

BRUSH CREEK ARCHITECTURAL CONTROL COMMITTEE

DESIGN SUBMISSION AND APPROVAL PROCEDURES

INTRODUCTION: The Board of Directors of the Brush Creek Landowners Association has adopted these procedures to assist landowners who are planning to build new structures or perform exterior modifications to existing structures. These procedures are intended to provide definition to the provisions contained in the subdivision's Protective Covenants (copy attached) and nothing included in these procedures is intended to change or modify the Protective Covenants in any way.

In general the provisions of the Protective Covenants have been interpreted by the Board of Directors in the preparation of these procedures with the objective of protecting the vista of each property and to encourage careful design which avoids harsh contrasts with the landscape while maintaining the informal, rural quality of the subdivision. The Board specifically rejected any attempt to restrict taste or individual preferences so these procedures do not address such things as colors, materials, or architectural styles.

APPROVAL PROCEDURES

1. Preliminary Design Conference: The Protective Covenants require only one submittal and approval, but it is strongly recommended that a preliminary design conference be scheduled when preliminary plans are ready. This is early enough in the project design process to protect the owner from having to make expensive changes when the final plans are completed and reviewed.

At this stage, the drawings should be complete enough to give a complete picture of all aspects of the design, but without the detail which will be necessary in the final construction drawings which will be reviewed by the Architectural Control Committee for final approval. Plans submitted for preliminary approval should be in one copy and show:

- Site plan with building footprints, landscaping, access and utilities.
- Floor plans.
- Exterior elevations and building sections showing heights of each part of the building.

All corners and peaks of roof ridges of the proposed structures should be staked four days before the preliminary review meeting so that the members of the

Committee and neighbors can study the siting and height of the structures. The intent of this requirement is to make sure that the proposed structures will fit properly on the site and relate harmoniously to neighboring structures (present and future). Applicants are advised to consult with his/her immediate neighbors about the building plans to gain their support and avoid controversy.

2. **FINAL REVIEW:** Drawings submitted for the final review should be in three copies and include:

- **Site Plan** - Indicate proposed building footprint, property boundaries and easements, utility locations, existing vegetation, existing and proposed contours, areas of cut and fill, drainage, roads, retaining walls, parking areas, decks, terraces, and other proposed improvements. Show proposed landscaping, including size of irrigated areas, types and proposed areas of new plant materials. Scale: 1" = 20' or larger.
- **Footing and Foundation Plan** - Scale: 1/8" or 1/4" = 1'.
- **Floor Plans** - Include all room dimensions, door and window locations, and sizes and locations of mechanical systems. Scale: 1/8" or 1/4" = 1'.
- **Elevations** - Indicate the exterior appearance of all views labeled in accordance with the site plan, height of chimneys as compared with the ridge of the roof, natural and finished grades for all elevations and all views. The elevations must include locations and cut sheet of all proposed exterior lighting fixtures. Scale: 1/8" or 1/4" = 1'.
- **Building Sections** - Indicate building walls, floors, interior relationships, finished exterior grades and other information to clearly describe relationships of the building to surrounding existing and proposed grade. Scale: 1/8" or 1/4" = 1'.
- **Certified Survey** - Indicate contours within thirty feet of the proposed footprint. Must have been certified within the last twelve months. Scale: 1/30" = 1' minimum.
- **Staking** - All corners and peaks of roof ridges of the proposed structure shall be staked to their proposed heights four days before the review meeting for the committee and neighbors to study.

3. **ADMINISTRATIVE PROCEDURES:** Owners planning to build or perform exterior modifications should contact the chairman of the Architectural Control Committee to schedule both preliminary and final reviews, it is anticipated that determinations will be made within two weeks of submission for preliminary

plans and within thirty days for final plans. In practice, assuming complete documentation as outlined above, reviews should be done more quickly. Please note that, in addition to approvals required by the Architectural Control Committee, that any proposed construction must meet the requirements of the Pitkin County Building Department, The Pitkin County Planning and Zoning Department, the Pitkin County Environmental Health Department and the Brush Creek Village Water District Rules and Regulations. The Board of Directors of the Brush Creek Landowners Association will comment favorably to any of these agencies in support of plans approved by the Architectural Control Committee. This can be very valuable to the landowner in dealing with the County's Ridge line and Scenic Foreground reviews.

4. DESIGN GUIDELINES: The Board of Directors of the Brush Creek Landowners Association has given the Architectural Control Committee the following guidelines to be used in determining whether or not a proposed development is in keeping with the subdivision's Protective Covenants with particular reference to Article 1 paragraphs 4, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, and, 18:

Fitting To Natural and Manmade Landscapes - Native shrubs and indigenous tree and ground cover contribute much to the natural beauty of Brush Creek. These include cedar, juniper, spruce, cottonwood, willow, brush oak and sagebrush; the natural vegetation is to be retained wherever possible. The design of the house should be tailored to the site, not the site to the house so bulldozed building platforms and "benching" of sites is strongly discouraged and will be allowed only where no alternative is possible. The following recommendations are made to help owners follow the guidelines:

- Preserve the natural ground cover as much as possible.
- Protect existing trees wherever possible.
- Design to fit the site.
- Keep landscape plans sensitive to existing vegetation and in harmony with the site.
- Grassy yard or cultivated areas should be restricted in size and associated with the house. Please note the Rules and Regulations of the Brush Creek Water District prohibit irrigation of more than 1,000 square feet with district water.

Access Driveways - Considerations in locating driveways include:

- Safety of access to and from main roads.

- Ease of grade - a maximum grade of 12%.
- Minimal disturbance of land surface. Excavation cuts are to be minimized, cuts leaving a slope of greater than 2:1 horizontal to vertical will be approved only when there is no alternative.
- Driveways crossing drainage ditches must have culverts installed.

Cuts and Retaining Walls - Slope rounding creates a more natural slope configuration and promotes faster revegetation of disturbed areas. Avoid sharp, "engineered" cuts. The visible height of retaining walls should be limited to six feet. When retaining walls are required in excess of six feet, multiple structures should be stepped back to create planting terraces.

Parking - The Protective Covenants require provision for four off-street parking places. Insofar as is possible, landscaping should be used to screen parking areas. Parking on the roads or shoulders is not allowed.

Exterior Lighting - No exterior light whose direct source is visible from a neighboring property or which produces excessive glare to pedestrians or vehicular traffic shall be installed. Indirect sources and horizontal cut-off fixtures are recommended to reduce glare and to provide general ambient light. Exterior lights are to be white or pale white.

Tanks - No elevated tanks of any kind shall be erected, placed or permitted upon any residential lot unless approved, in writing, by the Architectural Control Committee. Any tank used in connection with any dwelling house or other structure on any residential lot including tanks for storage of gas, fuel oil, gasoline, oil, or water, shall be buried, or if located above ground, the location and screening shall be subject to the written approval of the Architectural Control Committee.

Septic Fields - Fields must be approved by the Pitkin County Environmental Health Department and must be designed to prevent effluent from seeping through road cuts and hillsides. Care should be taken to revegetate in areas disturbed by leach field construction.

Site Drainage and Culverts - Culverts (minimum diameter 12") must be placed under all access driveways which interrupt a drainage ditch. Care should be taken to adjust invert elevations to match the grade of existing ditches. No work done on the site should result in disturbing historic drainage patterns. Property owners who alter natural or historic drainage patterns may be liable for damage done "downstream."

Towers and Antennae - Except as permitted in the Protective Covenants (Article 1, paragraph 12), no towers, radio or television antennae or satellite dishes will be permitted without the written permission of the Architectural control Committee.

Utilities - All secondary utility extensions from trunk lines to individual structures must be underground.

ADMINISTRATION OF OTHER PROVISIONS OF THE PROTECTIVE COVENANTS

The Board of Directors of the Brush Creek Landowners Association has charged the Architectural Control Committee with the administration of other provisions of the Protective covenants relating to the ongoing maintenance of properties in the subdivision. These provisions are contained in Article 1, paragraphs 5, 8, 10, 11, and 15. These paragraphs relate to the following subjects respectively:

- Signs
- Service Yards and Trash.
- Number and Location of Buildings.
- Dwelling House to Be Constructed First.
- Used or Temporary Structures.

The Architectural Control Committee will discuss apparent violations of these paragraphs with the property owner and if no agreement as to corrective action can be reached, the Board of Directors of the Brush Creek Landowners Association will determine how it wishes to proceed to achieve compliance.

PROTECTIVE COVENANTS

ARTICLE I

GENERAL RESTRICTIONS ON ALL TRACTS IN BRUSH CREEK VILLAGE

1. **ZONING REGULATIONS.** Said lands shall not be occupied or used by or for any structure or purpose or any manner which is contrary to the zoning regulations of Pitkin county, Colorado, validly in force from time to time.
2. **NO MINING, DRILLING OR QUARRYING.** No mining, quarrying, tunneling, excavating, or drilling for any substances within the earth including oil, gas, minerals, gravel, sand, rock and earth shall be permitted within or on said property, except for domestic water wells.
3. **NO BUSINESS USES.** Said land shall not be occupied or used for any commercial or business purposes nor for any noxious or offensive activity and nothing shall be done or permitted to be done on said lands which is a nuisance or might become a nuisance to the owner or owners of any of the surrounding lands.
4. **RESIDENTIAL USE.** Said land shall be used for residential purposes only and no residential building shall be permitted which shall house more than one family. Two family dwellings shall not be permitted.
5. **SIGNS.** With the exception of one for rent or for sale sign (which shall not be larger than twenty by twenty-six inches) and except for one entrance gate sign of a style and design approved by an architectural control committee, no advertising signs, billboards, unsightly objects, or nuisances shall be erected, altered or permitted to remain on any of said land.
6. **ANIMALS.** No animals or poultry shall be kept on said lands except ordinary household pets belonging to the household and horses and cows. Other animals or poultry may be kept only with the prior written permission of the architectural control committee.
7. **NO RESUBDIVISION.** Said land shall not be resubdivided into smaller tracts or lots nor conveyed or encumbered in any size less than the full dimensions as will be shown on a recorded plat, which plat shall be recorded in the records of the Pitkin County

Clerk and Recorder within a reasonable time after conveyance of said properties; provided that conveyances or dedications of easements for utilities or roads may be made for less than all of one tract.

8. SERVICE YARDS AND TRASH. All clothes lines, equipment, service yards, woodpiles, or storage piles on any tract in said land shall be kept screened by adequate planting or fencing so as to conceal them from the view of neighboring tracts and streets and access roads. All rubbish and trash shall be removed from said land and shall not be allowed to accumulate and shall not be burned thereon except in burners approved by the architectural control committee as to location, design materials, and construction, and except at such hours of the day as shall be established by the architectural control committee.

9. UNDERGROUND UTILITY LINES. All water, gas, electric, and telephone pipes and lines and all other utility lines within the limits of said land shall be buried underground and may not be carried on overhead poles nor above the surface of the ground, unless otherwise approved by the architectural control committee.

10. NUMBER AND LOCATION OF BUILDINGS. No buildings or structures shall be placed, erected, altered, or permitted to remain on any residential tract other than:

- (a) One detached single family dwelling house; and
- (b) One guest or servant house; and
- (c) One attached or detached garage; and
- (d) One barn or stable or other non-residential out building other than a garage.

No dwelling house shall be placed, erected, altered, or permitted to remain on said land at any site or location other than that approved by and indicated by the architectural control committee. The minimum living floor area above grade level for principal dwelling shall be 1200 square feet, excluding garages, carports, and porticos and porches, unless otherwise approved by the architectural control committee.

11. DWELLING HOUSE TO BE CONSTRUCTED FIRST. No guest house, servant house, garage, barn or other outbuildings shall be constructed on said tract until after commencement or construction of the dwelling house on the land. All construction and alteration

work shall be prosecuted diligently, and each building, structure, or improvement which is commenced on any of said land shall be entirely completed within 18 months after commencement of construction.

12. **TOWERS AND ANTENNAE.** No towers or radio or television antennae higher than three feet above the highest roof line of the dwelling house shall be erected on any of said land and all such towers and antennae must be attached to the dwelling house, unless otherwise approved by the architectural control committee.
13. **TREES AND LANDSCAPING.** No trees or brush growing on any of said land shall be felled or trimmed nor shall any natural area be cleared or landscaping performed on any tract without the prior written permission of the architectural control committee.
14. **TANKS.** No elevated tanks of any kind shall be erected, placed, or permitted upon any of said land. Any such tanks shall be buried or if located above ground, location of screening shall be as determined by the architectural control committee.
15. **USED OR TEMPORARY STRUCTURES.** No used or previously erected or temporary house structure, house trailer or nonpermanant out building shall be placed, erected or allowed to remain on any of said land except during construction periods and no dwelling house shall be occupied in any manner prior to its completion.
16. **EXTERIOR LIGHTING.** All exterior lights on said land shall be approved by the architectural control committee for the harmonious development and the prevention of lighting nuisances to other land in the area.
17. **OFF-STREET PARKING.** No dwelling house shall be constructed on said land unless there is concurrently constructed on the same land adequate off-street parking for at least four automobiles.
18. **GARBAGE DISPOSAL AND SANITARY SYSTEMS.** No sewerage disposal system, sanitary system, cesspool, or septic tank shall be constructed, altered, or allowed to remain or be used in any tract unless fully approved as design, capacity, location, and construction by all proper public health agencies of the State of Colorado and the County of Pitkin and also by the architectural control committee.

19. UTILITY EASEMENTS RESERVED. The seller herein named hereby reserves to itself, its successors and assigns, perpetual easements ten feet in width on each side of the boundary line along the entire perimeter of each lot for the purpose of constructing, maintaining, operating, replacing, enlarging, and repairing electric, telephone, water, irrigation, sewer, gas, and similar lines, pipes, wires, ditches, and conduits, and walking and bridle trails; provided however, in the event more than one lot or tract as shown on the plat is sold in one unit at one time, to be used as one unit, said ten foot easement shall be around the perimeter of said lots or tracts sold as a unit and not around each individual lot or tract.

20. EASEMENTS FOR ROADS. The seller herein named hereby reserves to itself, its successors and assigns a permanent easement not exceeding thirty (30) feet in width on each side of the roadways or streets to be shown in the plat of the subdivision for the purposes of the initial installation of the roads, but to be exercised only in the event the Seller at its discretion deems the same necessary for bypassing rock or for the proper installation of the roads. The Seller further reserves to itself, its successors and assigns, such permanent easements and rights of way as may be required by the County of Pitkin for the reinstallation of Brush Creek road; however, said easements shall be limited to the initial improvement and reinstallation of said road and shall not exceed thirty (30) feet in width on each side of said road.

ARTICLE II

ARCHITECTURAL CONTROL COMMITTEE

1. The architectural control committee shall consist of Albert Rose, Leonard Millman and either Roy Vroom or Gerald Kessler. A majority of the committee may designate a representative to act for it. In the event of death or resignation of any member of the committee, the remaining members shall have full authority to designate a successor. Neither the members of the committee nor its designated representative shall be entitled to any compensation for services performed pursuant to this covenant.

2. At any time, the then record owner of a majority of the lots shall have the power through a duly-recorded instrument to change the membership of the committee or to withdraw from the committee or to restore it any of its powers and duties. The committee's approval or disapproval as required in these covenants shall be in writing. In the event the committee, or its designated

representative, fails to approve or disapprove within thirty (30) days after plans and specifications have been submitted to it, or in any event, if no suit to enjoin the construction has been commenced prior to the completion thereof, approval will not be required and the related covenants shall be deemed to have been fully complied with.

GENERAL PROVISIONS

1. These covenants are to run with the land and are to be binding on all persons and parties claiming under them for a period of thirty (30) years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by a majority of the owners of the lots has been recorded agreeing to change the covenants in whole or in part.
2. Enforcement shall be by proceeding at law or in equity against any person or persons violating or attempting to violate any covenant either to restrain violation or to recover damages.
3. Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

Signed by Len Millman and Albert Rose as President and Secretary of Elay Corporation and recorded in Book 218, Page 206 on January 19, 1966 for the original filing, and in Book 222, Page 348 on August 29, 1966 for filing number 2.