



September 7, 2021

Re: Final Plat Approval for The Summit Unit 1, 63 lots
Request for Increase in Allowable Groundwater Allocation

Dear Mr. McKay,

The City of Prescott requests the Arizona Department of Water Resources to increase the City's allowable groundwater allocation based upon the recording of the final plat for The Summit – Unit 1, recorded December 2, 1996.

As specified in Condition 8 of Decision and Order of the Director, No. 86-401501.0001, the City submits the following information for the Department's review with regard to the above referenced subdivision:

Submittals Required as per Condition 8 of Decision and Order No. 86-401501.0001	Attachments
1. A request to increase the groundwater allocation.	This letter serves as the request.
2. Reference to the subdivision in Exhibit B of the D&O for this request.	Attachment 1
3. Anasazi Preliminary Plat, dated 1994.	Attachment 2
4. Community Development – Planning & Zoning Division recommends approval of the Preliminary Plat for Anasazi Subdivision, on March 23, 1995.	Attachment 3
5. Regular Council Meeting Consent Agenda, on December 10, 1996, seeks approval of the Final Plat for The Summit Subdivision, Unit 1, consisting of 63 lots on 24.86 acres (formerly platted as Anasazi Subdivision).	Attachment 4
6. Summit – Unit 1 Final Plat, recorded December 2, 1996.	Attachment 5
7. a) A calculation of projected groundwater use for the Final Plat b) Include landscaping plans for Open Space c) CC&Rs related to water use, and d) Any commercial properties included within the Subdivision.	a) Attachment 6 b) Attachment 7 c) Attachment 7 d) N/A

Attachment B: Subdivisions Eligible to Receive the Groundwater Allowance

Subdivision Name	Number of Lots on Preliminary Plat	Number of Lots on Final Plats Submitted to ADWR	Remaining Lots that Can Receive Groundwater Allowance Increase
Cliff Rose, Unit 3	21	0	21
Dells at Prescott Lakes	167	101	66
Lakeside@ Prescott Lakes	240	35	205
Mason Ridge	14	0	14
Peaks Unit I @ Prescott Lakes	665	0	665
Peaks Unit II @ Prescott Lakes	150	124	26
Prescott Lakes: Estates Unit 2	239	163	76
Prescott Lakes: Estates Unit 3	12	0	12
Prescott Lakes: Pines	231	216	15
Prescott Lakes: Pinnacle Unit 1	62	0	62
Prescott Lakes: Pinnacle Unit 2	340	0	340
* Summit Unit 2	227	133	94
The Club at Forest Trails	49	0	49
Yavapai Hills	1,632	239	1,393
Yavapai Hills in Prescott Valley	489	0	489
Total	4,538	1,011	3,527

* Summit - Unit 1 has 63 lots.



PRELIMINARY PLAT

AGENDA

9

COMMUNITY DEVELOPMENT - PLANNING & ZONING DIVISION PLANNING & ZONING COMMISSION

REQUEST Approval of Preliminary Plat for ANASAZI SUBDIVISION

DATE March 23, 1995

FILE NO SP9503

APPLICANT Schirmer - Ball Co.
1300 N. McClintock
Chandler, AZ 85226

AGENT M. Haywood Assoc. Inc.
115 E. Goodwin St.
Prescott, AZ 860303

Project Manager: Ramona Mattix, 776-6287

STAFF RECOMMENDATION:

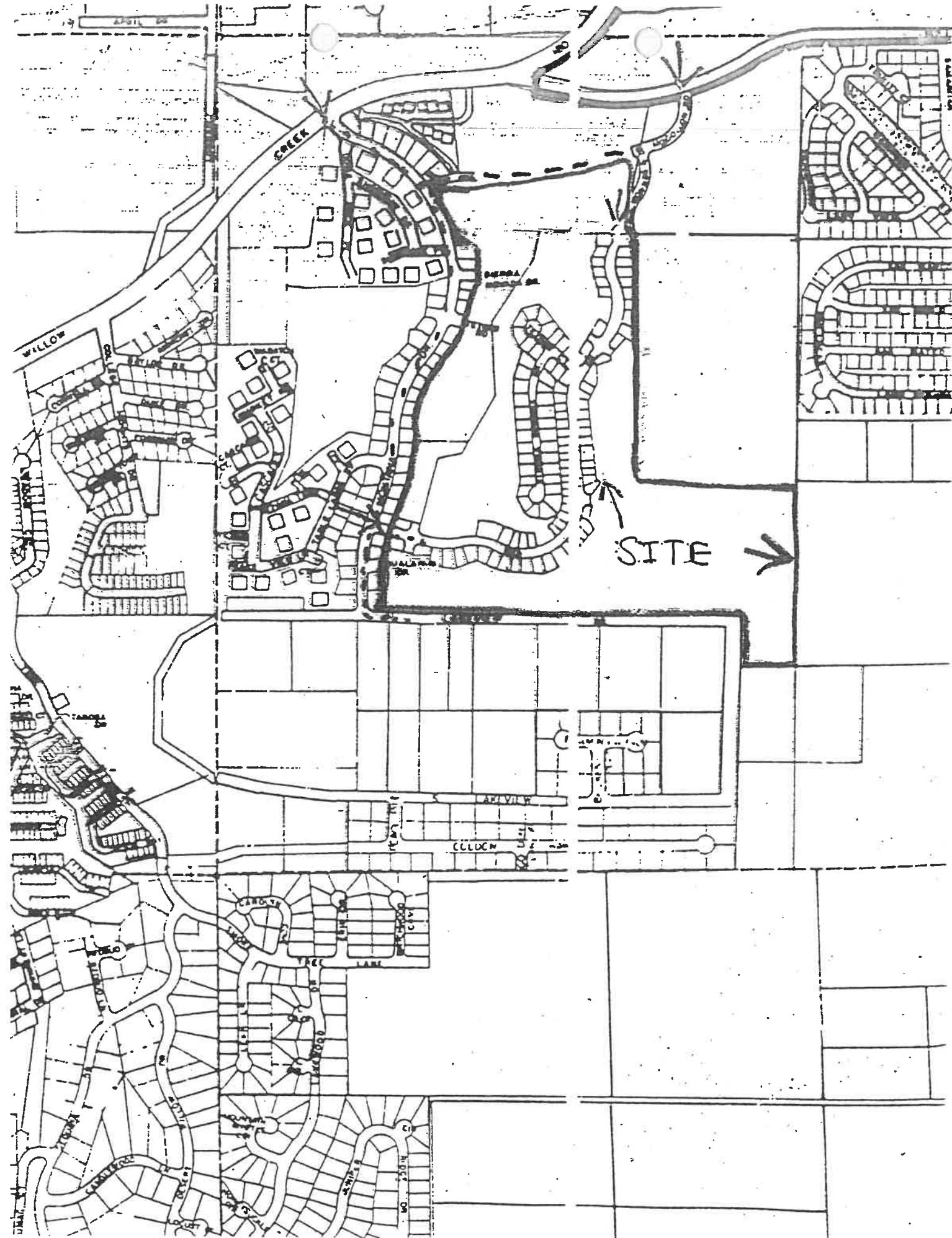
The proposed plat is consistent with the General Plan and with the existing zoning on the site. Area resident concerns seem to be taken care of with the establishment of the new north-south road. The area needs for circulation, and open space and trail areas for the public use have been accommodated in this plat. Lot sizes are appropriate for the topography and the area.

On the advice of the city attorney, a separate motion recinding the original plat for Design Masters is proposed in addition to the motion to approve the preliminary plat.

SUGGESTED MOTIONS:

Move to recind the Commission approval of the Design Masters plat.

Move to approve the preliminary plat for the Anasazi Subdivision.



Staff
Memo
Report

Council Agenda



PLANNING & ZONING DIVISION

MEMORANDUM

TO: Mark Stevens, City Manager *MS*

FOR: Honorable Mayor and City Council

FROM: Tom Guice, Community Development Director
Ramona Mattix, Assistant Community Development Director *RM*

SUBJECT: FINAL PLAT FOR THE SUMMIT - UNIT 1 (formerly Anasazi Subdivision)

DATE November 22, 1996 FILE NO SP9503

APPLICANT	Schirmer - Ball Co. 1300 N. McClintock Chandler, AZ 85226	AGENT	M. Haywood Assoc. Inc. 115 E. Goodwin St. Prescott, AZ 860303
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Project Manager: Ramona Mattix, 776-6287

SUMMARY: The proposal is a request of Schirmer-Ball Company for approval of a final plat for 63 lot on 24.88 acres as the first phase of The Summit Subdivision (formerly named Anasazi Subdivision) of an overall subdivision of 113.87 acres with 298 residential lots.

PARCEL NO. Por. Section 15, Township 14 N., Range 2 West until platted.

NUMBER OF LOTS 63 residential lots

PARCEL SIZE 24.88 acres

CURRENT ZONING RA-9

APPROVED

BY THE COUNCIL

City Clerk *MLW*
Date 12/10/96

DENSITY RA-9 Planned Area Development (PAD) with a minimum lot size of 9,684 square feet.

ALLOWED DENSITY RA-9: minimum lot size 9,000 square feet per lot

GENERAL PLAN DESIGNATION AND CONSISTENCY

Generally intended as an area where the comprehensive impact on the setting and its citizens has a minimal effect. The proposed plat is consistent with the General Plan.

SURROUNDING LAND

<u>Direction</u>	<u>General Plan</u>	<u>Zoning</u>	<u>Use</u>
North	Special Study	BA & RC	Vacant
South	Minimal	RA-35	Residence of Lakeview Drive
East	Moderate	RA 9	Montana Villas & Montana Terrace
West	Moderate	RA-9 & RA-35	Undeveloped Area

PREVIOUS COUNCIL ACTION

This area was part of a large annexation into the city on December 13, 1978. The preliminary plat was approved on November 28, 1995.

UTILITIES PROVIDED

Water	<u> x </u>	Other	<u> </u>
Sewer	<u> x </u>	Other	<u> </u>
Electric	<u> x </u>		
Gas	<u> x </u>		

SITE LOCATION AND EXISTING CONDITIONS

Access to the site is off Willow Lake Road on Mogollon, with a secondary access off Willow Creek Road and Montana Drive.

The proposed subdivision plat lies on large slopes which have grades that range from 5% to over 20%. Several drainage areas traverse the site. The property is mostly grassland, but contains some scrub oak, mountain mahogany and cliff rose in the drainages. Views are to the north over looking the Willow Lake area, and lots are situated well below the ridgeline and will not impact the skyline.

At present the area north of the proposed subdivision, fronting Willow Lake Road has approval for an apartment complex. The future apartment complex would be separated from The Summit Subdivision by the extension of Mogollon Road. There are plans for a new Baptist Church on southeast corner of the Mogollon/Willow Lake Road intersection.

DEVELOPMENT PLAN

The applicant, the Schirmer - Ball Co., requests final plat approval of The Summit Subdivision, Unit 1. The proposal is to subdivide 24.88 acres into 63 lots with a minimum lot size of 9,684 square feet and a maximum lot size of 19,827 square feet. No open space is shown on in this Unit (none was shown in this area on the preliminary plat), although open space of 11.23 acres is shown on the preliminary plat. According to the agent for the applicant, the balance of the preliminary plat will be amended to increase lot sizes, although Unit 1 is in conformance to the approved preliminary plat. Approval of other phases will require going back before the Planning and Zoning Commission and Council for the amendment and retention of the open space will be a requirement.

OPEN SPACE AND TRAILS

Within the open space to be dedicated to the city, the developer proposes to install a linear trail. The trail improvements will include some grading on a four foot wide pedestrian trail. The balance of the open space will remain undisturbed. The intent is that the trail will be primarily used by residents and neighbors and no parking is provided at trail entrances. The trail system will connect to the proposed Prescott Lakes RA-12 PAD development and on to the proposed 10 acre park in the area. See attached map.

Water: City of Prescott

Sewer: City of Prescott

Access: The construction and use of a new north-south connector road, Trail Walk, in the first phase of the proposed plat will minimize traffic through existing neighborhoods and limit wear on existing roads due to construction traffic. This road will be an extension of the existing White Mountain Road. The developer will also contribute to paving a Mogollon connection from White Mountain to Montana and contribute to improvements on Lakeview Drive. The multiple access points provided in the plat will significantly increase circulation potentials in the area. The stub out on the southeast side of the proposed subdivision will connect to the Prescott Lakes development.

Connector Street Width: 24 feet pavement, 2' curb, gutter, and meandering sidewalk sidewalk, ROW is 50'

Interior Street Width: 24 feet pavement on average with curb and gutter, sidewalk on one side, ROW is 50'.

Financial Assurance: Financial assurances will be posted prior to the recordation of these final plats. The assurance amount will be provided to Council at the study session.

Agencies:

Outside agencies which may be affected by this request have been contacted and have responded favorably. This plan is on the agenda as a regular item in accordance with Title XII, Chapter 4, Section 3(c) of the Prescott City Code.

PUBLIC COMMENTS

No written comments were received from the public with regard to this plat approval.

DEVELOPMENT AGREEMENT

The development agreement for the plat specifies construction of offsite improvements, contributions to the Willow Lake South traffic study and signalization of Mogollon and Willow Lake Road and a contribution to potential antelope relocation.

STAFF RECOMMENDATION:

Staff recommends approval of the final plat.

RECOMMENDED MOTION:

Motion: Suggested motion would be: MOVE TO APPROVE THE FINAL PLAT FOR THE SUMMIT, UNIT 1

MOVE TO APPROVE RESOLUTION _____

REGULAR COUNCIL MEETING - DECEMBER 10, 1996 - continued:

CONSENT AGENDA - continued:

D. Approve the **Final Plat of Forest Trails Subdivision**, Unit 5, Phase I, consisting of 22 lots on 13.2 acres located off Sierry Peaks Drive. (Myers, appl/SP-9615)

E. Approve the **Final Plat of The Summit Subdivision, Unit 1**, consisting of 63 lots on 24.88 acres, located off Willow Lake Road on Mogollon. (formerly platted as **Anasazi Subdivision**) (Schirmer-Ball /Prescott Dev. Co, applicant/SP-9503)

F.

RESOLUTION NO. 2939

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, AUTHORIZING THE CITY OF PRESCOTT TO ENTER INTO A DEVELOPMENT AGREEMENT WITH THE PRESCOTT DEVELOPMENT CO., L.L.C., AND AUTHORIZING THE MAYOR AND STAFF TO TAKE ANY AND ALL STEPS NECESSARY TO ACCOMPLISH THE ABOVE.

WHEREAS, the Schirmer-Ball Company owns certain real property currently within the City limits; and

WHEREAS, the parties wish to enter into a Development Agreement, pursuant to ARS Section 9-500.05 relating to the development of that property.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT AS FOLLOWS:

SECTION 1. THAT, the City of Prescott hereby approves the Development Agreement with the Prescott Development Co., L.L.C., attached hereto as Exhibit "A".

SECTION 2. THAT, the Mayor and Staff are hereby authorized to execute the attached Development Agreement and to take any and all steps deemed necessary to accomplish the above.

PASSED, APPROVED AND ADOPTED by the Mayor and Council of the City of Prescott, Arizona, this 10TH day of DECEMBER, 1996.

/s/PAUL S. DALY, Mayor

ATTEST: /s/MARIE L. WATSON, City Clerk

APPROVED AS TO FORM: /s/JOHN R. MOFFITT, City Attorney


Attachment 6. Estimated water demand, The Summit, Unit 1

No. of Accounts	No. of Accounts 60 months (5 Years)	Annual Water Use Acre-feet / year	Average Use by Lot Acre-feet / year
63	52	10.80	0.21

Attachment 7, CC&Rs

Book / Page	Recorded Date	Description
	Never recorded	DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR ANASAZI
3348 / 762	01/28/1997	DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE SUMMIT Property can be developed into a single family residential community; it may annex additional development phases; an Association may be formed to cover maintenance.
3642 / 161	02/25/1999	CERTIFICATE OF AMENDMENT TO THE FIRST AMENDED AND RESTATED MASTER DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR PRESCOTT LAKES This document “provides a flexible and responsible procedure for Prescott Lakes’ future expansions” and creates “an association comprised of all owners of residential real property.”
3687 / 774	08/16/1999	SUPPLEMENTAL DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR PRESCOTT LAKES, THE SUMMIT NEIGHBORHOOD References Book 3642 / 161 Corrects the legal description on Exhibits A-1 and A-2
3722 / 801	01/06/2000	SECOND SUPPLEMENTAL DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR PRESCOTT LAKES, THE SUMMIT NEIGHBORHOOD Annexes Lots 64 – 106 of The Summit – Unit 2

WHEN RECORDED RETURN TO:
Gregory W. Huber, Esq.
DeConcini, McDonald, Brammer,
Kelwin & Lacy
2901 North Central Avenue
Suite 1644
Phoenix, Arizona 85012-2736

	INSTRUMENT # 9704368	
	OFFICIAL RECORDS OF	
	YAVAPAI COUNTY	
	PATSY C. JENNEY-COLON	
	REQUEST OF:	
CITY OF PRESCOTT		
DATE: 01/28/97 TIME: 09:10		
FEE: 52.00 SC: 4.00 PT:		
BOOK 3348 PAGE 762 PAGES: 052		

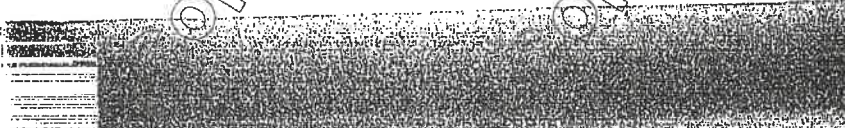
BOOK	3348
PAGE	762
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DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR THE SUMMIT

January 19, 1997

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BOOK 3348 PAGE 762



**DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR THE SUMMIT**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (hereinafter, the "Declaration") is dated January 19, 1997, and is made by Prescott Development L.L.C., an Arizona limited liability company (the "Declarant").

RECITALS

A. Declarant is the owner of certain land located in the City of Prescott, Yavapai County, Arizona a portion of which is the real property that is initially subject to this Declaration, as legally described on Exhibit A attached to this Declaration and incorporated herein by this reference (the "Property"); and

B. Declarant desires, without obligation or representation, and subject to the provisions of Article XV, Section 5 below, to develop the Property into a single family residential community consisting of residential, recreational and other related uses, and to be known as "The Summit"; and

C. As the development of the Property proceeds, Declarant may, without obligation or representation, and subject to the provisions of Article XV, Section 5 below, to annex additional development phases into the Property subject to this Declaration, as provided in Article XIV of this Declaration; and to record various subdivision plats; to dedicate portions of the Property to the public for streets, roadways, drainage, flood control, parks and general public use; and to sell parcels to various builders; and

D. Declarant desires to form a non-profit corporation (hereinafter the "Association") which will (1) own, manage and maintain the Common Areas and possibly certain other areas within or in the vicinity of the Property; (2) levy, collect and disburse the Assessments and other charges imposed hereunder; and (3) as the agent and representative of the Owners, enforce the use restrictions and other provisions of this Declaration; and

E. The Declarant desires to develop a common plan, scheme and design, and to establish for its own benefit and for the mutual benefit of all future owners of, or other holders of an interest in, any portion of the Property, certain mutually beneficial covenants, restrictions and obligations with respect to the proper development, use and maintenance of the Property; and

F. Declarant desires and intends that the Owners, mortgagees, beneficiaries, trustees and other persons hereafter acquiring any interest in the Property, shall at all times enjoy the benefits of, and shall hold their interest subject to, the rights, easements, privileges, covenants

and restrictions hereinafter set forth, all of which are declared to be in furtherance of a plan to promote and protect the value, desirability and attractiveness of the Property; and

G. The Declarant therefore wishes to subject the Property to the covenants, conditions, restrictions, assessments, charges, servitudes, liens, reservations and easements (hereinafter collectively called "Covenants") hereinafter set forth, which Covenants shall run with the land and shall be binding upon and inure to the benefit of all parties having any right, title or interest in the Property;

NOW, THEREFORE, DECLARANT hereby declares, covenants and agrees as follows:

ARTICLE I

DEFINITIONS

A. "Annexable Property" shall mean all the real property which Declarant may subject to this Declaration by the recordation of an amendment to this Declaration, which shall include without limitation any other real property adjacent to or in the vicinity of (and not necessarily contiguous to) the Property.

B. "Annual Assessment" shall mean the charge levied and assessed each year against each Lot, Parcel and Owner pursuant to Article VII, Section 2, hereof.

C. "Architectural Committee" shall mean the Architectural Committee of the Association to be created pursuant to Article XI below.

D. "Architectural Guidelines" or "Design Guidelines" shall be the guidelines established or to be established by the Architectural Committee pursuant to Article V, Section 3 and/or Article XI, Section 2 of this Declaration.

E. "Articles" shall mean the Articles of Incorporation of the Association as amended from time to time.

F. "Assessable Property" shall mean any Lot or Parcel in the Property covered by this Declaration, except such part or parts thereof as may from time to time constitute Exempt Property.

G. "Assessment" or "Assessments" shall mean an Annual Assessment, Special Assessment, Parcel Assessment, Maintenance Charge, Special Use Fee, or any other fees, fines or charges assessed hereunder.

H. "Assessment Lien" shall mean the lien created and imposed by Article VII.

J. "Assessment Period" shall mean the term set forth in Article VII, Section 7.

K. "Association" shall mean the Arizona nonprofit corporation to be organized by Declarant to administer and enforce the Covenants and to exercise the rights, powers and duties set forth in this Declaration, and its successors and assigns. Declarant intends to name the Association the "THE SUMMIT COMMUNITY ASSOCIATION."

L. "Association Land" shall mean such part or parts of the Property, together with the buildings, structures and improvements thereon, and other real property which the Association now or hereafter owns in fee or in which the Association now or hereafter has a leasehold or easement interest, for as long as the Association is the owner of the fee, leasehold or easement interest. From time to time, Declarant may convey easements, leaseholds, or other property within the Property to the Association and upon such conveyance or dedication to the Association, such property shall be deemed accepted by the Association and thereafter shall be maintained by the Association at its expense for the benefit of all its Members.

M. "Board" shall mean the Board of Directors of the Association.

N. "Bylaws" shall mean the Bylaws of the Association as amended from time to time.

O. "Common Area" and "Common Areas" shall mean (1) all Association Land; (2) all land within the Property which the Declarant, by this Declaration or other recorded instrument, makes available for use exclusively by Members of the Association; (3) all land within the Property which the Declarant indicates on a recorded subdivision plat is to be used for landscaping, drainage, and/or flood control for the benefit of the Property and/or the general public and is to be dedicated to the public or the City of Prescott upon the expiration of a fixed period of time, but only until such land is so dedicated; (4) all land or right-of-way easements within the Property which are dedicated to the public or to the City of Prescott, but which the City of Prescott or other governmental agency requires the Association to maintain; (5) areas on a Lot or Parcel within easements granted to the Association or its Members for the location, construction, maintenance, repair and replacement of a wall, which easement may be granted or created on a recorded subdivision plat or by a deed or other conveyance accepted by the Association; and (6) any other areas with respect to which the Association has assumed in writing administrative or maintenance responsibilities, whether or not such areas are located on a Lot or Parcel, if such areas benefit the Members, including without limitation landscaped areas along thoroughfares within the vicinity of the Property and adjacent to or leading to the Property.

P. "Covenants" shall mean the covenants, conditions, restrictions, assessments, charges, servitudes, liens, reservations and easements set forth herein.

Q. "Declarant" shall mean Prescott Development Co. L.L.C., an Arizona limited liability company, and the successors and assigns of the Declarant's rights and powers hereunder. Any assignment of all or any portion of the Declarant's rights and powers shall be made by a

Dd. "Property" shall mean the real property described on Exhibit A attached to this Declaration and the development to be completed thereon, together with any real property hereafter annexed into the Property pursuant to the provisions of this Declaration.

Ee. "Resident" shall mean:

- (1) Each Owner, tenant or lessee actually residing on any part of the Assessable Property; and
- (2) Members of the immediate family of each Owner, lessee and tenant actually living in the same household with such owner, lessee, tenant or buyer.

Subject to such rules and regulations as the Association may hereafter specify (including the imposition of special non-resident fees for use of Association Land if the Association shall so direct), the term "Resident" also shall include the on-site employees, guests or invitees of any such Owner, lessee or tenant, if and to the extent the Board in its absolute discretion by resolution so directs.

Ff. "Single Family" shall mean an individual living alone, a group of two or more persons each related to the other by blood, marriage or legal adoption, or a group of not more than three (3) persons not all so related, who maintain a common household in a Dwelling Unit.

Gg. "Special Assessment" shall mean any assessment levied and assessed pursuant to Article VII, Section 5.

Hh. "Special Use Fees" shall mean special fees authorized by this Declaration which an Owner, Resident or any other person is obligated to pay to the Association over, above and in addition to any Annual, Parcel and Special Assessments or Maintenance Charges imposed or payable hereunder. The amount of any Special Use Fee shall be determined in the Board's sole discretion, provided all such Fees must be fair and reasonable.

Ii. "The Summit Rules" shall mean the rules for the Property adopted by the Board pursuant to Article V, Section 3.

Jj. "Visible From Neighboring Property" shall mean, with respect to any given object, that such object is or would be visible to a person six feet tall standing on neighboring property, on the level of the base of the object being viewed.

ARTICLE II

PROPERTY SUBJECT TO DECLARATION

Section 1. General Declaration. Declarant hereby declares that all of the Property (except any property which is hereafter excluded pursuant to the provisions of this Declaration) is and shall be held, conveyed, hypothecated, encumbered, leased, occupied, built upon or otherwise used, improved or transferred, in whole or in part, subject to this Declaration, as amended or modified from time to time. Declarant intends to develop the Property by subdivision into Lots and other areas and to sell and convey such Lots. This Declaration is declared and agreed to be in furtherance of a general plan for the subdivision, development, improvement and sale of the Property and is established for the purpose of enhancing and perfecting the value, desirability and attractiveness of the Property and every part thereof. All of this Declaration shall run with the Property for all purposes and shall be binding upon and inure to the benefit of Declarant, the Association, all Owners and Residents and their successors in interest. This Declaration shall not be construed to prevent the Declarant from dedicating or conveying portions of the Property, including streets or roadways, for uses other than as a Lot, Common Area or Association Land, subject to the provisions of Article IV, Section 1.

Section 2. Association Bound. Upon approval by the Arizona Corporation Commission of Articles of Incorporation of the Association, the Covenants shall be binding upon and shall benefit the Association.

ARTICLE III

EASEMENTS AND RIGHTS OF ENJOYMENT IN COMMON AREAS

Section 1. Easements of Enjoyment. Every Owner shall have a nonexclusive easement for the use and enjoyment in and to the Common Areas, which nonexclusive easement shall be appurtenant to and shall pass with the title to every Lot. All Residents, other than Owners, shall have a nonexclusive, nontransferable temporary easement to use and enjoy the Common Areas so long as they remain Residents. The foregoing grant and rights are subject, among other things, to the following limitations:

- (a) The right of the Association to charge reasonable admission and other Special Use Fees for the use of any recreational or other facility situated upon the Common Areas.
- (b) The right of the Association to suspend the voting rights and right to use Common Area recreational facilities by any Member (i) for any period during which any Assessment against his Lot remains delinquent; (ii) for a period not to exceed 60 days for any infraction of this Declaration, The Summit Rules or the Architectural Guidelines, and (iii) for successive 60 day periods if any such infraction is not corrected during any preceding 60 day suspension period.
- (c) The right of the Association to dedicate or transfer all or any part of the Common Areas to any public agency, authority or utility for such purposes and subject to

such conditions as may be agreed to by the Association. Unless otherwise required by zoning stipulations or agreements with the City of Prescott effective prior to the date hereof, or unless specified hereafter on a recorded subdivision plat, no such dedication or transfer shall be effective unless an instrument signed by the Owners holding at least two-thirds (2/3) of the votes attributable to all Memberships agreeing to such dedication or transfer has been recorded, except that the Board shall have authority without Membership approval to transfer to such public agencies, authorities or utilities, easements and rights-of-way which are intended to benefit the Property and which do not have any substantial adverse affect on the enjoyment of the Common Areas by the Members.

(d) The right of the Association to regulate the use of the Common Areas through The Summit Rules, to prohibit access to those Common Areas, such as landscaped areas, not intended for use by the Owners or Residents; and to provide access to the public to certain Common Areas.

(e) The right of the Association to change the use of Common Areas and to change the size, shape or location of the Common Areas as provided in Article XII, Sections 4 and 5.

Section 2. Delegation of Use. Any Owner may, in accordance with this Declaration and The Summit Rules and the limitations therein contained, delegate his right of enjoyment in the Common Areas and facilities to the members of his family, his tenants or lessees, his guests or invitees or to his tenant's family, guests or invitees.

Section 3. Rights of Ingress and Egress. Every Owner and Resident shall have an unrestricted right of ingress and egress to his Lot(s) (which right shall be perpetual and shall be appurtenant to and shall pass with the title to said Lot(s)) over the following areas:

- (a) for pedestrian traffic over, through and across sidewalks, paths, walks and lanes that from time to time may exist upon the Common Areas; and
- (b) for pedestrian and vehicular traffic over, through and across the Common Area streets and roadways, if any, which are designated and paved for such purpose.

Each Owner's right of ingress and egress shall, subject to the Declaration and The Summit Rules, be deemed to extend to the members of his family, his guests, and his tenants (including his tenant's family and guests).

Section 4. Easements for Encroachments. Each Lot and Parcel, the Common Areas, and all other areas in the Property shall be subject to an easement of not more than eighteen inches for encroachments of walls, ledges, roofs and other structures created by construction, settling and overhangs as originally designed and constructed by the Declarant or other developer. If any such improvement on the Common Areas encroaches upon any Lot, Parcel or other area, or if any