

Big Valley
#1 or #590

Monte 1-26-81

DECLARATION
BIG VALLEY PROPERTY OWNERS' ASSOCIATION

This Declaration made this 9th day of January, 1981, by the undersigned, hereinafter referred to as Declarants,

WITNESSETH:

WHEREAS, the undersigned are the fee owners or contract purchasers of certain real property in Lewis and Clark County, Montana, more particularly described on Exhibit "A" attached hereto and by this reference made a part hereof as if set forth in full at this point, and;

WHEREAS, the Declarants wish to place a covenant upon such property providing that the owners of such property shall be members of an Association as described herein,

NOW, THEREFORE, the Declarants hereby declare that all of the property described on Exhibit "A" shall be held, sold, and conveyed subject to the restriction that membership in the Big Valley Property Owners' Association shall be mandatory and that such restriction shall run with the real property and shall be binding upon all parties having or acquiring any right, title or interest in the described property or any part thereof, and shall inure to the benefit of and be binding upon each successor in interest to the owner thereof.

Article I. Definitions.

Section 1. "Association" shall mean and refer to the Big Valley Property Owners' Association, its successors and assigns.

Section 2. "Properties" shall mean and refer to that certain real property hereinafter described and such other real property as is now or may hereinafter be brought within the jurisdiction of the Association by consent of a simple majority of the number of members of the Association.

Section 3. "Member" shall mean and refer to every person who is a member of the Association as hereinafter defined in Article II.

Section 4. "Owner" shall mean and refer to any person who is a fee owner or contract purchaser of certain real property defined in Exhibit A.

Section 5. "Dwelling Unit" shall mean and refer to any single family residential unit, permanent or temporary in construction, capable of providing residence for one family or individual.

Section 6. "Occupancy" shall mean and refer to the residence of a single family or individual in a dwelling unit for six months or more, intermittently or consecutively, during any 12-month period.

Section 7. "Declarant" shall mean the undersigned property owners, their successors or assigns.

Section 8. "Tract" shall mean and refer to any plot of land as originally surveyed for a description of the properties as evidenced by the conveyance of the property with the exception of any dedicated street or road easement. In the event a tract is or has been subdivided or altered

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so as to differ from the tract as originally conveyed by the Declarant, such modified plot shall thereafter be considered as a "tract".

Article II. Property Owner's Association

Section 1. Membership. Every person or entity of record who is an equitable or record owner of any tract or part thereof as defined by Exhibit "A" which is subject by covenants of record to assessment by the Association, shall be a member of the Association except as otherwise provided hereinafter. The foregoing is not intended to include persons or entities holding an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and inseparable from ownership of the tract which is subject to assessment by the Association.

Section 2. Voting. Only members who occupy a dwelling or are owners of dwelling units occupied by non-members shall be permitted to vote. One vote shall be allotted to each occupied dwelling unit. Where more than one member holds such interest in any one occupied dwelling unit, the single vote shall be exercised as such owners, among themselves, determine, but in no event shall more than one vote be cast with respect to any single occupied dwelling unit.

The voting members of the Association shall meet every two years, on the second Friday of January of each odd numbered year, to elect a Board of Directors.

Section 3. Board of Directors. The members of the Association shall elect a Board of Directors from within the voting membership whose term of office shall be two years. The Board of Directors shall consist of five voting members who shall, once elected, conduct the business of the Association which shall include, but not be limited to, the appropriation of and disbursement of annual assessments for maintenance purposes and all legal, administrative and contractual requirements related thereto. The elected members shall determine who shall function as officers, to wit, president, vice president, secretary, assistant secretary and treasurer, and those officers shall have the responsibilities of their respective offices as determined by the first elected Board of Directors.

Section 4. Meetings. The entire membership shall meet on the second Friday of every year to conduct the business of the Association which requires the vote of the membership.

The Board of Directors shall meet on the second Tuesday of every month to conduct the business of the Association.

Special meetings may be called by the Board of Directors whenever necessary.

Article III. Covenants for Maintenance Assessments

Section 1. Creation of a Lien and Personal Obligation Assessment. Each Owner of any tract by acceptance of a deed thereto, whether or not it shall be so expressed in any deed or other conveyance, is deemed to

covenant and agrees to pay to the Association:

(A) Annual Assessments of \$50.00 per annum for each occupied dwelling unit upon said tract.

(B) Special Assessments for additional maintenance or improvements that have been authorized by a simple majority of the voting membership.

The annual and special assessments, together with such interest thereon and costs of collection thereof, as hereinafter provided shall be a charge on the land and shall be a continuing lien upon the property against which such assessment has been made. Each such assessment, together with such interest thereon and costs of collection thereof as hereinafter provided, shall also be the personal obligation of the person or entity owning the property at the time the assessment fell due.

Section 2. Assessment Period. General membership assessments shall be levied for each annual period beginning on the date of the first election of the Board of Directors and extending until July 31 of the following year, and beginning on August 1st of every year thereafter. Assessments shall become due and payable on the date of the first election of the Board of Directors and on August 1st of every year thereafter.

Section 3. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the improvement and maintenance of those roads defined on Exhibit "A" or as hereafter approved to be included in the Association's jurisdiction.

Section 4. Notice of Quorum for any Actions Involving Disbursement of Assessments. A quorum shall consist of no less than three of the Board of Directors. The Board of Directors shall decide and authorize the disbursement of assessments by a simple majority of a quorum at regularly scheduled Directors meetings. Written notice of the dates of the regularly scheduled meetings shall be given to each voting member on August 1st of each year. If a quorum is not present, no disbursement shall be authorized until the next meeting that a quorum is present unless a quorum is present at a special meeting called to resolve necessary disbursements.

Section 5. Written Notice of the Assessment shall be sent to every voting member, and every voting member shall have the right to inspect all records relating to assessments within the Big Valley Property Owners' Association. The Association shall, upon demand, and for a reasonable charge, furnish to any voting member a certificate in writing signed by an officer of the Board of Directors setting forth the existing outstanding assessments, if any, applicable to a specified tract.

Section 6. Effect of Non-Payment of Assessments; Remedies of the Association. Any assessment not paid within thirty days after the due date shall bear interest at the rate of eight percent (8%) per annum plus a reasonable attorney's fee for the collection thereof. The Association may bring an action in law against the owner personally obligated to pay the same, or may foreclose the lien against the property. No owner may waive or otherwise escape the liability for the assessments provided for herein.

Section 7. Subordination of Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any tract shall not effect the assessment lien. However, the sale or transfer of any tract pursuant to mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such tract from liability for any assessments thereafter becoming due or from the lien thereof. Any person buying any of the properties herein hereby waives any right to contest the validity of the liens created herein if such lien is impressed or enforced according to the provisions of these covenants.

Section 8. Waiver of Assessment. The Board of Directors may, for extenuating circumstances, by a majority of a quorum, authorize a waiver of assessment to an owner of a tract of land having one or more occupied dwelling units. Such extenuating circumstances may include but not necessarily be limited to inability to pay due to health, unemployment or similar reasons, for services rendered by the owner in lieu of payment of assessments, or for other reasons.

The waiver of assessments shall not relieve the owner of any other rights or responsibilities accorded to his membership as defined herein.

A waiver of assessments shall be valid only for and during the annual period in which it was issued.

Section 9. Declassification of Dwelling Units. The first elected Board of Directors shall establish and thereafter maintain a record of all dwelling units both occupied and unoccupied. Assessments shall be based on the occupied dwelling units of record. The Board shall periodically, during each annual period, review the classification and verify the record. The Board shall not reclassify any dwelling unit without first giving written notice to the owner. Likewise, an owner must submit a written notice to the Association indicating any evidence and justification necessary for the declassification of an occupied dwelling unit to an unoccupied dwelling unit. Failure to submit written notice prior to the due date for assessments shall not relieve the owner from his obligation to pay the assessment.

Article IV. General Provisions

Section 1. Duration. This declaration shall run with and bind the land and shall inure to the benefit of and be enforceable by the Association or the owner of any tract subject to this Declaration, their respective legal representatives, heirs, successors or assigns for a term of thirty years from the date this Declaration is recorded, after which time said declaration shall be automatically renewed for successive periods of ten years thereafter; provided however, that these covenants may be modified, changed or eliminated by an instrument in writing filed with the Lewis and Clark County Clerk and Recorder and signed by the owner or owners of a simple majority of the total land area to which these covenants apply.

tions and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association, or by any owner, to enforce any such provisions shall in no event be deemed a waiver of the right to do so thereafter.

Should any lawsuit or other legal proceeding be instituted by the Association or any member against an owner who is alleged to have violated one or more of the provisions of this Declaration, and should the Association or member be wholly or partially successful in such proceedings, the offending owner shall be obligated to pay the costs of such proceedings, including a reasonable attorney's fee.

Section 3. Notices. Any notice required to be sent to any member or owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postage prepaid, to the last known address of the person or entity appearing as a member or owner on the records of the Association at the time of such mailing.

Section 4. Severability. Invalidation of any one of the provisions of this Declaration by judgement or court order shall in no way affect any other provisions, which shall remain in full force and effect.

Section 5. Annexation. The Association may at any time, annex additional residential properties that border the property within the jurisdiction of the Association, and so add to its membership, provided that such annexation shall have the consent of two-thirds (2/3) of the voting members of the Association and provided further, that one hundred percent (100%) of the owners of the area being considered for annexation become signatory to this Declaration.

Big Valley
#10 or 1590

Map 1007273

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BIG VALLEY SUBDIVISION

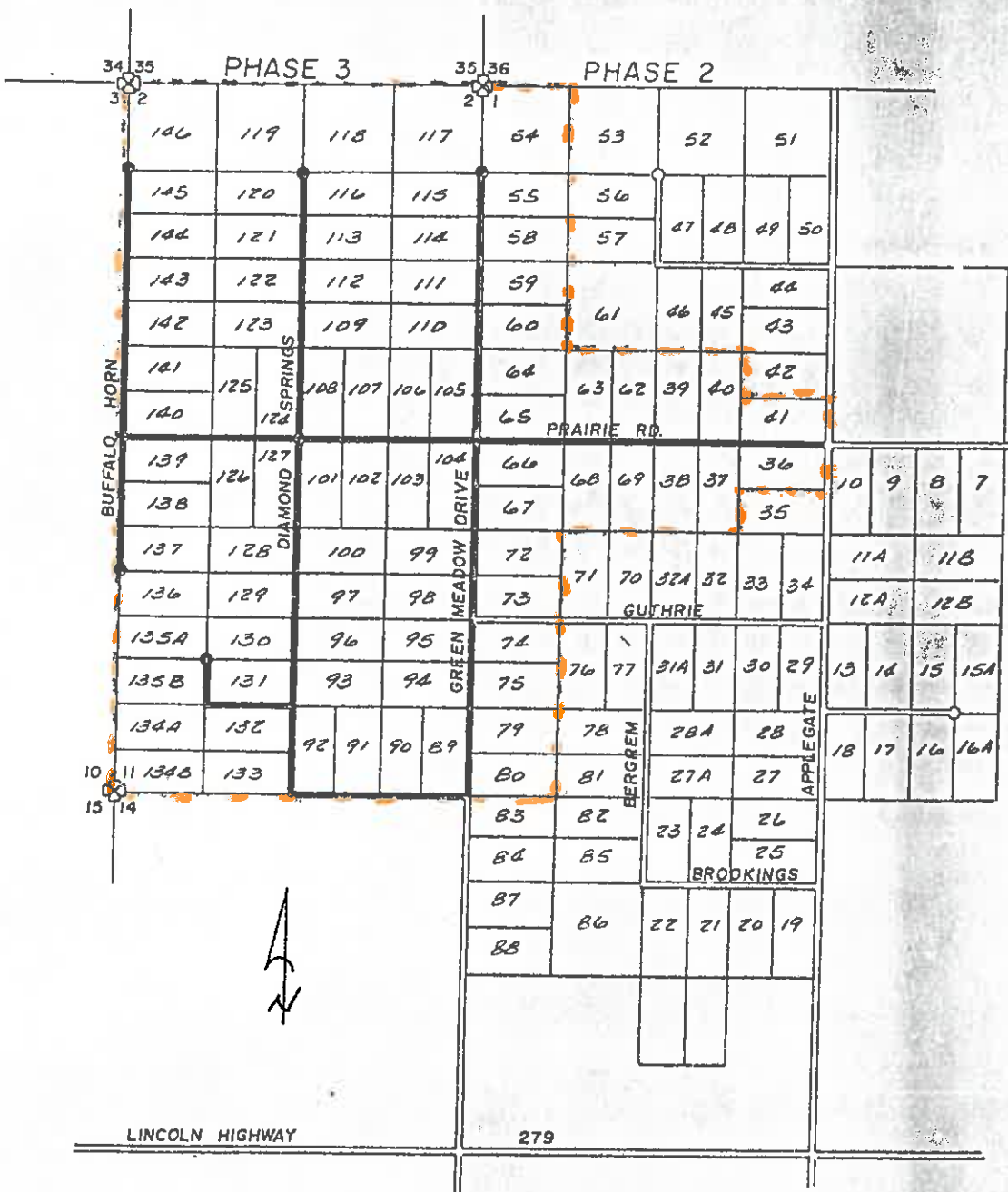


EXHIBIT "A"

Boundry Line
Road Line