall have the power to establish and amend its own rules and regulations with regards to membership, meetings, quorums and other procedural matters. At any time the Committee may, by recorded statement to that effect, relinquish the right herein reserved to appoint and maintain the Committee, and at that time the then record owners of fifty-one percent (51%) or more of the number of Lots in Aspen may elect and appoint a Committee to assume and exercise all of the powers and functions of the Committee specified herein. Notwithstanding the foregoing, after completion of construction of all of said private residences, the then record owners of 75% of the Lots shall have the power through a duly recorded written instrument to change the membership of the Committee, or to withdraw or restore any of the Committee's powers and duties. Except as rights are specifically reserved, or are implied to be reserved for Declarants or owners in this document, the intent of this declaration is to bestow upon the Committee the following rights and responsibilities:

- 1) Administration of building requirements as specified in the Building and Site Standards
- 2) The enforcement of use restrictions.
- 3) Adherence to procedural requirements as contained herein.

b. Approval Required. No improvement, nor structure of any type shall be erected, placed or altered on any Lot until the construction and operation plans and specifications and a plot plan showing the location of the structure or planting have been granted final approval by the Committee as to design and operation, style and harmony of the design with existing structures,

and as to location with respect to topography and finish grade elevations. Refusal to approve said plans, specifications and locations by the Committee will be based on the Committee's earnest and best judgement as to the desirability of any installation, including purely aesthetic value, which in its sole discretion the Committee shall deem sufficient. Any such refusal or decision by the Committee shall be final, and is not subject to appeal. No alterations in external appearance of buildings, structures or facilities shall be made without the approval of the Committee. The provisions herein contained shall apply equally to repair, alterations or modifications made in any building, structure of facility. The committee may charge an applicant a reasonable fee for application review.

c. Plans Required. Before anyone shall begin construction, installation, reconstruction, remodeling, painting, repainting, addition or alteration of any building, swimming pool, wall fence, planting, coping or other structure or other improvements, whatsoever on any Lot, there shall be submitted to the Committee two complete sets of plans, elevations and specifications therefore have received such written approval as herein provided. Such plans shall include floor plans, specifications, building plan or plans, wall sections, exterior elevations, color schemes of exterior materials with samples if required by the Committee, roof plans, landscaping plans, graphics and exterior furnishings, and the owner's proposed construction schedule. Plans shall include a plot plan reduced to the scale of one inch to twenty feet showing the location on the Lot of the buildings, walls, fences, transition zones or other structure or improvements to be constructed, altered or placed.

d. Committee Action.

1) Preliminary Review. Any owner or potential purchaser of a Lot proposing to construct any improvement to a Lot requiring the prior approval of the Committee may apply to such Committee for preliminary review by submission of preliminary drawings of the proposed structure or improvement. The purpose is to allow an owner who proposes to make improvements to owner's Lot an opportunity to obtain guidance from the Committee concerning design considerations before expending substantial sums for plans and other exhibits required to apply for final architectural approval. The Committee shall grant the preliminary approval only if the proposed building, structure or improvement, to the extent its nature and characteristics as shown by the application would be entitled to a final approval on the basis of a full and complete application. In granting or denying preliminary approval, the Committee may give the applicant such directions concerning the form and substance of the final application for approval as the

Committee may deem proper or desirable for the guidance of the applicant. In no event shall any preliminary review be deemed to be a final approval authorizing construction of the requested buildings, structures or improvements or any other improvements or structures.

2) Final Approval. The Committee shall grant approval of the plans, drawings and specifications submitted to it only if the following conditions have been satisfied:

a) Plan Submission. The owner has submitted the plans and materials required by the Committee.

b) Conformity. The Committee finds that the proposed improvement conforms to these Restrictions. Notwithstanding the above, the Committee may in its sole discretion, grant variances for good cause from the Restrictions herein contained. All such approval shall be in writing and may be conditioned upon the submission by the owner, of such additional plans and for the purpose of insuring that the construction of the proposed improvement shall be in accordance with the approved plans. Applications made in accordance with this section which have been neither approved, nor rejected, within sixty (60) days from the date of submission thereof to the Committee shall be deemed approved, unless the Committee has requested additional information from the applicant in which case said sixty (60) day period shall begin upon Committee's receipt of all additional information requested. One set of plans as finally approved and bearing the endorsement of the Committee shall be returned to the owner for owner's permanent records.

3) Consultation. In either preliminary or final approval processes, the Committee may, but is not required to, consult with any owner or owners or any qualified person with respect to any plans, drawings or specifications submitted to the Committee for approval.

4) Construction Duration. Upon receipt of the approval from the Committee, the owner shall, as soon as practicable, satisfy all conditions of that approval and diligently proceed with the commencement and completion of all construction, reconstruction, refinishing and alterations pursuant to the approved plans within one (1) year from the date of such approval or within such longer time as the Committee may grant on the application of such owner. If the owner shall fail to comply with this paragraph, any approval given shall be deemed revoked and the improvement may be treated as having been constructed in violation of this Section. Extension shall be given as a matter of course when delays in completion of construction are caused by strikes, unavailability of materials, fire, storms, acts of God or similar events not within the control of the particular owner.

5) Completion Inspection. Upon the completion of any construction or reconstruction of, or the alteration or refinishing of the exterior of, any improvement, or upon the completion of any other work for which approved plans are required under this section, owner shall give written notice thereof to the Committee, and within thirty (30) days thereafter the Committee, or its duly authorized representative, may inspect such improvement to determine whether it was constructed, reconstructed, altered, or refinished in substantial compliance with approved plans, including quality of workmanship and materials.

6) Noncompliance. If the Committee finds that such construction, reconstruction, alteration or refinishing was not done in substantial compliance with approved plans, it shall notify the owner of such noncompliance within sixty (60) days from the notice of completion and shall require the owner to remedy such noncompliance. If for any reason the Committee fails to notify the owner of any such noncompliance within sixty (60) days after receipt of the written notice of completion from the owner, the improvement shall be deemed to have been completed in accordance with the approved plans.

c. Non-waiver. The approval by the Committee of any plans, drawings, or specifications for any work done or proposed, or in connection with any other matter requiring the approval of the Committee shall not be deemed to constitute a waiver of any right to withhold approval as to any similar plan, drawing, specification or matter whenever subsequently or additionally submitted for approval.

d. Right of Inspection. During reasonable hours and after reasonable notice, the Declarants, the Committee or its representative shall have the right to enter upon and inspect the Property or any portion thereof and the improvements thereon for the purpose of ascertaining whether or not the provisions of the Declaration are being complied with and shall allow an irrevocable license to enter at a reasonable time.

e. Disclaimer. Neither the Declarants nor the Committee nor any member thereof shall be held responsible, or liable in any manner whatsoever, for loss or damage due to errors or defects, shown or omitted, on any plans or specifications upon which it may pass, any building or structures erected therefrom or the manner of development of any property set forth on the Map. Neither the Declarants, Committee, nor any member thereof shall be held responsible, or liable in any manner whatsoever, for any loss or damage due to any delay during, or because of, the sixty (60) day approval period provided for herein. Nor shall any approval of any plan, changes, suggestions or specifics by the Committee be a representation that such plans or specifications comply with any government requirements, including city zoning requirements, pertaining thereto. Nor shall any approval by Committee be a determination of structural

sufficiency of design or construction. Neither the Committee nor any member thereof shall be liable to any owner for any damage, loss, or prejudice suffered or claimed on account of the execution and recording of any estoppel certificate whether or not the facts therein are correct; provided, however, that such member has, with the actual knowledge possessed by member acted in good faith with respect to any plans, drawings, or specifications submitted to the Committee.

7. Construction and Occupancy.

a. General. Construction of a residence must commence within eighteen (18) months from close of escrow. No building or structure upon said property shall be occupied in the course of original construction until same is completed and made to comply with the Covenants, Restrictions and Conditions contained in this Declaration. All work shall be prosecuted diligently and continuously, in compliance with the City of Davis requirements for erosion control, from the time of commencement of construction until the same shall be fully completed, to the extent prevented by strikes, lockouts, boycotts, the elements, war, inability to obtain materials, acts of God, or similar causes beyond the reasonable control of the builder.

b. If construction of any building stops for a continuous period of 120 days, and such interruption is not caused by circumstances beyond the reasonable control of the owner or the Lot on which the building under construction is located, or other persons actually performing construction, Declarants or any other person entitled to enforce these restrictions may notify the owner in writing of the existence of such interruption of work and request that work proceed forthwith. If within twenty (20) days after the giving of notice such work has not resumed and shall not thereafter be continued with due diligence, Declarants or other person entitled may enter upon Lot and remove incomplete building or complete construction and the cost and expenses incurred in connection with such removal or completion shall constitute a lien upon said property which would attach at the time of work to remove or complete building and said lien shall be enforceable in the manner provided by law for the enforcement of mechanic's or material men's liens. Financial inability to complete construction shall not be a cause of delay excusing the performance of construction work.

c. Construction sites must be kept free of trash and other debris. If construction debris is allowed to accumulate on site or if it intrudes on any other property, Declarants have the right to perform cleanup and charge Lot owner or contractor for any costs incurred in such cleanup. Upon completion of construction all materials and rubbish as well as all tools, construction equipment, machinery and surplus material shall be removed from site.

8. Maintenance of Structures. Each owner shall be responsible for maintenance and repair of any improvement which may be constructed or

installed upon owner's Lot. Such maintenance and repair shall be of high quality and be performed in a timely manner. Each owner's repair and maintenance obligations shall extend to and include painting, repairing, replacing and caring for roofs, fences, exterior building surfaces, exterior glass surfaces and exterior doors.

9. Recreational Vehicle and Boat Storage. Any boat, tent, portable home, trailer house or motor vehicle trailer house shall be stored so as to avoid being seen from adjacent lots and street.

10. Reconstruction. Any building damaged or destroyed by fire, explosion or any other type of disaster must be repaired or reconstructed, or completely removed within six (6) months. The Committee must approve the plans for said repairs or reconstruction. The Committee may extend the six (6) month period if requested and if deemed necessary by the Committee.

11. Temporary Structures. No trailer, motor home, tent, shack, barn or other out-building shall at any time be used as a residence, or a residential accessory dwelling, either temporarily or permanently, nor shall any structure of a temporary nature be used as a residence. Excepted from the provisions of these Restrictions are the activities and non-residential structures necessary or convenient to the construction and sale of any building.

12. Parking Restrictions.

a. No vehicle which exceeds 12,000 pounds gross vehicle weight, or is fitted with dual rear wheels, or any bus, boat, motorcycle, trailer, farm vehicle, detached camper body, aircraft, or any vehicle which is battered or in need of repair or otherwise unsightly (any and all of which are herein referred to as "prohibited vehicles") shall be regularly parked, stored or regularly kept on any Lot for other than 48 hours each, unless such vehicle is parked, stored or kept in an enclosed garage with garage door closed except for ingress or egress.

No vehicle of any type shall be parked, stored or kept on any Lot for the purpose of accomplishing repairs thereto except for occasional periods of time not lasting more than 8 hours each, unless such vehicle is kept in an enclosed garage with garage door kept closed except for ingress and egress.

13. Planting and Yards. If owner does not plant and maintain front, side and rear yards within one (1) year after a Notice of Completion is issued by the appropriate governmental authority or substantial completion of construction, the Committee may, after five (5) days written notice, perform all necessary planting and maintenance to make

appearance of front and rear yard satisfactory and presentable, and if appropriate, comparable to adjoining property, and the Committee may bill the owner for the expense thereof, including 15% overhead and profit, which the owner shall be compelled to pay. Neither Declarants, Committee nor their agents shall be deemed guilty of any manner of trespass as a result of such planting and maintenance.

14. Grounds Maintenance.

a. Sanitary Disposal. No weeds, vegetation, rubbish, debris, garbage, objects, waste materials, or materials of any kind whatsoever shall be placed or permitted to accumulate upon any portion of a lot, which would render it unsanitary, unsightly, offensive, or detrimental to any property in the vicinity thereof or to the occupants of any such property in such vicinity thereof. No refuse shall be placed on streets or in public view more than twenty-four (24) hours prior to the scheduled pickup time.

b. Materials Storage. No materials of any kind or character, including building materials shall be placed or stored upon any Lot so as to be open to view by the public or neighbors, unless such material will be used and is used within 3 months for the construction of buildings or structures upon the Lot upon which the material is stored.

c. Drainage Pattern. Owners of each Lot in Aspen must not in any way interfere with the established drainage pattern over any Lot in said tract, or to make adequate provisions for proper drainage in the event it is necessary to change the established drainage pattern. For the purpose hereof, "established" drainage is defined as the drainage which occurred at the time the overall grading of said tract, including the landscaping of each Lot in said tract, was completed by the undersigned Declarants.

15. Quiet Enjoyment. No act or thing noxious or offensive shall be done upon the property covered by these Restrictions, which may be or may become an annoyance or nuisance to the neighborhood or to destroy the quiet enjoyment of the Lots within.

16. Signs. No signs of any character shall be permitted on any Lot except that a single sign of reasonable and customary size setting for the fact the subject property is for sale, may be permitted. No sign will be permitted in said subdivision larger than 80 square inches, setting forth the name of the owner or the occupant of any property. No signs of a commercial nature shall be erected at any time. Political or candidate signs shall be permitted only during the normal election period and shall be removed within five days of the election. This shall in no way affect home builder's signs necessary in connection with the initial construction of homes for sale on any of the Lots contained herein, or in

connection with the conduct of Declarants' operations for the development, improvement, subdivision and sale of Lots.

17. Poles, Antennas and Utility Equipment. Except for temporary lines used during construction, all utility lines, including, but not limited to, electrical, gas, telephone, cable, television and other communications shall be underground, except for access ports and above ground transformers. No electric power or telephone poles shall be installed on any Lot contained within this subdivision. No radio or television or other aerial, antenna, tower or receiving aerial, antenna, satellite dish, tower or support thereof shall be erected, installed, placed or maintained upon any Lot or upon any building or structure, except those devices which may be erected, installed, placed or maintained and used in a manner completely concealed from public and neighbors's views or entirely within the enclosed portion of a family dwelling or garage. All types of refrigerating, cooling, heating and water filtering or any other similar equipment may not be roof mounted and must be concealed from public view. Solar water or space heating devices are allowed as long as tanks are concealed or as approved by the Committee.

18. Clothes Drying. No clothes or other articles shall be hung out to dry on any part of said property, except in a yard enclosed by a fence, wall or any other enclosure approved by the Committee. In addition, no clothes, sheets, blankets or any other articles shall be hung to dry in a garage or storage area in which the garage door has been left open so as to be visible from the street.

19. Pets and Animals. No livestock, farm animals, cattle, horses, goats, sheep, pigs, chickens, birds, reptiles, insects or other animals or fowl shall be kept or voluntarily permitted upon said property, provided that no more than 2 dogs, cats or other household pets such as birds and fish may be kept as pets if the same are not kept, bred or raised for commercial purposes or in unreasonable numbers, and provided further that no animal, livestock, bird or poultry kept at household pets shall constitute a nuisance, nor shall be allowed to run loose in the general area.

20. Prohibited Activities. No trade, commercial, or manufacturing enterprise shall be carried on or conducted upon any Lot. No noxious or offensive activity shall be carried on or conducted upon any Lot, nor shall anything be done thereon which may become an annoyance or nuisance or cause unreasonable embarrassment or disturbance to the neighborhood.

21. Term. These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of 35 years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of 10 years unless an instrument signed by the then owners of 75% of the Lots has been recorded, agreeing to

change said covenants in whole or in part.

22. Breach.

a. Remedy. The covenants hereby established shall operate as covenants running with the land; and further Declarants and/or the owner of any Lot in Aspen including any bona fide purchaser under contract, in the event of a breach of any said Restrictions and covenants or a continuance of any such breach may be appropriate legal proceedings take steps to enjoin, abate or remedy the same. It is hereby agreed that damages are not an adequate remedy for such breach.

b. Nuisance. Every act of omission whereby any of the covenants contained in this Declaration are violated in whole or in part is hereby declared to be and constitutes a nuisance, and every remedy allowed by law or equity against a nuisance, either public or private, shall be applicable; and may be exercised by Declarants, the Committee, or the owner of any Lot in Aspen.

c. Cumulative Remedy. The remedies herein provided for breach of the covenants contained in this Declaration shall be deemed cumulative, and none of such remedies shall be deemed exclusive.

23. Enforcement. The provisions contained in this Declaration shall inure to benefit of and be enforceable by Declarants, their successors or assigns or the Committee, or the owner of any Lot in Aspen and each of their legal representatives, heirs, successors or assigns. Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenants, either to restrain violation or to recover any damage. Failure by Declarants or the Committee or any owner to enforce any covenants, condition or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. Only the Committee, or Declarants, or their duly authorized agent may enforce by self help any limitation, Restriction, covenant, conditions, or obligations set forth herein. In addition, the Architectural Review Board shall have the authority to order an abatement of any construction, alteration, or other matter for which approval is required, including an irrevocable license to remedy, to the extent that it has not been approved by the Board or that it does not conform to the plans and specifications submitted to the Board.

No work for which approval is required shall be deemed to be approved simply because it has been completed without a complaint, notice of violation, or commencement of a suit to enjoin any of the provisions hereof, the prevailing party shall be entitled to recover reasonable attorney's fees in addition to the cost of such proceeding, and damages may also be awarded for violations of the provisions of the Declaration.

24. Attorneys' Fees; Prejudgment Interest. If the services of an attorney are required by any party to secure the performance hereof or otherwise upon the breach or default of another party to this Agreement, or if any judicial remedy or arbitration is necessary to enforce or interpret any provision of this Agreement or the rights and duties of any person in relation thereto, the prevailing party shall be entitled to reasonable attorneys' fees, costs and other expenses, in addition to any other relief to which such party may be entitled. Any award of damages following judicial remedy or arbitration as a result of the breach of this Agreement or any of its provisions shall include an award of prejudgment interest from the date of the breach at the maximum amount of interest allowed by law.

25. Declarants' Liability. Neither Declarants nor the Committee shall be liable for any act or violation of any provision of the Restrictions by any one of the owners of Lots contained herein or any other person. The actions or inactions of Declarants of the Committee or its agents, when said Committee is exercising its discretion in enforcing this Declaration in good faith, shall not be a basis for damages to any owner herein or any other person, nor shall any such actions or inactions by Declarants or the Committee or any member of the Committee or their agents, individually or collectively, constitute a cause of action for damages or equitable relief to any owner herein or any other person.

26. Severability. Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect. All of the limitations, restrictions, covenants and conditions of these Restrictions shall be liberally construed together to promote and effectuate the beneficial operation of the subdivision.

27. Mortgage and Title Company Protection. A breach of the covenants contained in this Declaration shall not affect or impair the lien or charge of any bona fide mortgage or deed of trust made in good faith and for value on any building site; provided, however, that any subsequent owner of such property shall be bound by said covenants, whether such owner's title was acquired by foreclosure or in a trustee's sale or otherwise. A lender who acquired title by foreclosure or deed in lien of foreclosure or trustee's sale shall not be obligated to cure any breach of the covenants which occurred prior to such acquisition of title but shall be bound by said covenants. The owner of any encumbrance for value on any said building site and any corporation insuring the lien of such encumbrance may conclusively presume that no breach exists under these Restrictions, provided such encumbrance is recorded in the Office of the County Recorder of Yolo County prior to the commencement of any action to establish any such breach and not within sixty (60) days after the recording of any Notice of Non-Compliance, anything contained herein to the contrary notwithstanding.

28. Heading of Clauses. The headings as to the content of particular clauses, and the outline thereof, are inserted as a matter of convenience and for reference, and are not intended to define, limit or describe the cope or intent of the particular section or clause to which they refer.

29. Amendment. These covenants may be amended, changed, added to, revoked or rescinded at any time by a recorded instrument signed by the then owners of 75% of the Lots, with each lot being entitled to exercise one (1) vote.

30. Arbitration. In the event a dispute occurs between an Owner and an adjoining Owner over the applications of these restrictions, the same shall be submitted to an arbitration panel, and each party to the dispute will select one arbitrator and two arbitrators will select a third arbitrator. The rules of the American Arbitration Association shall apply.

In any arbitration the arbitrators shall have the broadest possible power permitted by law to frame their award or decision so as to do substantial justice between or among the parties. The grantees herein agree that they will faithfully observe the contents of this document and the rules and that they will abide by any decision rendered pursuant to this agreement. There shall be no appeal from the decision of the arbitrators.

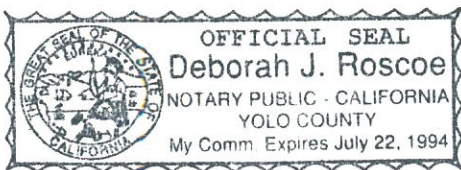
In Witness Whereof, the undersigned has executed this instrument the 10th day of July, 1991.

Randolph K. Yackzan, General Partner
West Davis Associates, A General Partnership
by Randolph K. Yackzan

STATE OF CALIFORNIA)
) SS.
COUNTY OF YOLO)

On this 10th day of July, 1991, before me, a Notary Public in and for said County and State, personally appeared Randolph K. Yackzan

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person --- that executed this instrument, on behalf of the partnership and acknowledged to me that such partnership executed the same.



Deborah J. Roscoe
Notary's Signature
Deborah J. Roscoe

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APPENDIX 1

Architectural and Fencing Requirements and Guidelines

The purpose of the Architectural Review Committee review is to avoid harsh contrasts in the environment, foster careful design to achieve harmony between buildings and building sites and among buildings and encourage design which enhances positive community interaction and energy conservation.

Refer to Section 5, paragraph b. page 3 for information regarding what improvements require Architectural Review Committee approval.

How to use the Requirements and Guidelines:

This document is divided into four sections:

1. Design Review Procedures
2. Building and Site Standards
3. Fencing Guidelines
4. Sightlines and Landscape Guidelines

DESIGN REVIEW PROCEDURES

Preliminary Review: While not a requirement, it is highly recommended that plans be submitted for preliminary review by submitting drawings to the Architectural Review Committee prior to preparation of working drawings. The purpose of this is to allow the opportunity to obtain guidance and recommendations from the Committee before spending substantial time on preparation on working drawings. At the preliminary review stage the Committee may make suggestions as to how the proposed structure may best conform to the Building and Site Standards.

In no event shall any preliminary review be deemed to be a final approval authorizing construction of the requested structures or any other improvements.

Documents required at this stage:

1. Site Plan
2. Exterior Elevations
3. Floor Plan

Final Approval: Final approval should be obtained prior to submittal of building permit in case revisions need to be made.

Documents required at this stage:

- 1) Working drawings for building elevations and floor plans.
- 2) Site plan indicating location of proposed structures, walks, driveway and transition zone, as well as required setbacks and sightlines. Driveway and walk surface materials must be noted.
- 3) Exterior material samples, showing exact materials and colors of siding siding and trim, roof and any other exterior surface.
- 4) Plans for any proposed fencing.
- 5) Preliminary/conceptual landscape plan.
- 6) Construction schedule

Whether for preliminary review or final approval, your plans will be reviewed by the Committee and you will receive a written response regarding recommendations, requirements and/or approval. You will also be notified if additional information is needed to complete the approval process.

Conceptual landscape plans are required prior to installation of landscaping. The purpose of reviewing the landscape plan is to insure adherence to the landscape guidelines.

BUILDING AND SITE STANDARDS

One of the primary goals of the Aspen Architectural Review Committee is to insure, to the degree possible, that all structures blend harmoniously with one another. The Committee refrains from dictating style or subjective aesthetics because it feels that variety in the architecture makes a positive contribution to the character of the neighborhood; however, the consistent use of a limited range of colors, materials and design vernacular in the context of architectural variety will give the neighborhood a sense of continuity and harmony. It is therefore required that all buildings and structures conform in a very general sense to their surroundings. Some general requirements are:

- No building may be constructed to a height of greater than two stories or thirty feet high.
- No concrete block construction may be used for exterior walls.
- Roof pitches for main roofs must be between 4 in 12 and 9 in 12.
- Main roof ridges should generally run in an east - west direction.
- Driveways and garages must be placed on the side of the lot indicated on the Subdivision Final Planned Development Map.
- The size of the house should be coordinated with the lot size.

Energy Considerations

One of the major concepts in the design of the Aspen development is the use of north-south lot orientation to encourage energy efficient designs. Homes should maximize shadeable south glazing and minimize east and west glazing. Homes should use energy conservation products and construction techniques whenever possible. Well-integrated, energy-efficient designs are encouraged. Houses should be located so as to not shade solar collection devices of other houses. Summer shading of windows should be planned to allow solar access during the cold season. Deciduous plantings, operable exterior shades, properly sized overhangs and trellis or arbors with removable shading panels all work well for this purpose. Trellises and gazebos must conform to City zoning requirements as they relate to setbacks from property lines.

Design for Community and Transition Zones

Another basic planning concept utilized in Aspen is design which encourages and facilitates community interaction -- greenbelts, bikepaths, parks, etc. Therefore, every home must have one or more street-side indoor/outdoor transition zones, such as a porch or courtyard with low fences or walls.

The transition zone space must be architecturally integrated with the house; a landscape feature such as a patio or gazebo would not fulfill this requirement. The space must be enclosed in more than one dimension; that is, it must be defined with either an overhead structure (roof or trellis) or a short (36" or less) vertical enclosure (railing or wall) , or both. The space must be at least 6' x 6', excluding any area judged by the Committee to be for circulation.

Also in the interest of fostering interaction among neighbors, fencing of any part of the front yard may not exceed 4' in height. (Refer to Fencing Requirements and Guidelines)

Building Exteriors

The use of continuous and integrated exterior design around the entire structure is required. Acceptable exterior materials include stucco, natural wood siding and shingles. Acceptable colors for all materials, in addition to natural wood, are colors similar to Sacramento Stucco Chart Nos. 8, 26, 98, 103, 176, 233, 260, 275, 307, 420, 458, 486, 739, 816, 831, 976, 995, and 116. This stucco color chart is available in the West Davis Associates office. The approved colors are generally muted, natural tones which should blend easily with each other and with the landscape. However, accent colors which contrast with the main house color and which are used in small areas, such as doors and trim, are encouraged to add diversity and individuality to the homes.

When determining size and placement of windows, take into consideration the following:

- Neighbors' backyard privacy. While this is not written as a hard and fast policy, due primarily to the unfeasibility of absolute compliance, the Committee will retain the right to reject a design which has not considered options for minimizing intrusion of visual privacy, such as locating balconies or sliding glass doors in a position in which they overlook a neighbor's backyard.
- Again, for reasons of maximizing energy efficiency, south glass is encouraged and east and west glass are discouraged. Provision for cross ventilation is encouraged.

Roofing: Concrete or clay tile roofing is preferred because of its fire resistance and its longevity. Colors should be similar to MonRay Burnt Mission, Reverse Burnt Mission, Oyster Gray or other natural or woodlike colors. Composition roofs will be approved only in special circumstances, and at the discretion of the Committee. When used, it must be architectural grade and of colors which are similar to wood or to the acceptable tile colors. Wood shakes or shingles are acceptable.

Flat top roofs and roof pitches of less than 4 in 12 are allowed only if they are justified architecturally, e.g. that they fit with the architecture of the house, and further, that the design style of the house is in harmony with surrounding homes, as determined by the Committee. If a flat top roof is accepted, it is with the condition that the roofing material is not visible from pond, greenbelts or streets. No mansard or sloped tar and gravel roof will be approved.

Solar collectors or skylights with tilt angles of 46 - 79 degrees will not be permitted without provision for blocking reflected glare.

Flashings, vents, downspouts and other utility hardware must be painted to match their surroundings.

Exterior lighting as seen from the street or a neighbors' home must be indirect, softened or textured. Flood lights not screened from public and neighbors' view are not permitted. Exterior lights must use bulbs of 40 watts or less. One 25 watt bulb per fixture, maximum, is recommended. All fixtures must have shields or be designed to avoid lighting of the sky.

Any mechanical devices or other utility equipment must be screened from view and must be situated, screened or muffled to prevent noise pollution. Service areas for garbage, clothes drying, bicycle parking, etc., must be screened from view.

Mail box placement is determined by the Postal Service.

Carports and garages are to be placed on the side of the lot indicated on the subdivision Final Planned Development Map. They are not to be architecturally prominent. They must be of design and materials which are consistent with the residence to which they are appurtenant, and may not project more than 10' closer to the street than the plane of the adjacent living area. Garage doors should be of a very plain design, without features which would call attention to them. No home may have more than one two-car or two one-car garage doors or parking areas facing the street. The Committee may consider an exception to this restriction for lots with a street frontage of greater than 70'. The applicant must furnish justification for such a garage from a design standpoint. Tandem parking may be utilized to accommodate more than two cars on site.

Driveway widths must be kept to the functional minimum. Impervious surfaces must be minimized for the sake of reduced water runoff. Exposed or seeded aggregate concrete or brick or other textured surfaces are acceptable for driveways and front walks. Broom or trowel finish concrete are not acceptable.

FENCING REQUIREMENTS AND GUIDELINES

Fencing requirements and guidelines fall into two categories:

1. Fencing provided initially by the developer:
Those adjacent to the pond area, the greenbelt and Denali Drive.
2. Fencing of individual lots.

1. Permanent Fencing

The fencing which has been built by the developer has been designed to provide overall design continuity to the neighborhood. It allows a view and feeling of openness. It also improves greenbelt and pond security yet maintains individual backyard privacy. It is required that no modifications or alterations be made to these fences. When and if repairs or maintenance are needed, they must be done in a manner that does not affect the designed appearance. Those lots which are adjacent to the pathways connecting streets to greenbelts or to the pond greenbelt, may not erect fencing or any other screening which exceeds 4' in height any closer than twenty feet (20') from the front or "front/side" corner. Additionally, no structure or planting greater than four feet (4') in height is permitted within the triangle formed by the two four-foot fences and a line connecting the two ends of these fences (protected area). See Figure A.

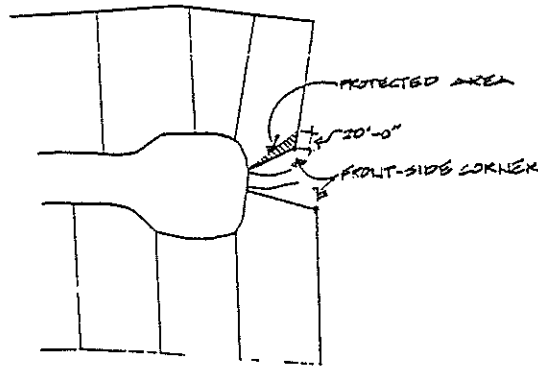


Figure A

2. Fencing of Individual Lots

We encourage residents to consider not fencing their entire rear yards. Please consider fencing a portion or courtyard of your yard for privacy -- then using vegetation to define limits and enhance neighborhood concepts.

Design harmony within the community will be enhanced if everyone uses variations on similar fence styles and materials.

Permitted fencing materials include:

- Vegetation or hedge
- Wood of decay-resistant species (redwood, cedar, etc.)
- Stucco or wood-sided walls which relate architecturally to the house
- Rustic block or stone which relates architecturally to the house

Fencing materials not permitted include:

- Chain link
- Aluminum or sheet metal or metal panels
- Plastic or fiberglass materials
- Reed or strawlike materials
- Rope or other fibrous strand elements
- Concrete block
- Wood fence boards with dog eared or round tops

Design suggestions and guidelines:

- 1) Fence posts should be placed no greater than 6' apart and should be of the highest quality material for decay resistance and thus greatest appearance and longevity - (construction heart redwood, pressure-treated fir or metal set in concrete).
- 2) No fencing shall exceed 6' in height. Fencing in front of the plane of the home closest to the street may not exceed 4' in height.
- 3) Fences which abut existing walls or fences shall not exceed the established

height of the existing walls or fences, except heights required by building codes for enclosure of pools or spas.

4) Fence heights are measured vertically from the average finished grade at the base of the fence. Tops of all fences shall be level. Where terrain is sloped, fence tops shall be stepped to follow slope.

5) Side and rear yard fences shall be constructed inside of the property line and shall not be constructed on the property line without approval of all lot owners affected. Said approval shall be submitted to the ARB and kept with submitted plans.

6) Structural framing and/or unfinished sides of fences shall not be exposed to any public right of way or greenbelt.

7) Fences must meet City of Davis guidelines especially relative to the attachment of fences to houses (flashing is required).

SIGHTLINES AND LANDSCAPE GUIDELINES

Sightlines

In the original site design for the Aspen community, a conscious effort was made, for both aesthetic and safety reasons, to keep a feeling of openness at street intersections and at the entrances to the greenbelts at the ends of cul-de-sacs. Therefore, the following two restrictions apply:

1. Sightlines at street intersections: No fence, wall, hedge or other planting which obstructs sightlines at elevations between 2 and 6 feet above the roadways shall be placed or permitted to remain on any corner lot within the triangle formed by the street property lines and a line connecting them at points 25 feet from the intersection of the street lines, or, in the case of a rounded property corner, from the intersection of the street property lines extended. The same sightline limitations apply on any lot within 10 feet of a driveway or alley pavement. No tree will be permitted to remain within such distances of such intersections unless the foliage is maintained at sufficient height to prevent obstruction of such sightlines.
2. Sightlines at greenbelt accesses: Those lots which are adjacent to the pathways connecting streets to greenbelts or to the pond greenbelt may not place any structure, landscaping, fencing or any other screening which exceeds 4 feet in height within the triangular area formed by the front corner, the "front-side" corner, and a point 20' back from the front-side corner. See Figure A.

Landscape Guidelines

The landscaping of each lot is important to the overall appearance of the neighborhood, therefore the following guidelines and requirements have been established.

The front, rear and side yards of each lot shall be cultivated and landscaped in a horticultural manner and shall be maintained in a neat and orderly appearance free of rubbish, trash and other unsightly things. A minimum of 50% of the lot area, exclusive of the house footprint, must be landscaped with natural plantings. Planting of deciduous trees on the south and west sides of homes so as to substantially shade the residence during the summer season is encouraged. However, landscape planting must be planned so as not to interfere with solar access rights of neighboring homes. A combination of vegetation, trees, shrubs, ground cover, lawn, native vegetation, edible or food-producing plants or other elements or features shall be used. Use of drought-tolerant plants in the landscaping is encouraged. No decorative gravel, rock, lava white stones or other non-growing ground cover may be used in the landscape design for the purpose of covering extensive areas of ground. Berms may be utilized as long as there is no interference with proper lot drainage.

Please refer to the Landscape Guidelines document for suggestions and references.