

Commissioner Cates moved adoption
of the following Resolution:

RESOLUTION
OF THE
COUNTY OF EAGLE, STATE OF COLORADO

RESOLUTION NO. 97 - 26

APPROVAL OF AMENDMENT OF
THE BERRY CREEK PLANNED UNIT DEVELOPMENT
FILE NO. PD-00001-BERRY CREEK RANCH

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WHEREAS, on or about December 17, 1996, the County of Eagle, State of Colorado, accepted for filing an application submitted by the Singletree Property Owner's Association (hereinafter "Applicant") for amendment of the Berry Creek Planned Unit Development, Eagle County, Colorado (hereinafter the "PUD"), File No. PD-00001-97; and

WHEREAS, the Applicant requested the amendment of the PUD for the purposes refining the Amended and Restated Guide for the Planned Unit Development of Berry Creek Ranch Filing Nos. 1, 2, 3 and 4, and

WHEREAS, notice of the proposed amendment was mailed to all owners of property located within and adjacent to the PUD and was duly published in a newspaper of general circulation throughout the County concerning the subject matter of the application and setting forth the dates and times of hearings for consideration of the application by the Planning Commission and the Board of County Commissioners of County of Eagle, State of Colorado (hereinafter the "Board"); and

WHEREAS, at its public meeting held January 15, 1997, the Planning Commission, based upon its findings, recommended approval of the proposed PUD Amendment; and

WHEREAS, at its public meeting hearing of January 28, 1997, the Board considered the PUD Amendment application, associated documents and the statements and concerns of the Applicant and

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the Eagle County staff.

Based on the evidence, testimony, exhibits, review of the Eagle County Master Plan, the recommendation of the Planning Commission and staff, and comments from all interested parties, the Board finds as follows:

1. The proposed amendment of the Planned Unit Development are consistent with the efficient development and preservation of the entire PUD.
2. The proposed amendment does not affect in a substantially adverse manner either the enjoyment of the land abutting upon or across the street from the PUD or the public interest.
3. The proposed amendment shall not solely confer a special benefit upon any person.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF EAGLE, STATE OF COLORADO:

THAT, the application submitted by the Singletree Property Owners Association for amendment of the Berry Creek Planned Unit Development is hereby granted. The amended PUD guide is attached as Exhibit A.

The Board finds, determines, and declares that this Resolution is necessary for the health, safety, and welfare of the inhabitants of the County of Eagle, State of Colorado.

MOVED, READ AND ADOPTED by the Board of County Commissioners of the County of Eagle, State of Colorado, at its regular meeting held the 25th day of March, 1997, nunc pro tunc to the 28th day of January, 1997.

COUNTY OF EAGLE, STATE OF
COLORADO, By and Through Its
BOARD OF COUNTY COMMISSIONERS

ATTEST:



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BY:

Sara J. Fisher
Sara J. Fisher
Clerk of the Board of
County Commissioners



BY:

Johnnette Phillips
Johnnette Phillips, Chairman

BY:

James E. Johnson, Jr.
James E. Johnson, Jr., Commissioner

BY:

George A. Gates
George A. Gates, Commissioner

Commissioner Johnson seconded adoption of the foregoing Resolution. The roll having been called, the vote was as follows:

Commissioner Johnnette Phillips

Commissioner James E. Johnson, Jr.

Commissioner George A. Gates

This Resolution passed by 3-0 vote of the Board of County Commissioners of the County of Eagle, State of Colorado.

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EXHIBIT A

AMENDED AND RESTATED GUIDE FOR THE PLANNED UNIT DEVELOPMENT OF BERRY CREEK RANCH FILING NOS. 1, 2, 3 AND 4

I. PURPOSES

This Amended and Restated Guide for the Planned Unit Development of Berry Creek Ranch Filing Nos. 1, 2, 3 and 4 provides the required land use control document pursuant to the Planned Unit Development Act of 1972, C.R.S., 1973 and to the Eagle County Land Use Regulations then in effect. This Amended and Restated Guide to the Berry Creek PUD ("the Guide") amends and restates in it's entirety and supersedes the Amended and Restated Guide for the Planned Unit Development of Berry Creek Ranch Filings No. 1, 2, 3 and 4, recorded June 18, 1996 in Book 697 at Page 739, as approved by the Eagle County Board of County Commissioners per Resolution No. 96-75.

This Amended and Restated Guide to the Berry Creek PUD (the "Guide") amends and restates, in it's entirety, and supersedes the previously approved Planned Unit Development Plan and Declaration of Protective Covenants for Berry Creek Ranch - Filing No. 1, recorded November 27, 1978 in Book 278 at Page 908, and an Amendment thereto, recorded May 24, 1979 in Book 285 at Page 903; and certain Declaration of Protective Covenants for Berry Creek Ranch Filing No. 2, recorded April 10, 1979 in Book 283 at Page 979, and an Amendment thereto, recorded September 27, 1979 in Book 291 at Page 619; and certain Declaration of Protective Covenants for Berry Creek Ranch Filing No. 3 recorded February 27, 1980 in Book 299 at page 325; and certain Declaration of Protective Covenants for Berry Creek Ranch Filing No. 4 recorded February 27, 1980 in Book 299 at Page 323, and an Amendment thereto, recorded October 24, 1980 in Book 493 at Page 695 (collectively, the "Prior Declarations"), the Prior Declarations being recorded in the office of the Clerk and Recorder, Eagle County, Colorado.

The above superseded documents featured both the PUD control standards and the conditions, covenants and restrictions under one cover. This amended and restated guide includes only those portions, either in their original content or slightly amended, that are customary to a standard PUD guide.

The conditions, covenants and restrictions have been consolidated, amended and restated as a separate document to supersede all of the above, approved by the Eagle Board of County Commissioners on May 23, 1995 as the Amended and Restated



II. APPLICABILITY

A. The zoning and land use restrictions set forth in this document shall apply to all real property located and included on the following plats, as amended, recorded in the office of the Clerk and Recorder, Eagle County, Colorado. Said subdivisions shall hereinafter be referred throughout this guide as "Berry Creek" or "the subdivision."

1. Berry Creek Ranch Filing No. 1 in Eagle County, Colorado, the plat of which was filed under Reception Number 174482, and recorded November 3, 1978 in Book 278 at Page 72, Map Case 2, Drawer B of the records of the Clerk and Recorder's Office for Eagle County, Colorado.

2. Berry Creek Ranch Filing No. 2 in Eagle County, Colorado, the plat of which was filed under Reception Number 180384, and recorded April 10, 1979 in Book 283 at Page 979, Map Case 2, Drawer B of the records of the Clerk and Recorder's Office for Eagle County, Colorado.

3. Berry Creek Ranch Filing No. 3 in Eagle County, Colorado, the plat of which was filed under Reception Number 195714, and recorded February 27, 1980 in Book 299 at Page 324, Map Case 2, Drawer B of the records of the Clerk and Recorder's Office for Eagle County, Colorado.

4. Berry Creek Ranch Filing No. 4 in Eagle County, Colorado, the plat of which was filed under Reception Number 195712, and recorded February 27, 1980 in Book 299 at Page 322, Map Case 2, Drawer B of the records of the Clerk and Recorder's Office for Eagle County, Colorado.

B. The provisions of the Eagle County Land Use Regulations shall apply to development within Berry Creek to the extent applicable and not inconsistent with the specific provisions of this guide. In the event of a conflict, inconsistency or incongruity between the provisions of this guide and the provisions of any other section contained in the Eagle County Land Use Regulations, the provisions of this guide shall in all respects govern and control the development of Berry Creek.

III. DEFINITIONS - As used in this guide, the following words and terms shall have the following meanings:

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- A. "Clubhouse Tract" shall mean a tract within the subdivision on which may be constructed buildings relating to recreational and health activities such as golf, tennis, swimming, racquetball and handball. Said buildings may contain a restaurant and bar, pro shop, toilet and locker rooms and other related uses. In addition to said buildings, drives and parking areas, tennis courts and swimming pools may constructed upon the clubhouse tract.
- B. "Crawl Space" shall mean an area on the first level of the structure that shall have a ceiling height of less than 5 feet measured from the finished or unfinished floor to the underside of the structural members of the floor above.
- C. "Duplex Unit Residential Lot" shall mean a Lot which may be used solely for Residential purposes and upon which not more than one (1) building containing not more than two (2) Dwelling Units, together with not more than two (2) attached garages may be constructed.
- D. "Dwelling Unit" shall mean one (1) or more rooms in a building designed to be used and occupied by one (1) family living independently of any other family, having not more than one (1) indoor kitchen facility, to be used solely for residential occupancy.
- E. "Garage" shall mean a permanent part of a main building used for storage of the private vehicles or boats of the occupant and which is totally enclosed.
- F. "Golf Course Tract" shall mean a tract within the subdivision which can be used solely for the conduct of the game of golf and related golfing activities. A golf course tract may have constructed thereon buildings such as shelters, toilets, pump houses and other accessory structures related to the activity. Other recreation activities such as hiking, jogging, fishing and horseback riding are prohibited within said tract except as specially permitted and approved in writing by the Berry Creek Metropolitan District and the Golf Course Owner.
- G. "Habitable Area" shall mean all enclosed space except garages, non-habitable attics, crawl spaces and mechanical rooms. Habitable area shall be measured from the outside faces of exterior walls. Stairwells, including landings, shall be measured at 100% at the lowest floor level, and at 50% at all other floor levels. Habitable area shall include all space with a ceiling height of five feet or greater, measured from the finished or unfinished floor to the underside of the structural members of the floor or rood structure above. Dropped ceilings, soffits, and the like shall not be considered in calculating ceiling height.

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- H. "Home Occupation" shall mean any lawful use conducted entirely within a dwelling which is incidental and secondary to the use of the dwelling for dwelling purposes and which does not change the residential character thereof. Home occupations may include professional offices or a studio for the arts and crafts. Uses which have one or more of the following characteristics are not permitted: 1) non-resident employees or clients on the premises; 2) storage of inventory, equipment or supplies; 3) advertising showing the physical address of the property; 4) increased traffic beyond that customary to a residential dwelling use.
- I. "Landscaping Tract" shall mean a tract within the subdivision which may remain in its natural and undisturbed state or may be landscaped with grasses and plant material indigenous to the site. No physical improvement shall be constructed on these tracts.
- J. "Lot" shall mean any plot of land delineated upon the most recent, valid, applicable recorded subdivision map including all or a portion of the properties, with the exception of public streets.
- K. "Mechanical Room" shall mean an area used exclusively for the electrical, heating, plumbing, or air conditioning systems related to the structure and supplies reasonably necessary for the maintenance of such systems.
- L. "Multiple Unit Residential Lot" shall mean a lot which can be used solely for multiple family residential purposes including condominiums, town house and apartments, and upon which the number of buildings to be so constructed upon each such lot shall not exceed fifteen (15) living units per acre. Time-sharing, or the creation of time share estates or a fraction fee, as defined in the applicable statutes, law, rules or regulations of the State of Colorado or the County of Eagle, Colorado, of any dwelling unit constructed on a Multiple Unit Residential Lot is expressly prohibited.
- M. "Non-Habitable Attic" shall mean an area on the top level of the structure that shall have a ceiling height of less than 5 feet measured from the finished or unfinished floor to the underside of the structural members of the roof structure above.
- N. "Park and Recreation Tract" shall mean a tract within the subdivision which can be used for recreation purposes such as bicycling, hiking, picnicking, athletic games and related activities, but within which equestrian activities are prohibited. A park and recreation tract may have constructed thereon structures associated with such recreational uses. In addition, Tract K, according to the Amended Final Plat of said tract, may be used for the construction of and uses associated with a Community Center building. The Community Center building will be used as a place

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to conduct meetings, private and public functions, special events, assemblies, dances, weddings, and other related activities. In general, this building will be used as a gathering place for Berry Creek Ranch residents and the local community.

- O. "Single Unit Residential Lot" shall mean a lot which can be used solely for residential purposes and upon which not more than one building containing not more than one dwelling unit, together with not more than one attached garage, may be constructed.
- P. "Site Coverage" shall mean that part of the site covered by buildings only, including garage. It does not include such items as decks, terraces, roof overhangs, driveways, walks, or other impervious materials.
- Q. "Subdivision" shall mean the lands included within Berry Creek Ranch Filing No.1, No.2, No.3, No.4.

IV. USE REGULATIONS

All lots within the subdivision fall within one (1) of the following land use categories:

Single Unit Residential Lot

Uses by Right: Single Unit Residential with Garages
 Landscaping Tract
 Park and Recreation Tract
 Home Occupation

Land Use by Lot #:

Filing 1:	Lots 51-96, inclusive
Filing 2:	Lots 1-17, incl., Block 1 Lots 1-16, incl., Block 2 Lots 27-36, incl., Block 2 Lots 29-47, incl., Block 4 Lots 1-5, incl., Block 5 Lots 20-31, incl., Block 5 Lots 37-48, incl., Block 6
Filing 4:	Lots 1-48, incl., Block 4

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Duplex Unit Residential Lot

Uses by Right: Duplex-Unit Residential with Garages
All Uses Permitted under Single Family Residential

Land Use by Lot #:

Filing 1: Lots 1 - 50, incl.

Filing 2: Lots 18-26, incl., Block 1
Lots 17-26, incl., Block 2
Lots 1-28, incl., Block 3
Lots 1-4, incl., Block 4
Lots 8-28, incl., Block 4
Lots 48-49, incl., Block 4
Lots 6-19, incl., Block 5
Lots 1-36, incl., Block 6

Filing 3: Lots 1-30, incl., Block 1
Lots 1-58, incl., Block 2
Lots 1-21, incl., Block 3

Filing 4: Lots 2-54, incl., Block 1
Lots 1-57, incl., Block 2
Lots 1-49, incl., Block 3
Lots 1-57, incl., Block 4

Multiple Unit Residential Lot:

Uses by Right: Multiple Unit Residential
All Uses Permitted under Duplex Unit Residential

Land Use by Lot #:

Filing 1: Lot 97
Filing 2: Lot 29 and 30, Block 3
Lot 49, Block 6
Filing 3: Lot 22, Block 3
Filing 4: Lot 1, Block 1

Clubhouse Tract:

Filing 2: Tract H

Park and Recreation Tracts:

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Filing 1:	Tracts A, C, D, E, F and H
Filing 2:	Tracts K, L, N, O and P
Filing 3:	Tract G
Filing 4:	Tracts H and I

Landscaping Tract:

Filing 1:	Tracts B and G
Filing 2:	Tracts I, J and M
Filing 3:	Tracts A, C, D, E, F and I
Filing 4:	Tracts D, E, F, G, J, M, O and P

Golf Course Tract:

Filing 2:	Tracts A, B, C, D, E, F and G
Filing 3:	Tracts B and H
Filing 4:	Tracts A, B, C, K, L and N

V. SITE DEVELOPMENT STANDARDS:

Maximum Lot Coverage:

Single Unit Residential Lot:	25%
Duplex Unit Residential Lot:	25%
Multiple Unit Residential Lot:	25%

Total Habitable Area:

Single Unit Residential Lot:	25%
Duplex Unit Residential Lot:	25%
Multiple Unit Residential Lot:	40%

Building Height:

No structure located on a Single Unit, Duplex or Multiple Family Residential Lot shall exceed, at any point on the structure, thirty five feet (35') or three (3) stories, whichever is less.

Building height shall be measured vertically from any point on existing or finished grade, (whichever is more restrictive), to the top of the building's roof structure directly above that point.

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Setbacks, all Structures, all Use Types:

No part of the building may go into the setbacks. This includes roof overhangs, constructed site work, decks and terraces.

Front or any frontage on a Road Right of Way:	25 feet (25') from property line or 12 feet 6 inches (12.5') from the Road Maintenance Easement
Side Setback:	12 feet, six inches (12.5') from property line
Rear Setback:	15 feet (15') from property line

Parking:

Off-street vehicle parking shall be provided based upon the current Eagle County parking standards at time of issuance of the building permit by Eagle County, Colorado.

Required vehicle parking in the subdivision may be wholly on grade, partly below grade, or within an underground parking structure. All driveways and parking area on grade in the subdivision shall be paved.

All required vehicle parking in the subdivision shall be paved.

Soils:

Applicants requesting approval of building plans must provide a site specific soils-geologic report prepared by an engineer licensed in the State of Colorado. Said soils report must accompany plans submitted to the Eagle County Building Department.

Special Review Permit:

Prior to commencement of construction of improvements on lots with a slope of 30% or more as hereinafter enumerated, the owner must apply for and obtain a Special Review Permit from the Chief Building Official, acting on behalf of the Board of County Commissioners for Eagle County, Colorado. Prior to granting said permit, the Chief Building Official will take into consideration the applicants satisfactory solution to conditions of driveway and parking access, existing slope stability, drainage, elevations

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and snow removal. The maximum permissible driveway grade is 10%. Appeal of the decisions of the Chief Building Official will be made to the Eagle County Board of Building Appeals. Sites which are subject to the Special Review permit are as follows:

Berry Creek Ranch Filing No. 4:

- Lots 7,8,9,10,12 and 15, Block 1
- Lots 5,6,8,9 and 22, Block 2
- Lots 18,19,20,22,24,25,37 and 42, Block 3
- Lot 28, Block 4
- Lots 19, 20 and 40, Block 5

Approval of Construction Plans

No building or other structure shall be constructed, erected or maintained on any lot nor shall any addition thereto or alteration or change therein be made until complete plans and specifications are submitted to Eagle County and a building permit issued in accordance with the Eagle County Building Resolution, as amended.

Buyers or owners of lots in Berry Creek Ranch Filings Nos. 1,2,3, and 4, should be aware that requirements more restrictive than those contained in this PUD Guide may be imposed by the Singletree Property Owners Association, as a result of the administration of the "Amended and Restated Declaration of Covenants, Conditions and Restrictions of Berry Creek Ranch Filings Nos. 1,2,3, and 4," and the "Singletree Design Guidelines" that are recorded separately.

The "Amended and Restated Declaration of Covenants, Conditions and Restrictions of Berry Creek Ranch Filings Nos. 1,2,3, and 4," includes a requirement for Design Review Committee approval and a certificate of Design Review Committee approval shall be requested by the County as part of the County building permit review process.

The "Amended and Restated Declaration of Covenants, Conditions and Restrictions of Berry Creek Ranch Filings Nos. 1,2,3, and 4", includes a requirement for Design Review Committee approval and as part of the Eagle County building permit review process, a certificate of Design Review Committee approval shall be requested by the County for all new construction, and additions or alterations that increase the habitable area or alter the exterior of any structure.

VI. GENERAL PROVISIONS

Section 1. Enforcement. The Board of County Commissioners of Eagle County, Colorado or any owner of property or lot in the subdivision, shall have the right to enforce, by any proceeding at law or in equity, all restrictions and provisions of this PUD Guide. Failure by the Board of County Commissioners of Eagle County, Colorado or by any owner to enforce any restriction or provision herein contained shall be in no event

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be deemed a waiver of the right to do so thereafter. The Amended and Restated Declaration of Covenants, Conditions and Restrictions of Berry Creek Ranch Filings Nos. 1, 2, 3 and 4, under separate cover, shall be enforced by others and as identified in that document.

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

Section 3. Amendment. This guide may be amended or revoked by the Board of County Commissioners of Eagle County Colorado, through the amendment process as set forth in the Eagle County Land Use Regulations, Section 2.06.13. Such amendment or revocation shall be effective when duly recorded, provided, however than any amendment or revocation must comply with the statutes of Colorado and the resolutions and ordinances of the County of Eagle, Colorado.

APPROVED this 25th day of March, 1997.


BOARD OF COUNTY COMMISSIONERS

BY: Johnette Phillips
Chairperson

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The foregoing instrument was acknowledged before me this 25th day of March 19 97 by JOHNETTE PHILLIPS, CHAIRMAN OF THE BOARD OF COUNTY COMMISSIONERS of Eagle County, Colorado.

Sara J. Fisher
CLERK TO THE BOARD



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BERRY CREEK P.U.D. GUIDELINES

15 August 1980

(condensed from the Declaration of Protective Covenants of
Berry Creek Ranch - Filings 1, 2, 3, and 4.)

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Definitions:

- SINGLE UNIT RESIDENTIAL LOT A lot which can be used solely for residential purposes and upon which not more than one building containing not more than one garage outbuilding, may be constructed.
- DUPLEX UNIT RESIDENTIAL LOT A lot which can be used solely for residential purposes and upon which not more than one building containing not more than two dwelling units, together with not more than one garage outbuilding, may be constructed.
- MULTIPLE UNIT RESIDENTIAL LOT A lot which can be used solely for multiple family residential purposes including condominiums, townhouses and apartments, and upon which the number of dwelling, condominium, apartment units to be constructed upon each such lot shall not exceed fifteen living units per acre. Time sharing, or the creation of time share estates or a fractional fee, as defined in the applicable statutes, laws, rules or regulations of the State of Colorado or the County of Eagle, Colorado, of any dwelling unit constructed on a Multiple Unit Residential Lot is expressly prohibited.

Uses:

FILING 1: All lots in the subdivision shall fall within the following land use definitions:

<u>Definition</u>	<u>Lot Description</u>
Single Unit Residential Lot	Lots 51 through 96
Double Unit Residential Lot	Lots 1 through 50
Multiple Unit Residential Lot	Lot 97
Equestrian Tract	Tracts A, C, D, F, H
Park and Recreation Tract	Tract E
Landscaping Tract	Tracts B and G

FILING 2:

<u>Definition</u>	<u>Lot Description</u>
Single Unit Residential Lot	Lots 1 thru 17, Block 1; Lots 1 thru 16, Block 2; Lots 27 thru 36, Block 2; Lots 29 thru 47, Block 4; Lots 1 thru 5, Block 5; Lots 20 thru 31, Block 5; Lots 37 thru 48, Block 6;
Duplex Unit Residential Lot	Lots 18 thru 26, Block 1; Lots 17 thru 26, Block 2; Lots 1 thru 28, Block 3; Lots 1 thru 28, Block 4; Lots 48 and 49, Block 4; Lots 6 thru 19, Block 5; Lots 1 thru 36, Block 6;

Filing 3:

<u>Definition</u>	<u>Lot Description</u>
Duplex Unit Residential Lot	Lots 1 thru 30, Block 1; Lots 1 thru 58, Block 2; Lots 1 thru 21, Block 3
Open Space Tract	Tracts A, C, D and F
Multiple Unit Residential Lot	Lot 22, Block 3
Park and Recreation Tract	Tract G
Golf Course Tract	Tracts B and H
Landscaping Tract	Tracts E and I

Filing 4:

<u>Definition</u>	<u>Lot Description</u>
Single Unit Residential Lot	Lots 1 thru 48, Block 4;
Duplex Unit Residential Lot	Lots 2 thru 54, Block 1; Lots 1 thru 57, Block 2; Lots 1 thru 49, Block 3; Lots 1 thru 57, Block 5;
Multiple Unit Residential Lot	Lot 1, Block 1

FILING 4:
Cont.

Definition

Lot Description

Park and Recreation
Tract

Tracts H and I

Golf Course Tract

Tracts A, B, C, K, L, and N

Landscaping Tract

D, F, G, and A

A. SITE COVERAGE AND DENSITY:

Buildings situated on a Single Unit Residential Lot or Duplex Unit Residential Lot, within the Subdivision shall not exceed 25% lot coverage; nor shall the total habitable area of the proposed building exceed 25% of the area of the site.

Buildings situated on a Multiple Unit Residential Lot shall not exceed 25% lot coverage; nor shall the total habitable area of the building exceed 40% of the area of the site.

Excluded from the habitable areas are garages, patios, porches, decks and non-habitable basements.

B. SET BACK REQUIREMENTS:

Minimum setbacks for the location of structures with relations to property lines shall be 25 feet from the road right of way, 15 feet from the rear property line and 12 feet, 6 inches from side property lines.

C. Building Height:

No structure located within the Subdivision on a Single Family, Duplex or Multi-family lot shall exceed at any point on the structure, three stories or thirty-five feet in height, whichever is less.

D. PARKING REQUIREMENTS:

Off street vehicle parking shall be provided based upon the current Eagle County parking standards at time of issuance of the building permit by Eagle County, Colorado.

Required vehicle parking in the Subdivision may be wholly on grade, partly below grade, or within an underground parking structure. All driveways and parking areas on grade in the Subdivision shall be paved.

All required vehicle parking in the Subdivision shall be paved.

Soils Report:

A Soils report is required for every site.