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Cheri Brunvand-Summit County Recorder 10/5/2000 14:48 DF:

SECOND AMENDMENT
TO THE DECLARATION OF PROTECTIVE COVENANTS
FOR BRITTANY PLACE TOWNHOMES

WHEREAS, the Declaration of Protective Covenants for Brittany Place of Breckenridge Townhomes was recorded in the records of Summit County, Colorado on August 28, 1996, Reception 522379, which Declaration created protective covenants, conditions and restrictions for the real property described at Exhibit A of said Declaration;

WHEREAS, Section 12.3 of said Declaration provides that it may be amended by an instrument signed by the owners of not less than 75% of the votes that may be cast at a meeting of the Association;

WHEREAS, 100% of the owners have approved and signed a Resolution to amend the Declaration, consistent with the plat known as Brittany Place Filing No. 1, Replat 2, which Replat 2 shall be recorded concurrently with this Amendment in the records of Summit County, Colorado.

NOW THEREFORE, the Declaration of Brittany Place is hereby amended as follows:

1. Exhibit A (legal description of the properties) shall be amended pursuant to the final approved plat and map.
2. Section 1.1 E shall be amended in its entirety as follows:

"Declaration" shall mean and refer to this Declaration of Protective Covenants for Brittany Place Townhomes, as may be amended from time to time and the recorded plats and maps as may be amended from time to time, and any later recorded plats and maps.

3. Section 1.1 H shall be amended in its entirety as follows:

"Limited Common Area" means a portion of the General Common Area allocated by the Declaration, for the

exclusive use of one or more Lots but fewer than all of the Lots. The Owners of the Lots to which certain Limited Common Areas are allocated shall be responsible for maintenance of said Limited Common Areas. Allocations of Limited Common Areas are shown on Exhibit B (attached and incorporated herein by reference) and any amendments to Exhibit B.

4. Section 1.1 I shall be amended in its entirety as follows:

"Lot" means a physical portion of the common interest community which is designated for separate ownership and the boundaries of which are described in or determined by the Declaration, including the plats and maps.

5. A new Section 1.1 R shall be added as follows:

"Maintenance Property" shall mean and refer to the property and improvements, together with all fences, rights-of-way, roads, streets, and easements located within or adjacent to the Property which are owned by or dedicated to the City of Breckenridge but are to be maintained by the Brittany Place of Breckenridge Homeowner's Association, Inc.

6. A new Section 1.1 S shall be added as follows:

"General Common Elements" means with regard to Condominium Units, the land on which a building is located; the foundations; structural divisions between individual air space units; columns; girders; beams; supports; roofs; stairs; installation of central services such as power, light, gas, water, heating, air conditioning; ducts; and in general all apparatus and installations for common use. The Owner or Owners of a Condominium Unit shall have a separate estate in the individual air space unit together with an undivided ownership interest in the General Common Elements within a building, as described at Article IX.

7. A new Section 1.1 T shall be added as follows:

"Limited Common Element" means any decks, stairs, shutters, awnings, window boxes, doorsteps, stoops, porches, balconies, and patios, and all exterior doors, and windows or other fixtures designed to serve a single garage or dwelling unit, but located outside the garage or dwelling unit's boundaries. Each such Limited Common Element is for the exclusive use of one or more Lots but fewer than all of the Lots. The Owners of the Lots that include Limited Common Elements shall be responsible for maintenance of said Limited Common Elements.

8. A new Section 1.1 U shall be added as follows:

"Condominium Unit or Lot" means an individual air space unit together with the interest in the General Common Elements appurtenant to the building in which the individual air space unit is located.

9. A new Section 1.2 Fences and Barriers shall be added as follows:

The Common Areas, including both General and Limited Common Areas, shall be maintained as open areas. No fences or other physical barriers shall be constructed, planted, or placed if they visually or physically delineate or separate a Limited Common Area.

10. Section 3.2 Classes of Membership shall be amended in its entirety as follows:

Voting Rights. The Association shall have one class of voting Members. All Members shall be Owners. The vote for each Lot, the ownership of which is held by more than one Owner, shall be exercised as they determine between themselves. If only one of the multiple Owners is present, such Owner is entitled to cast the entire vote for such Lot. If more than one Owner is present, the vote for such Lot may be cast only in accordance with the agreement of a majority in interest of the Owners with a majority agreement in existence if one Owner casts the vote without protest being made promptly by any of the

other Owners of said Lot. Should the joint or common owners be unable, within a reasonable time, to agree upon how they will vote any issue, they shall be passed over and the right to vote on such issue shall be lost. In no event shall more than one vote be cast with respect to any one Lot.

The formula for determining the allocations of votes shall be as follows:

- A. The primary residential Lots shall each be entitled to one full vote. At build-out, the primary residential Lots shall include Lots A, B, C, D, G, Lot ___ (the primary residence in Building H), Lot J, and Lot ___ (the carriage house in Building K). Each of the above designated Lots shall have the right to vote only after a certificate of occupancy has been issued. Lots for which no certificate of occupancy has been issued shall not be entitled to a vote.
- B. The residential Condominium Lots shall each have 50% of a full vote. At build-out, the residential Condominium Lots shall include Lot ___ (the dwelling unit in Building H) and Lot ___ (the dwelling unit in Building I). Each of the above designated Lots shall be entitled to a vote only after a certificate of occupancy has been issued. Lots for which no certificate of occupancy has been issued shall not be entitled to a vote.
- C. The garage Lots shall each have a vote worth 11% of a full vote. At build-out the garage Lots shall include Lot C1, Lot ___ and Lot ___ (the garage units in Building H), Lot ___ and Lot ___ (the garage units in Building I), Lot ___ and Lot ___ (the garage units in Building K), and each of the two garages in Lot A1. Each of the above designated garage Lots shall be entitled to vote only after a certificate of occupancy has been issued. Lots for which no certificate of occupancy has been issued shall not be entitled to a vote.

D. Vacant Lots, including Lots F and E, shall not be entitled to vote so long as no certificate of occupancy has been issued for any improvements on the Lot.

11. The following shall be added at the beginning of Section 4.1 The Association, as follows:

The Association shall provide for the repair, maintenance, and replacement ("maintenance") of the Maintenance Properties and General Common Areas. Notwithstanding the foregoing, any portion of the General Common Areas designated as a Limited Common Area, shall be maintained by the Owner of the Lot to which the Limited Common Area is allocated. In the event an Owner fails to adequately maintain the Limited Common Area, the Association shall, after notice, have the right to provide the desired maintenance and to impose an Individual Assessment against said Owner to cover the costs of such maintenance. The provisions at Article X which apply to Annual Assessments and Special Assessments also shall apply to Individual Assessments, including but not limited to Section 10.4 Time for Payment of Assessments; 10.5 Assessment Lien; 10.6 Personal Obligation; and Section 10.10 Personal Liability of Purchaser for Assessments.

12. A new Section 7.5 shall be added as follows:

Easements for Encroachments. If any part of the Common Areas encroaches or shall hereafter encroach upon any Lot, an easement for such encroachment and for the maintenance of the same shall and does exist. If any part of a garage or dwelling unit encroaches or shall hereafter encroach upon the Common Areas, or upon another Lot, the Owner of that garage or dwelling unit shall and does have an easement for such encroachment and for the maintenance of the same. Such easements shall extend for whatever period of time the encroachment shall exist. Such encroachments shall not be considered to be encumbrances either upon the Common Areas or upon a Lot and shall not be considered or determined to impair or

otherwise adversely affect the marketability of title to either the Lots or the Common Areas.

13. Section 8.3 shall be amended in its entirety as follows:

Subdivision of Lots. No Lot may be subdivided into separately owned Condominium Units except by the Declarant prior to the Declarant's conveyance of said Lot to another Owner or Owners.

14. Article IX, PARTY WALLS MAINTENANCE shall be deleted in its entirety and in its place a new Article IX shall be added entitled CONDOMINIUM UNITS as follows:

Condominium Units may be created by the Declarant as provided at Section 8.3. Upon creation of any such Condominium Units, the Declarant shall record an amendment to the Declaration, reflecting the change. Each Owner of a Condominium Unit shall have an undivided ownership interest in the General Common Elements equal to the percentage determined by dividing the number of Condominium Units owned by that Owner within the building by the total number of Condominium Units in the building. The cost of reasonable maintenance of the General Common Elements within a building shall be shared by the Owners sharing said General Common Elements and shall be included in the Condominium Assessment, described at Section 10.3 (Apportionment) below. If a General Common Element is damaged or destroyed, such General Common Element shall be promptly repaired, if possible, to substantially the same condition in which it existed prior to such damage, and the cost of said repair shall be shared among the Owners of said General Common Element in the same proportion as the Condominium Assessment, however, any Owner shall have the right to demand a larger contribution from another Owner under any rule of law regarding liability for the negligent or willful acts or omissions of such other Owner. If the damage is clearly caused by one Owner, said Owner shall be solely responsible for the cost of repair.

In the event the Owners of the Condominium Units and General Common Elements associated with the Condominium

building fail to perform any necessary maintenance of the improvements or landscaping, the Association or its authorized representative shall have a right to access of the premises for the purpose of performing said maintenance.

No such maintenance shall be performed by the Association or its authorized representative unless approved by a vote of the Board of Managers at a Special Meeting held to discuss the issue. Twenty (20) days' written notice of the Special Meeting shall be given to each member, including each Owner of a Condominium Unit in the building to be maintained. Said Owners shall have an opportunity to address the issue at the meeting. Following the discussion, and after each Owner of one of the affected Condominium unit's had an opportunity to be heard, the Board may take a vote on the issue. In the event the Board votes to perform maintenance on the building, the cost of any maintenance performed by the Association or its delegated representative shall be assessed against the Owners of the Condominium Units and General Common Elements Associated with the building and included in the next Condominium Assessment for that building.

15. Section 10.3 shall be amended in its entirety as follows:

Apportionment. Each Lot shall be assessed for all Annual and Special Assessments. The formula for determining the portion of the Annual or Special Assessment to be apportioned to each Lot shall be as follows:

- A. The primary residential Lots shall share 80% of the total Assessment, each paying an equal share. At build-out, the primary residential Lots shall include Lots A, B, C, D, G, Lot ___ (the primary residence in Building H), Lot J, and Lot ___ (the carriage house in Building K). Each of the above designated Lots shall share in the Assessment only after a certificate of occupancy has been issued. Lots for which no certificate of occupancy has been issued shall not be assessed.

- B. The residential Condominium Lots shall share 10% of the total Assessment, each paying an equal share. At build-out, the residential Condominium Lots shall include Lot ___ (the dwelling unit in Building H) and Lot ___ (the dwelling unit in Building I). Each of the above designated Lots shall share in the Assessment only after a certificate of occupancy has been issued. Lots for which no certificate of occupancy has been issued shall not be assessed.
- C. The garage Lots shall share 10% of the total Assessment, each paying an equal share. At build-out the garage Lots shall include Lot C1, Lot ___ and Lot ___ (the garage units in Building H), Lot ___ and Lot ___ (the garage units in Building I), Lot ___ and Lot ___ (the garage units in Building K), and each of the two garages in Lot A1. Each of the above designated garage Lots shall share in the Assessment only after a certificate of occupancy has been issued. Lots for which no certificate of occupancy has been issued shall not be assessed.
- D. Vacant Lots, including Lots F and E, shall not be assessed so long as no certificate of occupancy has been issued for any improvements on the Lot.

As part of the Annual Assessment, Owners of Condominium Units (including both dwelling units and garage units) shall be assessed a separate Condominium Assessment to cover common expenses specific to the building in which the Condominium Unit is located (including but not limited to the cost of hazard insurance). The Condominium Assessment shall be paid as follows:

Building H - Lot ___ (primary living unit)	50%
Lot ___ (apartment)	30%
Lot ___ (1st garage)	10%
Lot ___ (2 nd garage)	10%
Building I - Lot ___ (apartment)	80%
Lot ___ (1 st garage)	10%
Lot ___ (2 nd garage)	10%

Building K - Lot ___ (carriage house)	80%
Lot ___ (1 st garage)	10%
Lot ___ (2 nd garage)	10%

16. A new Article XIII shall be added as follows:

ARTICLE XIII
INSURANCE

13.01 Coverage. The Board of Managers shall obtain and maintain insurance policies relating to the Common Areas owned by the Association, to the Maintenance Properties, and to the buildings that have been subdivided into separate Condominium Units at all times to the extent obtainable. The named insured under the policies shall be the Association. Said policies shall be written with companies licensed to do business in the State of Colorado. The Board of Managers and the Declarant shall not be liable for failure to obtain any coverage required if such insurance is not reasonably available, but shall cause notice of that fact to be sent to all Owners. If requested in writing by an Owner, the Board of Managers shall furnish a certificate of insurance or notices of termination of coverage or changes in coverage. Each such policy shall provide:

- A. The Declarant is an additional insured in his capacity as an Owner and Board Member;
- B. Each Owner is an additional insured for claims and liabilities arising in connection with the ownership, existence, use, or management of the Common Areas;
- C. The insurer waives its right to subrogation under the policy against any Owner;
- D. No act or omission by an Owner, unless acting within the scope of his authority on behalf of the Association, will void the policy or be a condition to recovery under the policy; and

- E. If there is other insurance in the name of an Owner covering the same risk, the Association's policy provides primary insurance.

13.2 Physical Damage Insurance. The Board of Managers shall obtain property insurance on the Common Areas for broad form covered causes of loss unless, unless in its discretion, the cost of the insurance outweighs the risk of loss. The Board of Managers shall obtain property insurance on the buildings that have been subdivided into individual Condominium Units for broad form covered causes of loss. Such insurance must include the building but not the finished interior surfaces of the walls, floors, and ceilings of the Condominium Units. The Physical Damage insurance obtained by the Association shall provide coverage equal to the current replacement cost of the insurable improvements, exclusive of land, excavations, and other items normally excluded. Any deductible on such insurance policy shall be determined in the discretion of the Board of Managers, as consistent with good business practices.

Any portion of the common interest community for which insurance is required which is damaged or destroyed must be repaired or replaced promptly by the Association unless the common interest community is terminated; repair or replacement would be illegal under any law governing health or safety; sixty seven percent (67%) of the Owners, including every Owner of a unit that will not be rebuilt, vote not to rebuild; or prior to the conveyance of the Lot to a person other than the Declarant, the mortgage holder demands all or a substantial part of the insurance proceeds. The cost of repair or replacement in excess of insurance proceeds is a common expense.

13.3 Liability Insurance. The Board of Managers shall obtain comprehensive general liability insurance against claims and liabilities arising in connection with the ownership, existence, use, or management of the Common Areas and Maintenance Properties, with such limits as the Association determines appropriate and insuring the Board of Managers, Association, management agent and their respective employees and agents, and each Owner, including the Declarant in his capacity as an Owner, against any liability to the public or to Owners and their invitees, agents, and employees. In no

event shall such insurance coverage be less than one million dollars (\$1,000,000.00) covering all claims for bodily injury or death and property damage arising out of one occurrence.

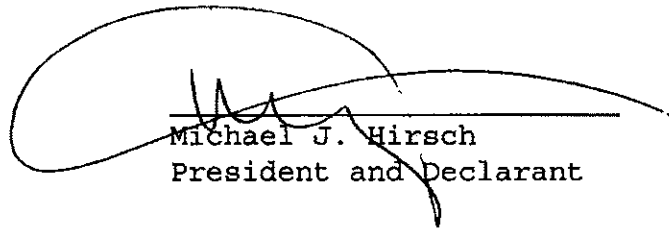
13.4 Insurance to be Maintained by Owners. Each Owner of a Condominium Unit shall obtain a homeowner's policy to cover contents (including the finished interior surfaces of the walls, floors, and ceilings) and inside liability. Each Owner of a Lot that is not a Condominium Unit shall obtain insurance to cover the Lot, the improvements on the Lot, and the improvements and personal property owned by the Owner but located on the Limited Common Area associated with the Lot; and each such Owner hereby indemnifies the Association, the Board of Managers, management agent, and their respective employees and agents, and each Owner, including the Declarant, against any and all liability for claims for bodily injury or death associated with such improvement or personal property. The Declarant, Association, and Board of Managers shall not have responsibility for insurance coverage on any property owned by an Owner.

13.5 Payment of Insurance Premiums. The cost of the insurance obtained by the Association in accordance with this Article, shall be paid from Association funds and shall be collected from the Owners as part of the Annual Assessment as provided for in this Declaration. Each Lot shall be assessed its proportionate share of the cost of such insurance covering the Common Areas, as part of the Annual Assessment. In addition, each Owner of a Condominium Unit shall be assessed its proportionate share of the cost of insurance to cover the building in which the Condominium Unit is located, as described at Section 10.3.

CERTIFICATION OF PRESIDENT OF THE ASSOCIATION

I, Michael J. Hirsch, President of the Brittany Place of Breckenridge Homeowner's Association, Inc., state and certify that the Second Amendment to the Declaration of Protective Covenants for Brittany Place of Breckenridge Townhomes was approved by unanimous consent of the unit owners pursuant to a written Resolution signed by each unit owner.

8.15.00
Date


Michael J. Hirsch
President and Declarant

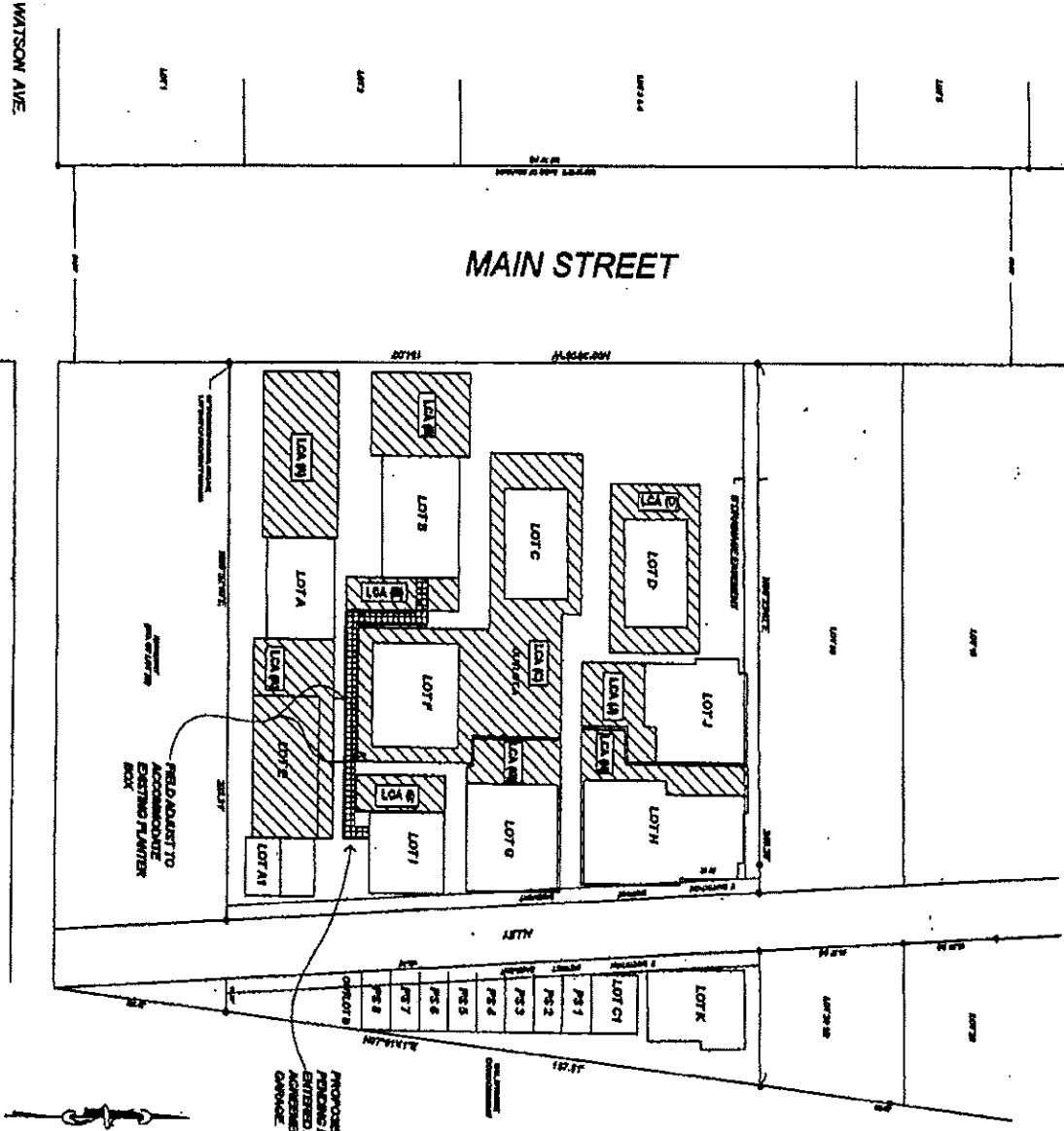
The foregoing Certification of President of the Association was sworn to and acknowledged before me this 15th day of August, 2000, by Michael J. Hirsch.

My commission expires: 8-6-2001


Notary Public

2975 Valmont Road
Boulder, Colorado

**BRITANNY PLACE
LIMITED COMMON AREA'S**
TOWN OF BRECKENRIDGE, SUMMIT COUNTY
COLORADO



*Exhibit B to
Second Amendment
to the Declaration of
Protective Covenants
for Brittany Place
Townhomes*



BRITANNY PLACE FILING NO. 1	
REPLANT 2	
LIMITED COMMON AREAS	
DATE	APPROVED
BY	
PROJECT NO.	
DATE	
BY	
PROJECT NO.	
DATE	
BY	