

FIRST AMENDMENT TO THE DECLARATION
OF COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR EAGLE'S VIEW SUBDIVISION

THIS FIRST AMENDMENT to the Declaration of Covenants, Conditions and Restrictions for Eagle's View Subdivision is hereby made this 2nd day of April, 1998 by EVSD, LLC, a Colorado limited liability company, (hereinafter "Declarant") and the Board of Directors (hereinafter the "Board") of the Eagle's View Subdivision Homeowner's Association, Inc. a Colorado Non-Profit Corporation (hereinafter the "Association") with the express consent of One Hundred Percent (100%) of the Owners as of this date; said consent being evidenced by their execution hereof.

RECITALS

1. There are presently in effect and recorded in the records of the Garfield County Clerk and Recorder, Garfield County, Colorado, the Declaration of Covenants, Conditions, and Restrictions for Eagle's View Subdivision, as Reception No. 513711 in Book 1034 at Page 409 thereof (the "Declaration").
2. Section 2.6 of the Declaration provides in pertinent part that Lots 2 through 20 and 36 through 48 may be used for either single-family or duplex residential purposes (hereinafter "Duplex Lots").
3. Section 2.23 of the Declaration provides in pertinent part that resubdivision of a Lot by a Lot Owner is prohibited.
4. Declarant desires to establish for itself and Duplex Lot Owners the right to resubdivide said Duplex Lots to allow creation of a mixed-use community of ownership including duplexes and single family units, and to permit the recording of an amendment to the Plat defining such resubdivided Duplex Lots.
5. Declarant did not reserve in the Declaration a "Development Right" to resubdivide the Duplex Lots as provided in the Colorado Common Interest Ownership Act at C.R.S.

MASON & MORSE *NEW: N. J. MORSE*
0304 HIGHWAY 133
CARBONDALE, CO 81623

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38-33.3-103(14)(e), and 38-33.3-205(1)(h). Therefore, this First Amendment to the Declaration to permit resubdivision of Duplex Lots and thus increase the number of Units or the Allocated Interests of a Unit (as such terms are defined in C.R.S. 38-33.3-101 et seq.) requires unanimous consent of the Lot Owners pursuant to C.R.S. 38-33.3-217(4).

6. Declarant further desires to amend Article 2 of the Declaration to proscribe or restrict certain uses of the Lots and other areas within Eagle's View Subdivision.

NOW THEREFORE, the Board, with the requisite consent of One Hundred Percent (100%) of the Association's voting rights, and with the consent of Declarant does hereby amend the Declaration in the following respects:

1. Article 2, Restrictions on Use and Occupancy, is hereby amended by the addition of the following Section 2.30 thereto:

"2.30 Storage of Construction materials and Modular Home Components. No building or construction materials of any kind to be used in construction of improvements on a Lot shall be stored or permitted on any area of the Subdivision, including publicly dedicated areas, other than on the Lot or Lots upon which such materials are to be used in such construction. Further, any modular home as described in Article 8 hereof which is delivered to the Subdivision for installation on a Lot shall be installed upon its foundation within a period of 48 hours after its delivery within the Subdivision and no such modular home or components thereof shall be stored on or at any location within the Subdivision other than on the Lot where it is to be permanently installed and constructed. In the event of a violation of this provision, either the Association or the Declarant may immediately remove or cause to be removed from the Subdivision any such materials or modular homes or components thereof at the expense of the Owner of the Lot upon which such materials or modular home components are intended to be used or located."

2. Article 2, Restrictions on Use and Occupancy, is hereby further amended by deletion of Section 2.23 thereof in its entirety and substitution in its place and stead, the following:

"2.23 Resubdivision Prohibited The resubdivision of a Lot by a Lot Owner is prohibited for all Lots except the Duplex Lots as described in Section 2.6 of the Declaration and such Duplex Lots may be resubdivided only pursuant to the following requirements and conditions:

- a. The Owner of a Duplex Lot may apply to the Board to resubdivide a Duplex Lot into no more than two (2) Lots to thereby create two single-family residences, subject to the provisions hereof, the Declaration, and other provisions of applicable ordinances of the Town.
- b. In order to resubdivide a Duplex Lot, the Owner of such Duplex Lot, as the applicant, must submit an application to the Board which application shall include:
- i) Evidence that the applicant of the proposed resubdivision shall have complied with all building codes, fire codes, zoning and other applicable ordinances or resolutions of the Town and evidence that the proposed resubdivision does not violate the terms of any document evidencing a security interest encumbering the Lot.
 - ii) The proposed form of amendment to the Plat to show the Lots which are created by the resubdivision and their dimensions. The Lots to be created shall be identified by the original Lot number followed by an "A" and "B" designation (e.g. Lot No. 2 resubdivided into Lot 2-A and Lot 2-B).
 - iii) The Owner shall be responsible for all fees, costs and expenses for any proposed resubdivision and shall tender to the Board a deposit against attorney fees and costs which the Association may incur in reviewing and effectuating the application, in an amount reasonably estimated by the Board; and
 - iv) Such other information as may be reasonably requested by the Board.
- c. All applications for resubdivision must be reviewed and approved by the Design Review Committee established in the Declaration.
- d. No resubdivision of Duplex Lots shall be effected without the necessary amendment to the Declaration and Plat, executed and recorded pursuant to C.R.S. 38-33.3-217(3) and (5).
- e. Any and all improvement or modifications to existing utilities necessary to accommodate resubdivision into two single-family Lots of any Duplex Lot shall be the Duplex Lot Owner's responsibility and the costs therefore shall be the sole obligation of the Duplex Lot Owner. No modification of existing utility infrastructure shall be

made without the written consent of both the Town and the Board.

f. In the event a resubdivision of any Duplex Lot is effectuated as provided herein, the Owners of the newly created interests shall be call "Sub-Lot Owners" and shall have the following modified rights and obligations of Lot Owners and Members:

i) Every Sub-Lot Owner shall be a Member and have a one-half (1/2) membership in the Association. All other consistent provisions of Section 3.1 of the Declaration shall remain in effect.

ii) Every Sub-Lot Owner shall have a one-half (1/2) Member vote as a voting right. All other consistent provisions of Section 3.2 shall remain in effect.

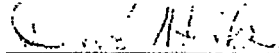
iii) Every Sub-Lot Owner shall be obligated to pay one-half (1/2) of the Common Assessment levied against a Lot. All other consistent provisions of Section 6.2 shall remain in effect.

g. Boundary line adjustments between owners of two contiguous Lots which do not result in the creation of additional Lots shall not constitute resubdivision but shall require written approval of the Design Review Committee and shall comply with all requirements of the Town.

3. Except as hereby amended and modified, all other covenants, conditions and restrictions and terms and provisions of the Declaration shall be and remain in full force and effect.

IN WITNESS WHEREOF, this First Amendment to the Declaration of Covenants, Conditions and Restrictions for Eagle's View Subdivision have been consented to, adopted and approved by all Owners and the Declarant as evidenced by their respective executions hereof, and executed by the Board of Directors of Eagle's View Subdivision Homeowners Association, Inc. on the day and year first above set forth.

BOARD OF DIRECTORS



David Hicks


Connie Hicks

STATE OF COLORADO)
) ss.
COUNTY OF GARFIELD)

The foregoing instrument was acknowledged before me this 22nd day of April, 1998 by David Hicks as a Member of the Board of Directors of Eagle's View Subdivision Homeowners Association, Inc.

Witness my hand and official seal
My commission expires: 12/31/01

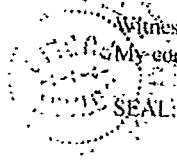


David Hicks
Notary Public

STATE OF COLORADO)
) ss.
COUNTY OF GARFIELD)

The foregoing instrument was acknowledged before me this 22nd day of April, 1998 by Connie Hicks as a Member of the Board of Directors of Eagle's View Subdivision Homeowners Association, Inc.

Witness my hand and official seal
My commission expires: 12/31/01



David Hicks
Notary Public

The undersigned Secretary of the Eagle's View Subdivision Homeowners Association, Inc. does hereby certify that the above and foregoing First Amendment to the Declaration of Covenants, Conditions and Restrictions for Eagle's View Subdivision were duly adopted by the Board of Directors and consented to by One Hundred Percent (100%) of the present Owners of Lots as required by the Colorado Common Interest Ownership Act on this 22nd day of April, 1998.

Connie Hicks
Connie Hicks, Secretary

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The undersigned Declarant consents to, adopts and approves the First Amendment to the Declaration of Covenants, Conditions and Restrictions for Eagle's View Subdivision.

EVSD, LLC
By: Prince Creek Construction, Inc. Manager

By: [Signature]
David Hicks, President

STATE OF COLORADO)
) ss.
COUNTY OF GARFIELD)

The foregoing instrument was acknowledged before me this 9 day of April, 1998 by David Hicks as President of Prince Creek Construction, Inc., as Manager of EVSD, LLC., the Declarant.



Witness my hand and official seal
My commission expires: 9/3/01

[Signature]
Beth Johnson
Notary Public

The undersigned Lot Owner consents to, adopts and approves the First Amendment to the Declaration of Covenants, Conditions and Restrictions for Eagle's View Subdivision.

By: Thomas G. Karpovich, Jr. Lot No. 7.2A

Lot Owner Thomas G. Karpovich, Jr.
[Signature]
Signature

STATE OF COLORADO)
) ss.
COUNTY OF Garfield)

The foregoing instrument was acknowledged before me this 9 day of April, 1998 by Thomas G. Karpovich, Jr. as a Lot Owner in Eagle's View Subdivision.

Witness my hand and official seal
My commission expires: 10.02.2000

SEAL: [Signature]
Notary Public

The undersigned Lot Owner consents to, adopts and approves the First Amendment to the Declaration of Covenants, Conditions and Restrictions for Eagle's View Subdivision.

By: Grace B Baker Lot No. 56
 Lot Owner

Grace B Baker
 Signature

STATE OF COLORADO)
) ss.
 COUNTY OF Gar)

The foregoing instrument was acknowledged before me this 10 day of April, 1998
 by Grace B Baker as a Lot Owner in Eagle's View Subdivision.

Witness my hand and official seal
 My commission expires: 6/17/2000

SEAL: Claudia Pratt
 Notary Public

The undersigned Lot Owner consents to, adopts and approves the First Amendment to the Declaration of Covenants, Conditions and Restrictions for Eagle's View Subdivision.

By: Jay W Hughes + Janice C Getscher Lot No. 77
 Lot Owner

Janice C Getscher + Jay W Hughes
 Signature

STATE OF COLORADO)
) ss.
 COUNTY OF GARFIELD)

The foregoing instrument was acknowledged before me this 9th day of April, 1998
 by Jay W Hughes + Janice C Getscher as Lot Owners in Eagle's View Subdivision.

Witness my hand and official seal
 My commission expires: 3/22/98

SEAL: Antonina Palmetto
 Notary Public



The undersigned Lot Owner consents to, adopts and approves the First Amendment to the Declaration of Covenants, Conditions and Restrictions for Eagle's View Subdivision.

By: Douglas Mayer Lot No. 5.2
Lot Owner
Douglas Mayer
Signature

STATE OF COLORADO)
) ss.
COUNTY OF GARFIELD)

The foregoing instrument was acknowledged before me this 8th day of April, 1998 by Douglas Mayer as a Lot Owner in Eagle's View Subdivision.

Witness my hand and official seal
My commission expires: 10.5.2001

SEAL: Murray B. Emerson
Notary Public

The undersigned Lot Owner consents to, adopts and approves the First Amendment to the Declaration of Covenants, Conditions and Restrictions for Eagle's View Subdivision.

By: High Country Homes, LLC Lot No. 5.3
Lot Owner
Douglas Mayer, Manager
Signature

STATE OF COLORADO)
) ss.
COUNTY OF GARFIELD)

The foregoing instrument was acknowledged this 8th day of April, 1998 by Douglas Mayer, Manager as a Lot Owner in Eagle's View Subdivision.
High Country Homes LLC

Witness my hand and official seal
My commission expires: 10.5.2001

SEAL: Murray B. Emerson
Notary Public

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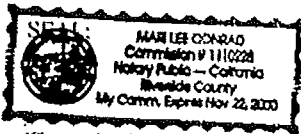
The undersigned Lot Owner consents to, adopts and approves the First Amendment to the Declaration of Covenants, Conditions and Restrictions for Eagle's View Subdivision.

By: The Shalley, Inc. Lot No. 76-051
[Signature]
Signature

CALIFORNIA
STATE OF ~~COLORADO~~
RIVERSIDE I.S.S.
COUNTY OF ~~GARFIELD~~

The foregoing instrument was acknowledged before me this 15th day of April, 1998 by Robert E. Shalley, Inc. as a Lot Owner in Eagle's View Subdivision.

Witness my hand and official seal
My commission expires: 11-22-2000



[Signature]
Notary Public

The undersigned Lot Owner consents to, adopts and approves the First Amendment to the Declaration of Covenants, Conditions and Restrictions for Eagle's View Subdivision.

By: _____ Lot No. _____
Lot Owner

Signature

STATE OF COLORADO)
I.S.S.
COUNTY OF GARFIELD)

The foregoing instrument was acknowledged before me this _____ day of April, 1998 by _____ as a Lot Owner in Eagle's View Subdivision.

Witness my hand and official seal
My commission expires: _____

SEAL: _____
Notary Public

The undersigned Lot Owner consents to, adopts and approves the First Amendment to the Declaration of Covenants, Conditions and Restrictions for Eagle's View Subdivision.

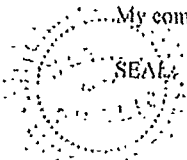
By: Mary Louise Haggart Lot No. 78
Lot Owner

Signature

STATE OF COLORADO)
) ss.
COUNTY OF GARFIELD)

The foregoing instrument was acknowledged before me this 23 day of April, 1998, by Mary Louise Haggart as a Lot Owner in Eagle's View Subdivision.

Witness my hand and official seal
My commission expires: 8/11/98



Antonia Palumbo
Notary Public

The undersigned Lot Owner consents to, adopts and approves the First Amendment to the Declaration of Covenants, Conditions and Restrictions for Eagle's View Subdivision.

By: _____ Lot No. _____
Lot Owner

Signature

STATE OF COLORADO)
) ss.
COUNTY OF GARFIELD)

The foregoing instrument was acknowledged before me this _____ day of April, 1998 by _____ as a Lot Owner in Eagle's View Subdivision.

Witness my hand and official seal
My commission expires: _____

SEAL: _____
Notary Public

