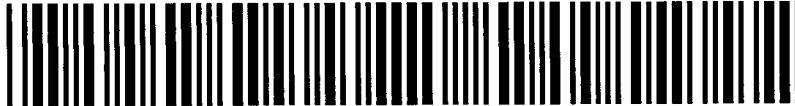


VOL: 2001 PAGE: 30941
RECORDED DOCUMENT

STATE OF OREGON
COUNTY OF DESCHUTES



*2001-30941 * Vol-Page

Printed: 06/28/2001 10:54:38

DO NOT REMOVE THIS CERTIFICATE

(This certificate constitutes a part of the original instrument in accordance with ORS 205.180(2). Removal of this certificate may invalidate this certificate and affect the admissibility of the original instrument into evidence in any legal proceeding.)

I hereby certify that the attached instrument was received
and duly recorded in Deschutes County records:

DATE AND TIME: Jun. 28, 2001; 10:50 a.m.

RECEIPT NO: 37608

DOCUMENT TYPE: Planned Community
 Subdivision Declaration

FEE PAID: \$111.00

NUMBER OF PAGES: 17

A handwritten signature in black ink, appearing to read "Mary Sue Penhollow".

MARY SUE PENHOLLOW
DESCHUTES COUNTY CLERK

2001-30941-1

AFTER RECORDING RETURN TO:

Don Morissette Homes, Inc.
4230 SW Galewood Street, Suite 100
Lake Oswego, Oregon 97035

COPY TO:

Skyliner Summit Ltd.Partnership
1325 NW Flanders Street
Portland, Oregon 97209

**PLANNED COMMUNITY SUBDIVISION DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
VILLAGE at SKYLINER SUMMIT AT BROKEN TOP**

Declarant: Don Morissette Homes, Inc.

KNOW ALL MEN BY THESE PRESENTS, that Don Morissette Homes, Inc., (hereinafter "Declarant") hereby declares and records the following covenants, conditions and restrictions pertaining to and binding the following described real property, to wit:

Recorded according to the duly recorded plat of Village at
, filed June 28, 2001, in Plat Book 2001, Page 30940, Records of the County of
Deschutes and State of Oregon ("Property"). The Property is legally described on the attached Exhibit "A".

Dated this 28 day of June, 2001.

DESCRIPTION OF DECLARATION

The Venture Properties, Inc and the Skyliner Summit Limited Partnership ("SSLP") have entered into that certain Purchase and Sale Agreement, dated August 18, 1999 (the "Purchase Agreement"), which relates to the Property and other property. Prior to plat recording Venture Properties, Inc. shall assign all its rights, liabilities and interest in the Purchase Agreement to Don Morissette Homes, Inc. The Property forms a portion of a larger community scheduled to be developed by SSLP as "Skyliner Summit at Broken Top." The larger community generally known as Skyliner Summit at Broken Top is subject to that certain Declaration of Master Covenants, Conditions, and Restrictions for Skyliner Summit at Broken Top (the "Master CC&Rs"). Declarant desires to create in the Property the Village at Skyliner Summit at Broken Top, which is scheduled to be a single-family community. The Village at Skyliner Summit at Broken Top is a "Neighborhood," as that term is defined in the Master CC&Rs. This Declaration of Covenants, Conditions, and Restrictions for the Village at Skyliner Summit at Broken Top (this "Declaration") is a Subassociation Declaration, as that term is defined in Article 1.28 of the Master CC&Rs. The Village at Skyliner Summit at Broken Top Homeowner' Association or the Association is an Owner Subassociation, as that term is defined in Article 1.21 of the Master CC&Rs.

in Section 16(I) as the Village at Skyliner Summit at Broken Top Common Area. The non-profit corporation is Village at Skyliner Summit at Broken Top Homeowner Association; hereafter referred to and defined as the "Association," to which shall be delegated and assigned the duties and powers described below.

This Declaration contemplates a plan for the phased development of Village at Skyliner Summit at Broken Top pursuant to the approved preliminary plat as hereafter referred to and defined, in order that Village at Skyliner Summit at Broken Top Community may grow in an orderly fashion under a rational scheme of development. SSLP intends to develop the Lots on which dwellings are anticipated to be situated (but excluding any vertical construction) in the Village at Skyliner Summit at Broken Top in two (2) or more phases. The Declaration further establishes the right and power of the Association to levy general and special assessments on each Owner, as hereafter referred to and defined, in order to finance the maintenance of improvements to the Common Areas and facilities, and in order to effectuate all the powers and duties of the Association, as described herein. The Declaration further establishes certain restrictions on the various uses and activities that may be permitted in Village at Skyliner Summit at Broken Top and further establishes the right of the Association to promulgate rules and regulations which may further define and limit permissible uses and activities consistent with the provisions of the Declaration.

NOW, THEREFORE, the undersigned hereby covenants, agrees, and declares that all of the Property in the Village at Skyliner Summit at Broken Top as defined herein and the buildings and structures hereafter constructed thereon are, and will be, held, sold, and conveyed subject to and burdened by the following covenants, conditions, restrictions, and easements, all of which are for the purpose of enhancing and protecting the value, desirability, and attractiveness of Village at Skyliner Summit at Broken Top and all for the benefit of the Owner thereof, their heirs, successors, grantees, and assigns. All provisions of this Declaration shall be binding upon all parties having or acquiring any right, title, or interest in Village at Skyliner Summit at Broken Top or any part thereof, and shall inure to the benefit of the Owner thereof and to the benefit of the Association and are intended to be and shall in all respects be regarded as covenants running with the land.

1. **LAND USE AND BUILDING TYPE.** No Lot shall be used except for single family dwellings, including attached accessory units as allowed by the City of Bend. Homes must be constructed of new materials and all homes must be constructed on site. Manufactured and mobile homes are prohibited. No business venture shall be conducted in or about any property in Village at Skyliner Summit at Broken Top except for one-room offices which are not designated by exterior sign(s) and which do not become an undo burden on or nuisance at Village at Skyliner Summit at Broken Top neighborhood. All additional parking demands generated by home offices shall be accommodated by utilizing the driveway and/or garage of the residence of which the home office is located. No on street parking ~~of~~ for home offices is allowed.
2. **CONSTRUCTION OF HOMES.** Each home shall be constructed in accordance with the following minimum requirements:

- (a) Double wall construction (plywood or equal) covered with cedar siding or other siding approved by the Declarant) under this Declaration except for board and batten siding for Craftsman-style architectural exteriors shall be permitted;
- (b) Front loaded garages shall be flush or set back from the homes. Each dwelling shall have a double car garage, unless a specific plan built by Declarant or its assigns contains only a single-car garage;
- (c) Architectural composition roofing having a 25 year guarantee, such as Firehalt;
- (d) Total floor area of the main structure, exclusive of open porches and garages, no less than 1,200 square feet for a one-story or 1,600 square feet for a two-story dwelling;
- (e) Architectural detailing that varies from house to house. Detailing, at Declarant's option, shall include one or more of the following: decorative shakes, trim, fypons, shutters, windows with grids, porches, bays, dormers and hip or gable roofs;
- (f) Exterior paint colors in accordance with a professionally prepared the palette of complimentary colors selected for Village at Skyliner Summit at Broken Top;
- (g) Vertical or square windows on all walls exposed to the street in proportion to the house;
- (h) Windows located on the area of a home which abut the private patio area of a courtyard/alley home must be mitigated in one of the following ways (1) the window must be screened from view with a 6-foot fence (windows on main level only), or (2) the bottom sill of the window must be located 5 feet above the floor or (3) opaque glass must be used.
- (i) Front yards fully landscaped and irrigated prior to occupancy, weather permitting. In no case shall front yard landscapes be installed later than sixty (60) days after initial occupancy. Lot Owner's shall be responsible for installing all side yard and rear yard landscaping within six (6) months of closing.
- (j) Exterior construction of each house shall be completed within 6 months from start of construction so as to present a finished exterior appearance when viewed from any side. This period may be extended by the written approval from the Neighborhood Design Review Committee.
- (k) Exterior lights that face the outside boundaries of the development, including all porch and street lights, shall be hooded and directed down onto the Lot and not shine or glare onto adjacent property.

3. **BUILDING AND DRIVEWAY LOCATIONS.** Building locations shall conform to the setbacks adopted in Village at Skyliner Summit at Broken Top subdivision approval by the City of Bend. Minimum setbacks shall be: 18 feet from front Lot line to garage face; 12 feet from the front Lot line to the front porch or front of the house if there is no porch; 5 feet from side Lots line to side of house for all interior Lots and 10 feet for all corner Lots, 5 feet from the back of the house to the rear Lot line or if the house is alley-loaded, then 10 feet from rear Lot line to garage face. Driveways for Lot on alleys may be located on either the front or rear of the Lot, if required by the home plan, agreed to by Declarant and approved by the governing jurisdiction
4. **UTILITY AND DRAINAGE EASEMENTS.** Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities or which may change the direction of flow of drainage channels in the easement, or which may obstruct or retard the flow of water through drainage channels in the easements. After sale of each Lot, to its Owner/occupant, the utility easement area of each Lot and all improvements in it shall be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority or utility company is responsible.
5. **UNDERGROUND SERVICE/SATELLITE SERVICE.** No outdoor overhead wire or service drop for the distribution of electric energy or for telecommunications purposes, nor any pole, tower, or other structure supporting said outdoor overhead wires shall be erected, placed or maintained within this subdivision. All Owner of Lots or tracts within this subdivision, their heirs, successors, and assigns shall use underground service wires to connect their premises and the structures thereon to the underground electric, cable, or telephone utility facilities provided. No antennas, aerials or satellite dishes shall be permitted on any part of a Lot or residence, except for "mini" satellite dishes which do not exceed eighteen inches (18") in diameter and are not visible from the front of the home. If a Lot Owner cannot receive television reception from the locations provided above, Declarant may approve, at Declarant's sole discretion, an alternative location if requested in writing by Lot Owner.
6. **TEMPORARY STRUCTURES.** No structure of a temporary character, trailer, basement, tent, shack, garage, barn, or other outbuilding shall be used on any Lot at any time as a dwelling either temporarily or permanently. Declarant may use trailer or other temporary structures for sales and/or construction purposes.
7. **NUISANCES.** No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.
8. **PARKING.** Parking of boats, trailers, motor homes, trucks in excess of 1 ton, motorcycles, or other recreational vehicles or similar equipment and vehicles shall not be allowed on public rights-of-way or in a driveway for more than 24 hours and, then, only for the purpose of loading and unloading. Parking for more than 24 hours or storage for the above items shall be allowed only (i) within the confines of an enclosed garage area located on a Lot, which shall fully screen from view any such vehicle or

equipment or (ii) off of the Property at the Owner's expense. No vehicle in disrepair, sitting on blocks, or otherwise inoperable shall be visible from the street for any aggregate period in excess of 48 hours. No commercial vehicle with a gross vehicle weight of more than 8,000 pounds, trailer, travel trailer or motor coach may be parked overnight on any streets within Village at Skyliner Summit at Broken Top and/or otherwise in violation of the City of Bend or Deschutes County ordinances or rules.

9. **SIGNS.** No signs shall be erected on any Lot except one sign of not more than five square feet advertising the property for sale or rent, or signs used by Declarant or other builders to advertise the property during the construction and initial sale period. Signs may be erected and maintained at model homes, common areas and other Lots owned by Declarant, at Declarant's discretion.
10. **LIVESTOCK AND POULTRY.** No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Lot, except that dogs, cats, or other household pets may be kept provided that they are not kept, bred, or maintained for any commercial purpose.
11. **GARBAGE AND REFUSE DISPOSAL.** No Lot shall be used or maintained as a dumping ground for rubbish or trash. Garbage or other waste shall not be kept on any Lot except in sanitary containers. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition. The alleys and other common areas shall be maintained clear of any obstructions, including, but not limited to trash containers, parked vehicles, boats, trailers, recreational vehicles and storage of materials.
12. **MAINTENANCE.** The maintenance, upkeep, and repair, of individual residences and Lots shall be the sole responsibility of the individual Owner thereof, and in no way shall it be the responsibility of the Association, its agents, subagents, officer or directors. Owner shall maintain their Lots and residences at all times. Each Owner shall be obligated to maintain their landscaping in a healthy and attractive state and in a manner comparable to that on the other Lots in Village at Skyliner Summit at Broken Top. After notice to an Owner from the Association of such Owner's failure to so maintain such Owner's landscaping or residence, the Association, at its sole discretion shall have the right, through its agents and employees, to enter upon any Lot which has been found to violate the foregoing standards in order to repair, maintain, and/or restore the landscaping or residence to such standards. The cost of such work shall be a limited assessment on such Owner and such Owner's Lot, and the provisions of this Declaration regarding collection of assessments shall apply thereto. Prior to turnover to the Association, Declarant shall have the same authority and rights of enforcement provided the Association in this Paragraph.
13. **SLOPE AREAS.** Declarant has developed a storm drainage system, which addresses water run-off for the entire property as opposed to run-off between individual Lots. This means that unfiltered surface water can traverse other Lots before reaching a public storm water facility, with the understanding that prior to reaching a gutter, street or storm water facility, the water will be filtered. Silt fencing has been installed in conjunction with the final site grading, in areas designated on the construction documents that meets the local storm water agency's guidelines for surface erosion control. Usually, the normal

location for silt fencing is on or adjacent to the property line to protect rear and side sloping areas and adjacent to the curb to protect front sloping areas. It should be noted that the purpose of silt fencing is to control erosion only, and that storm water can be expected to travel downhill from higher elevation Lots through lower elevation Lots to its final destination in a public storm water facility. No structure, planting or other material shall be placed or permitted to remain or other activities undertaken which may damage or interfere with the developed grading plan developed by the Declarant. This includes altering the defined slope areas, attempting to change the storm water direction or performing any action that creates erosion. Once the Declarant has conveyed title to any subsequent purchaser, either to a Owner or other homebuilder, the established sloping areas of each Lot and all improvements on each Lot shall be maintained continuously by the Owner of the Lot to preserve Declarant's designed drainage and grading plan, except for those improvements for which a public authority or utility company is responsible.

14. SIGHT DISTANCE AT INTERSECTIONS. No fence, wall, hedge, or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above the roadways shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines and a line connecting them at points twenty-five (25) feet from the intersection of the street lines, or in the case of a rounded property corner, from the intersection of the street property lines extended. The same sight-line limitations shall apply on any Lot within ten (10) feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

15. VILLAGE AT SKYLINER SUMMIT AT BROKEN TOP HOMEOWNER' ASSOCIATION (the "Association").

(A) **ORGANIZATION.** Declarant shall, within 60 days after execution and recording of this Declaration, organize the Association as a nonprofit corporation under the Oregon Nonprofit Corporation Act under the name "Village at Skyliner Summit at Broken Top Homeowner Association." or such similar name as Declarant shall designate.

(B) **MEMBERSHIP.** Every Owner of one or more Lots shall, immediately upon creation of the Association and thereafter during the entire period of such Ownership of one or more Lots, be a member of the Association. Such membership shall commence, exist and continue simply by virtue of such Ownership, shall expire automatically upon termination of such Ownership, and need not be confirmed or evidenced by any certificate or acceptance of membership.

(C) **VOTING RIGHTS** The Association shall have two(2) classes of voting membership:

Class A. Class A Members shall be all Owner with the exception of Declarant (except that beginning on the date on which the Class B membership is converted to

Class A membership, and thereafter, Class A members shall be all Owner, including Declarant). Class A members shall be entitled to one (1) vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as such persons among themselves determine, but in no event shall more votes be cast with respect to any Lot with Class A membership.

Class B. Class B Member shall be the Declarant and shall be entitled to three (3) votes for each Lot owned by Declarant. The Class B membership shall cease and be converted to Class A membership upon Declarant's election in writing to terminate Class B membership.

- (D) **POWERS AND OBLIGATIONS.** The Association shall have, exercise, and perform (a) the powers, duties, and obligations granted to the Association by this Declaration, the Articles, and Bylaws; (b) the powers and obligations of a non-profit corporation pursuant to the Oregon Nonprofit Corporation Act; and (c) any additional or different powers necessary or desirable for the purpose of carrying out the functions of the Association pursuant to this Declaration.
- (E) **LIABILITY.** Neither the Association nor any officer or member of the Board or the Neighborhood Design Review Committee ("Committee") shall be liable to any Owner for any damage, loss or prejudice suffered or claimed on account of any action or failure to act by the Association, any of its officers or any member of the Board or the Committee, provided only that the officer or Board member, or Committee member has acted in good faith in accordance with actual knowledge possessed by him or her.
- (F) **INTERIM BOARD; TURNOVER MEETING.** Declarant shall have the right to appoint an interim board of from one (1) to three (3) directors, who shall serve as the Board until replaced by Declarant or until their successors have been elected by the Owner at the Turnover Meeting.
- (G) **ASSOCIATION RULES AND REGULATIONS.** The Association from time to time may adopt, modify, or revoke such rules and regulations governing the conduct of persons and the conduct of persons and the operation and use of Lots and the Common Area as it may deem necessary and appropriate in order to assure the peaceful and orderly use and enjoyment of the Property. A copy of the rules and regulations, upon adoption, and a copy of each amendment, modification, or revocation thereof, shall be delivered by the Board to the Master Association and each Member and shall be binding upon Members and occupants of all Lots upon date of delivery. The method of adoption of such rules shall be provided in the Bylaws.

- (H) **RESERVES FOR REPLACEMENT.** As a common expense, the Association shall establish and maintain a reserve fund for replacement of the Common Areas and any improvements and community facilities thereon by the allocation and payment to such reserve fund of an amount to be designated from time to time by the Association. Such fund shall either be deposited with a banking institution, the accounts of which are insured by any state or by any agency of the United States of America or, in the discretion of the Association, be invested in obligations of, or fully guaranteed as to principal by, the United States of America. The reserve fund shall be expended only for the purpose of affecting the replacement of the Common Areas improvements or pathways developed as a part of Village at Skyliner Summit at Broken Top, equipment replacement, and for start-up expenses and operating contingencies of a nonrecurring nature. The Association may establish such other reserves for such other purposes as it may from time to time consider to be necessary or appropriate. The proportional interest of any Owner in any such reserves shall be considered an appurtenance of his Lot and shall not be separately withdrawn, assigned, or transferred, or otherwise separated from the Lot to which it appertains and shall be deemed to be transferred with such Lot.
- (I) **COMMON AREA MAINTENANCE.** Village at Skyliner Summit at Broken Top Common Area shall consist only, as shown on the Preliminary Plat, of one (1) open space park area identified as Tract H which shall be Exclusive Common Area as defined by the Skyliner Summit at Broken Top Master Association Covenants, Conditions & Restrictions, and two (2) pedestrian paths identified as Tract A and Tract I which shall be Common Area as defined by the Skyliner Summit at Broken Top Master Association Covenants, Conditions & Restrictions,. It is anticipated that additional Common Area, pedestrian paths, will be established and platted in a subsequent phase of Village at Skyliner Summit at Broken Top. All other Common Area, as defined by the Covenants, Conditions and Restrictions of the Master Association, associated with the Skyliner Summit at Broken Top Development shall be owned upon conveyance by the Skyliner Summit Limited Partnership to the Master Association and maintained by Skyliner Summit at Broken Top Master Association. Prior to Turnover, Declarant shall have the same authority to assess Homeowner as is provided in Section 16 (a) of these Covenants, Conditions and Restrictions for purposes of maintenance of the Common Area
- (J) **TURNOVER.** Turnover shall occur at anytime determined by Declarant, but not later than the day 100% of the Lots have been conveyed to Owner/occupants (the "Turnover Date"). The Declarant reserves administrative control of the Association until turnover. After turnover, the Association shall continue to maintain all of the Common Areas in an attractive manner consistent with the original design and landscaping.

16. ASSESSMENTS. Declarant, for each Lot owned by it within the Property, does hereby covenant, and each Owner of any Lot by acceptance of a conveyance thereof, whether or not so expressed in any such conveyance, shall be deemed to covenant, to pay to the Association all assessments or other charges as

may be fixed, established, and collected from time to time in the manner provided in this Declaration or the Bylaws. Such assessments and charges, together with any interest, expenses or attorneys' fees imposed pursuant to Section 18, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment or charge is made. Such assessments, charges and other costs shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment or charge fell due. Such liens and personal obligations shall be enforced in the manner set forth in Section 18 below. No Owner may avoid such personal obligation by abandonment of Owner Lot.

(A) **GENERAL ASSESSMENTS.** General Assessments against all Lots shall commence no later than the date on which a Lot is sold to a third person who is other than Declarant. The total annual General Assessment against all Lots shall be based upon an annual budget prepared by the Board with respect to the projected expenses of the Association, including without limitation, the following:

- (1) maintenance, repair, replacement, and operation of the Common Area;
- (2) premiums for all insurance policies that the Association is required or permitted to maintain pursuant to the Bylaws;
- (3) any deficits remaining from the previous fiscal year of the Association;
- (4) such other and further costs, expenses, obligations, and liabilities as the Board, in its discretion, may incur for the management, operation, and maintenance of the Property and the Association in accordance with this Declaration.

(B) **SPECIAL ASSESSMENTS.** In addition to the General Assessments authorized hereby, the Board shall have the authority to levy Special Assessments to satisfy any actual or projected deficiency between the expenses of the Association and the amounts realized through General Assessments

(C) **LIMITED ASSESSMENTS.** The Association may levy against any Owner a Limited Assessment equal to the costs and expenses incurred by the Association, including legal fees, for corrective action performance pursuant to this Declaration that is required as a result of the willful or negligent actions or omissions of such Owner or such Owner's tenants, guests, contractors, or invitees, or for a common expense or any part of a common expense that clearly benefits a particular Lot or Lots rather than all the Lots, as determined in the sole discretion of the Board.

(D) **RESERVE ASSESSMENTS.** The Association shall have the authority to levy reserve assessments necessary to establish and maintain the necessary reserve funds.

17. ENFORCEMENT. If an assessment or other charge levied under this Declaration is not paid within thirty (30) days after its due date, such assessment or charge shall become delinquent. Such assessments shall constitute liens in favor of the Association on each Lot for non-payment of the assessment. Unpaid assessments shall accrue interest at the rate of twelve percent (12%) per annum on the

unpaid balance. To claim the benefits of such lien, the Association ~~shall~~ may record in Deschutes County, Oregon a claim containing a true statement of the amount due for the assessments after deducting all just credits and offsets; the name of the Owner of the Lot or reputed Owner, if known; a description of the property where the assessments were levied and a designation of the Lot sufficient for identification. Where the claim has been properly filed and recorded and the Owner thereafter fails to pay the assessment chargeable to the Lot, the claim shall automatically accumulate any subsequent unpaid assessments and interest thereon without the necessity of further filings. The claim shall be verified by the oath of ~~some~~ a person having knowledge of the facts and shall be filed with and recorded by the recording officer in the book kept for the purpose of recording liens filed under ORS 87.035 or any superseding statute. The proceedings to foreclose liens created by this section shall conform as nearly as possible to the proceedings to foreclose liens created by ORS 87.010, except that notwithstanding ORS 87.055, a lien may be continued in force for a period of time not to exceed six (6) years from the date a claim is filed. For the purpose of determining the date the claim is filed in those cases where subsequent unpaid assessments have accumulated under the claim, the claim regarding each unpaid assessment shall be deemed to have been filed at the time the unpaid assessment became due. The lien may be enforced by the Association or by Declarant on behalf of the Association. No Lot Owner may escape liability for assessment by reason of nonuse or abandonment of a Lot. An action to recover a money judgement for unpaid assessments may be maintained without foreclosing or waiving the liens securing such assessments.

18. NEIGHBORHOOD DESIGN REVIEW COMMITTEE ("Committee") The Committee, which shall be a "Neighborhood Design Review Committee" as that term is defined in the Master Covenants, Conditions and Restrictions, initially shall be comprised of a representative of Declarant and/or such other person or persons appointed from time to time by Declarant, and such persons shall remain in office until Declarant relinquishes control of the Committee which shall occur on the earlier of (i) the date on which Declarant has conveyed all of the Lots to Owner; or (ii) resignation of the representative of Declarant or Declarant's appointee(s) and appointed successors. At three-year intervals commencing upon appointment of Owner(s) other than Declarant to the Committee, the then members of the Committee shall circulate to all Owner written notice requesting appointment of members to the Committee, and the Committee shall be comprised of one or more of the Owner appointed by the majority of the Owner responding to such notice. After relinquishment of Declarant's control, the Committee shall be comprised of one or more Owners appointed by the majority of Owner responding to such notice. Declarant shall have no responsibility of liability for maintaining the active status of the committee. In the event of the death or resignation of any member of the Committee prior to Declarant's relinquishment of control of the Committee, Declarant shall have the right to appoint such member's successor. In the event of death or resignation of any member of the Committee after Declarant's relinquishment of control of the Committee, a new Committee member may be appointed by the majority of Owner. The term of office of Committee members shall run no more than 3 years, but may be repeated indefinitely if an incumbent member is appointed as provided in this Section.

(A) Architectural Design Review. No improvement shall be commenced on any Lot or any modification to the exterior of any existing improvement until the design plans (including exterior elevations, color and/or materials, location on the Lot and total square footage) of

the proposed improvement have been submitted to and approved in writing by the Committee. Improvements shall be consistent with the Construction Requirements provided in Section 2 and any other design guidelines which may be established by the Committee and as may be amended from time to time. An application, incorporating the above requirements, must be submitted to the Committee for approval of any such improvement. The Committee may charge a reasonable fee to cover the cost of processing an application for its approval.

- (B) **Committee Decision.** The Committee shall render a written decision on an application within 15 working days after it has received a completed written application. The majority of the Committee shall have the power to act on behalf of the Committee. If the Committee fails to render an approval or denial of such complete application within 30 working days of submittal, such application shall automatically be deemed approved.
- (C) **Committee Discretion.** The Committee may, at its sole discretion withhold consent to any proposed Improvement if the Committee finds the proposed Improvement would be inappropriate for a particular Lot or incompatible with the design standards the Committee intends for Village at Skyliner Summit at Broken Top.
- (D) **Nonwaiver.** Consent by the Committee to any matter proposed to it or within its jurisdiction shall not be deemed to constitute a precedent or waiver impairing its right to withhold approval as to any similar matter thereafter proposed or submitted to it for consent.
- (E) **Appeal.** After Declarant has relinquished control of the Committee, any Owner adversely affected by an action of the Committee may appeal such action to the Committee. Appeals shall be made in writing within 10 days after the Committee's decision and shall contain specific objections or mitigating circumstances justifying an appeal. A final, conclusive decision shall be made by the Committee within 15 working days after receipt of such written appeal.
- (F) **Construction by Declarant.** Improvements constructed by Declarant on any property owned by Declarant are not subject to the requirements of this Section 18.
- (G) **Liability.** Neither the Committee nor any member shall be liable to any Owner for any damage, loss or prejudice suffered or claimed on account of any action or failure to act by the Committee, or any member, provided that the member has acted in good faith in accordance with the actual knowledge possessed by him.

19. DECLARANT'S SPECIAL RIGHTS. Declarant is undertaking the purchase of completed Lots and other improvements within Village at Skyliner Summit at Broken Top. The completion and control of the Lots and other improvements and the marketing and sale of the Lots is essential to the establishment and

welfare of Village at Skyliner Summit at Broken Top. Until the homes on all of the Lots on the Property have been constructed and sold, Declarant shall have the special rights set forth in this Paragraph.

- (A) **ADMINISTRATIVE CONTROL OF ASSOCIATION.** Declarant hereby reserves administrative control of the Association. Declarant, in its sole discretion, shall have the right to appoint and remove members of the interim Board of Directors, which shall manage the affairs of the Association and which shall be invested with all the powers and the rights of the Board of Directors until the Turnover Meeting is held by Declarant.
- (B) **MARKETING RIGHTS.** Declarant shall have the right to maintain a sales office and model on one or more of the Lots which the Declarant owns. The Declarant and prospective purchasers and their agents shall have the right to use and occupy the sales office and models during reasonable hours any day of the week. The Declarant may maintain a reasonable number of 'For Sale' signs at reasonable locations on the Property, including, without limitation, the Common area.
- (C) **EASEMENTS.** In addition to any other easements to which Declarant may be entitled, Declarant reserves an easement over, under, and across the Common Area in order to carry out development, construction, sales and rental activities necessary or convenient for the development of the Property or the sale or rental of Lots or other units of the property and for such other purposes as, in its sole discretion, may be necessary or convenient for discharging Declarant's obligations or for exercising any of Declarant's rights hereunder.

20. TERM. The covenants, conditions and restrictions of this Declaration shall run until December 31, 2030, unless amended as herein provided and shall be binding on all Owner of the described property and all persons claiming under them until such date after which date this Declaration shall be automatically extended for successive periods of ten (10) years unless an instrument signed by a majority of the then Owner of the Lots has been recorded, agreeing to rescind or change this Declaration in whole or in part.

21. ENFORCEMENT. Enforcement shall be by proceedings at law or in equity by any property Owner, the Association or Declarant against any person or person violating or attempting to violate any Covenant, Condition or Restriction, either to restrain violation or to recover damages.

22. SEVERABILITY. Invalidation of any one of these Covenants, Conditions or Restrictions by judgement or court order shall in no way affect any of the other provisions, which shall remain in full force and effect.

23. AMENDMENT. Subject to the following provisions of this Declaration, these Covenants, Conditions and Restrictions may be amended by an instrument signed by seventy-five percent (75%) of the current Owner of the Lots and recorded with the County Recorder, agreeing to change said Covenants in whole or in part; provided however, that if Declarant owns at least one Lot, these covenants cannot be

amended without Declarant's written consent. Declarant shall have the right to amend this Declaration or the bylaws in order to comply with the requirements of any applicable statute, ordinance, regulation or guideline of the Federal Housing Administration, the Veterans Administration, the Farmers Home Administration of the United States, the Federal National Loan Mortgage Corporation, any department, bureau, board, commission or agency of the United States or the State of Oregon, or any corporation wholly owned, directly or indirectly, by the United States or the State of Oregon that insures, guarantees or provides financing for a planned community or Lots in a planned community. Declarant reserves the right, as long as it owns at least one Lot, to amend these Covenants, Conditions and Restrictions in any way without approval of any property Owner in Village at Skyliner Summit at Broken Top.

24. **FENCING.** Any fencing installed by a Lot Owner on their Lot shall match the type and style of fencing which may have been installed on their Lot by Declarant. If no fencing has been installed by Declarant, cedar "good neighbor" fencing or other fencing designated by Declarant shall be allowed to be installed. Any fencing installed by a Lot Owner shall be installed in accordance with City of Bend ordinances. All fencing shall be maintained in good condition.
25. **AIR CONDITIONING UNITS.** Any "window-model" air conditioning units shall not be visible on the front of a home. "Free-standing" compressors shall not be located in the front yard.
26. **TREE CUTTING RESTRICTION.** In all instances of tree removal, an Owner shall comply with the requirements of the Committee and all governing regulations, including any approval from the City of Bend.
27. **PRIVATE SEWER EASEMENT.** The Owner of Lots 108-110 and such additional Lots annexed to the Village at Skyliner Summit at Broken Top requiring the installation of a private sewer system, are granted such easements through the Master Association Common Area or through other Lots annexed to the Village at Skyliner Summit at Broken Top, by the Master Association. Such easements shall be for the necessary construction, operation, maintenance, relocation, replacement, and repair of such private sewer systems. The Owner of Lots with a private sewer system are required to perform routine maintenance on the private sewer lines located on their Lots and in the Master Association Common Areas. Repairs to the private sewer lines located within the Master Association Common Areas shall be performed by the Association with costs of such repairs to be paid by the Owner or Owner of the Lots benefited by such repairs as either a Master Association Special Assessment or a reimbursement Assessment.
28. **ANNEXATION OF ADDITIONAL PROPERTY.** At any time and from time to time, prior to or at the Turn-over Date, Declarant may annex all or a portion of any real property adjacent to Village at Skyliner Summit at Broken Top by recording a supplementary declaration identifying any such adjacent property in the Deschutes County Records. Upon such annexation, all provisions of this declaration may apply, at Declarant's sole discretion; to the annexed property and it shall be part of Village at Skyliner Summit at Broken Top. Property may be annexed for the purpose of providing additional Lots, additional Common Areas, public right of ways or all of the above. The supplementary declaration of

annexation may contain such additional or other conditions or provisions relevant to the annexed property as deemed appropriate. Upon annexation, assessments shall be reallocated to take into account the number of Lots in the annexed property. No supplementary declaration of annexation shall be recorded in the deed of records of Deschutes County, Oregon until a copy thereof has been provided to the Skyliner Summit Limited Partnership and the Master Association. Declarant acknowledges and agrees that concurrently with the recordation of the supplemental declaration, the Skyliner Summit Limited Partnership or the Master Association, if appropriate, shall cause a declaration of annexation under the Master CC&Rs to be recorded against the annexed property.

29. SUCCESSOR DECLARANT. Declarant shall not assign, transfer, or convey any of its rights hereunder as Declarant, or otherwise permit any other person or entity to become Declarant hereunder, without the prior written consent of SSLP. Such consent shall not be unreasonably withheld. In the event DMHI (or its successors or assigns under the Purchase Agreement) is in default of, or does not fulfill its obligations under, the Purchase Agreement, then SSLP shall become Declarant under this Declaration by executing and acknowledging a declaration of successor Declarant and causing such declaration to be recorded in the deed of records of Deschutes County, Oregon. Following recordation of a declaration of successor Declarant, all references to "Declarant" herein shall mean SSLP.

30. MEMBERSHIP IN MASTER ASSOCIATION OF SKYLINER SUMMIT AT BROKEN TOP.

In addition to membership in the Association of Village at Skyliner Summit at Broken Top, every Owner of one or more Lots in the Village at Skyliner Summit at Broken Top shall, immediately upon creation of the Master Association and thereafter during the entire period of such Ownership, be a member of the Master Association. Such membership, as defined in Article I of the Master Association CC&Rs, shall commence, exist and continue simply by virtue of such Ownership of a Lot(s) in Village at Skyliner Summit at Broken Top and each Owner shall be responsible for the payment of General Assessment and Special Assessments as provided in Article V of the Master Association CC&Rs. Such membership shall expire automatically upon termination of such Ownership and need not be confirmed or evidenced by any certificate or acceptance of membership.

31. CONFLICTS. The Master CC&Rs and this Declaration shall, to the extent possible, be construed liberally to accord full meaning to each of the provisions of the Master CC&Rs and this Declaration. In the event of an irreconcilable conflict between the provisions of the Master CC&Rs and this Declaration, the provisions of this Declaration shall control. Any amendments to this Declaration shall be presented to and approved by SSLP prior to recording. Such approval shall not be unreasonably withheld.

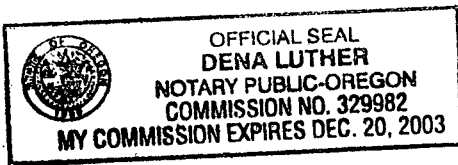
DECLARANT:

Don Morissette Homes, Inc.

By: [Signature] Dated: 6-18-01

STATE OF OREGON, County of Multnomah)ss.

Personally appeared DON MORISSETTE who, being duly sworn, did say that he is the President of Don Morissette Homes, Inc. and that said instrument was signed on behalf of said corporation by authority or its board of directors, and acknowledge said instrument to be its voluntary act and deed.



Dena Luther
Notary Public for Oregon
My Commission Expires: 12/20/03

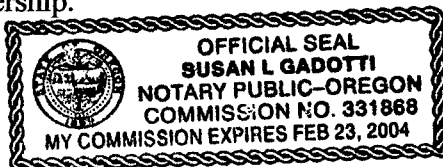
Acknowledged and Consented to:

SKYLINER SUMMIT LIMITED PARTNERSHIP,
an Oregon limited partnership

By: BROKEN TOP, Inc. General PartnerBy: [Signature]Its: Owner's Representative

STATE OF OREGON, County of Multnomah) ss.

The foregoing instrument was acknowledged before me on this 19th day of June 2001 by T.D. Dame who is the Owner's Representative of BROKEN TOP, Inc. the General Partner of Skyliner Summit Limited Partnership, an Oregon limited partnership, on behalf of the limited partnership.



Susan L. Gadotti
Notary Public for Oregon
My Commission Expires: 2/23/04

Exhibit "A"
"The Village"
Skyliner Summit at Broken Top
Legal Description

A parcel of land located in the south one-half (S1/2) of Section 36, Township 17 South, Range 11 East, and in the north one-half (N1/2) of Section 1, Township 18 South, Range 11 East, Willamette Meridian, in the City of Bend, Deschutes County, Oregon, more particularly described as follows:

Commencing at a 3" Brass cap monumenting the south one-quarter corner of said Section 36; thence North 07°18'52" West, 196.45 feet to the **True Point of Beginning**; thence along the arc of a 1135.00 foot radius curve to the right, through a central angle of 03°02'19", an arc length of 60.19 feet, (the chord of which bears North 41°00'26" West, 60.18 feet); thence North 40°08'11" West, 151.63 feet; thence North 35°05'11" West, 201.92 feet; thence along the arc of a 1150.00 foot radius curve to the right; through a central angle of 11°50'00", an arc length of 237.51 feet, (the chord of which bears North 29°10'11" West, 237.09 feet); thence North 23°15'11" West, 11.37 feet to the southerly right-of-way of Skyliners Road; thence along said right-of-way, along the arc of a 3780.00 foot radius curve to the left, through a central angle of 00°39'48", an arc length of 43.76 feet, (the chord of which bears North 69°23'19" East, 43.76 feet); thence along the arc of a 5030.00 foot radius curve to the left, through a central angle of 04°04'50", an arc length of 358.23 feet, (the chord of which bears North 67°01'00" East, 358.16 feet) to a point of non-tangency; thence leaving said right-of-way, South 35°54'35" East, 287.94 feet; thence North 54°05'25" East, 26.20 feet; thence South 35°54'35" East, 100.00 feet; thence North 54°05'25" East, 415.00 feet; thence along the arc of a 115.00 foot radius curve to the right, through a central angle of 21°25'33", an arc length of 43.00 feet, (the chord of which bears North 64°48'11" East, 42.75 feet); thence along the arc of a non-tangent, 407.50 foot radius curve to the right, through a central angle of 07°52'18", an arc length of 55.98 feet, (the chord of which bears North 08°48'46" East, 55.94 feet) to a point of non-tangency; thence South 77°15'05" East, 50.00 feet; thence South 78°51'15" East, 12.15 feet; thence along the arc of a 50.00 foot radius curve to the left, through a central angle of 34°13'43", an arc length of 29.87 feet, (the chord of which bears North 84°01'53" East, 29.43 feet); thence along the arc of a 1175.00 foot radius curve to the right, through a central angle of 02°54'40", an arc length of 59.70 feet, (the chord of which bears North 68°22'22" East, 59.69 feet); thence along the arc of a 50.00 foot radius curve to the left, through a central angle of 40°56'38", an arc length of 35.73 feet, (the chord of which bears North 49°21'23" East, 34.97 feet); thence along the arc of a 257.50 foot radius curve to the right, through a central angle of 60°04'15", an arc length of 269.97 feet, (the chord of which bears North 58°55'11" East, 257.78 feet); thence along the arc of a 15.00 foot radius curve to the left, through a central angle of 88°28'32", an arc length of 23.16 feet, (the chord of which bears North 44°43'03" East, 20.93 feet); thence North 00°28'47" East, 25.10 feet; thence South 89°31'13" East, 184.15 feet; thence along the arc of a non-tangent, 485.00 foot radius curve to the left, through a central angle of 07°29'58", an arc length of 63.48 feet, (the chord of which bears South 04°13'46" West, 63.44 feet); thence South 00°28'47" West, 1229.37 feet; thence North 89°46'19" West, 374.42 feet; thence along the arc of a 1135.00 foot radius curve to the right, through a central angle of 47°14'43", an arc length of 935.90 feet, (the chord of which bears North 66°08'57" West, 909.61 feet) to the **True Point of Beginning**.

Excepting therefrom: A parcel of land located in the south one-half (S1/2) of Section 36, Township 17 South, Range 11 East, Willamette Meridian, in the City of Bend, Deschutes County, Oregon, more particularly described as follows:

Commencing at a 3" Brass cap monumenting the south one-quarter corner of said Section 36; thence North 56°58'50" East, 1346.41 feet to the **True Point of Beginning**; thence North 89°31'13" West, 127.75 feet; thence along the arc of a 87.50 foot radius curve to the right, through a central angle of 180°00'00", an arc length of 274.89 feet, (the chord of which bears North 00°28'47" East, 175.00 feet); thence South 89°31'13" East, 127.75 feet; thence South 00°28'47" West, 175.00 feet to the **True Point of Beginning**.

Also excepting therefrom: A parcel of land located in the south one-half (S1/2) of Section 36, Township 17 South, Range 11 East, and in the north one-half (N1/2) of Section 1, Township 18 South, Range 11 East, Willamette Meridian, in the City of Bend, Deschutes County, Oregon, more particularly described as follows:

Commencing at a 3" Brass cap monumenting the south one-quarter corner of said Section 36; thence North 09°26'23" East, 245.43 feet to the **True Point of Beginning**; thence North 54°05'25" East, 95.23 feet; thence along the arc of a non-tangent, 870.00 foot radius curve to the left, through a central angle of 09°45'18", an arc length of 148.12 feet, (the chord of which bears South 44°16'30" East, 147.94 feet) to a point of non-tangency; thence North 40°50'51" East, 100.00 feet; thence North 50°10'39" East, 50.72 feet; thence North 54°05'25" East, 159.06 feet; thence along the arc of a non-tangent, 25.00 foot radius curve to the left, through a central angle of 110°08'03", an arc length of 48.06 feet, (the chord of which bears South 00°58'37" East, 40.99 feet); thence along the arc of a 600.00 foot radius curve to the left, through a central angle of 33°28'35", an arc length of 350.56 feet, (the chord of which bears South 72°46'55" East, 345.60 feet); thence South 89°31'13" East, 205.22 feet; thence South 83°18'54" East, 35.21 feet; thence South 89°31'13" East, 100.00 feet; thence South 00°28'47" West, 337.74 feet; thence North 89°46'19" West, 314.77 feet; thence along the arc of a 1055.00 foot radius curve to the right, through a central angle of 46°44'28", an arc length of 860.65 feet, (the chord of which bears North 66°24'05" West, 836.98 feet) to the **True Point of Beginning**.

Also excepting therefrom: A parcel of land located in the north one-half (S1/2) of Section 36, Township 17 South, Range 11 East, Willamette Meridian, in the City of Bend, Deschutes County, Oregon, more particularly described as follows:

Commencing at a 3" Brass cap monumenting the south one-quarter corner of said Section 36; thence North 00°04'45" East, 287.33 feet to the **True Point of Beginning**; thence North 32°36'13" West, 149.98 feet; thence North 35°05'11" West, 201.92 feet; thence along a 1050.00 foot radius curve to the right, through a central angle of 11°50'00", an arc length of 216.86 feet, (the chord of which bears North 29°10'11" West, 216.47 feet); thence North 23°15'11" West, 7.40 feet to the southerly right-of-way of Skyliners Road; thence along said right-of-way, along the arc of a 5030.00 foot radius curve to the left, through a central angle of 03°26'21", an arc length of 301.92 feet, (the chord of which bears North 66°41'45" East, 301.88 feet) to a point of non-tangency; thence leaving said right-of-way, South 35°54'35" East, 137.94 feet; thence South 54°05'25" West, 243.80 feet; thence South 35°54'35" East, 370.00 feet; thence South 54°05'25" West, 89.38 feet to the **True Point of Beginning**.