

"D."

Section 20. Preservation of Oak Trees. Lots 25, 90 and 104 each have a mature oak tree on the Lot that shall be preserved. A number of oak trees are located in a clump on Lot 32 and shall be preserved as best as possible. Lots 15 and 16 each have several oak trees on the Lot. These oak trees shall also be preserved as best as possible. None of the oak trees on these references Lots shall be removed without the consent of the Architectural Review Committee.

ARTICLE VIII ADDITIONAL EASEMENTS AND WETLANDS

Section 1. Reservation of Easements. Easements for the installation and maintenance of utilities, signs, walkways, common areas and drainage facilities are reserved as shown on the Plat.

Section 2. Use of Common Areas. The common areas in the subdivision include the lighted subdivision entry sign on the southeast corner of the "V" Street entrance to the Plat. The entry sign shall be constructed by and the landscaping installed by the Declarant. The entry sign and landscaping will be partially located on Lot 24 of Phase 1. The mature oak tree located on Lot 24 is included in this landscaping and shall not be removed by the Owner of Lot 24. The Association shall be responsible for maintaining this common area in the future and paying for the lighting and irrigation costs. The Association shall also be responsible for maintaining the landscaping and irrigation between the south side of "V" Street and the Irving Slough, extending from the "V" Street entrance to the Plat westward to the point where the Irving Slough is culverted under "V" Street.

Section 3. Wetland Compliance. The Common Areas also include the detention pond located in Tract A and Tract B on the Plat and mitigation wetland area located in Tract A on the Plat. The Association shall be responsible for maintaining these Common Areas and complying with all local, state and federal laws in this regard. The Association shall specifically comply with the terms and conditions of the wetland removal and fill permits. The mitigation wetland area and the detention ponds shown on the Plat are elements of the development required by public bodies in order to obtain public approval of the development. These facilities will often be inundated with water in varying depth. These facilities are not intended for access by the general public or the residents of the development for recreation or any other purposes.

Section 4. Wetland Boundary. The wetland boundary adjacent to the Irving Slough is shown on the Plat for Lots 24 through 35. All Lot Owners having a portion of that Lot located within the wetland boundary shall conform to all local, state and federal requirements. The Association shall cooperate with all local, state and federal authorities in requiring conformance to the regulations, laws and statutes.

Section 5. Specific Restrictions Related to Wetlands Protection, Easements, Enforcement. The Ambleside Meadows Subdivision is being developed under two permits relating to the filling of wetlands - Permit 98-061 issued by the U.S. Army, Corps of Engineers.

(May 20, 1998) and Permit FP-14947 issued by the Oregon Division of State Lands (May 22, 1998). These permits authorize the filling of certain wetlands on the Property, require the creation and planting of certain mitigation wetland areas on the Property, require the protection of nonimpacted wetland areas, require monitoring and potentially corrective action for a number of years to ensure the success of created wetlands, and impose requirements for protecting the wetland areas, including through private and public enforcement.

- (a) Protective buffer for nonimpacted wetlands in Irving Slough. Lots 25 through 34 in Phase I front to the West on the Irving Slough, which is a wetland not impacted by this Development. The boundary of this wetland is shown on the Plat. As mitigation for other wetlands on the Property permitted to be filled, a 25-foot buffer has been established on Lots 25 through 34 adjacent to the wetland boundary. This buffer area is shown on the Plat.
- (1) The Developer will undertake an initial planting of the buffer area under a plan approved by the State. Any additional plantings in the buffer area by Lot Owners shall be limited to species on the published list entitled "Plant Species Associated with Riparian Areas" for Oregon, a copy of which is attached as Exhibit "E."
 - (2) Lot Owners shall maintain the buffer area in its natural state with natural, unmowed vegetation. Existing nonnative vegetation may be removed from the buffer area, provided that it is replaced with riparian vegetation from the list in Exhibit "E." For example, Himalayan Blackberries and English Ivy may be removed and replaced with Snowberry or Salmonberry. Trees determined in writing by a certified arborist to be danger trees may be removed.
 - (3) Control of non-native species in the buffer area shall be through mechanical means, that is, by hand pulling only. No chemical applications shall be allowed within the buffer area.
 - (4) The buffer area shall be kept free of temporary or permanent structures and storage sheds, fencing, lawn furniture, vehicles, yard clippings and similar materials that may damage the natural vegetation.
- (b) Buffer along north property line. Lots 60 through 66 in Phase II are adjacent to the north property line of the Plat. Site improvements as part of subdivision development will include the creation of an open drainage channel adjacent to the north property line of these lots. As partial mitigation for filling of wetlands elsewhere in the subdivision, the Army Corps permit requires this drainage channel be maintained as a buffer along the northernmost 25 feet of these lots. This buffer area is shown on the Plat as "25' Conservation and Drainageway Easement."
- (1) Vegetation control of vegetation in the buffer area shall be without mowing. No chemical applications shall be allowed within the buffer area.

- (2) The buffer area shall be kept free of temporary or permanent structures and storage sheds, fencing, lawn furniture, vehicles, yard clippings, debris, and similar materials that may damage the natural vegetation or impede flow in the channel
- (c) Creation of mitigation wetland: Site improvements as part of subdivision development will include creation of a wetland in the northwest corner of the Plat adjacent to the Irving Slough. This wetland is required to mitigate for wetlands filled elsewhere on the Property
- (d) Easements for maintenance, enforcement:
 - (a) The Developer, including its agents, and state and federal wetland permitting agencies shall have an easement for access onto and across the wetland buffer along Irving Slough and the mitigation wetland area described above for the purposes of monitoring performance under the state and federal wetland permits, and taking actions necessary to comply with the terms of those permits, including the requirement to conduct replanting of native vegetation to meet survival standards. The term of the easement shall be the five year monitoring period set in the state and federal permits, together with any extended period that may be needed to implement any supplemental mitigation plan required under the permits
 - (b) The Association and the City of Springfield shall have an easement for access onto and across the wetland buffer adjacent to the Irving Slough and Tract A and Tract B, including the mitigation wetland area and the detention pond, for purposes of inspection for compliance with federal, state and local wetland laws and permits
 - (c) Restrictions for the wetland buffer areas stated herein are enforceable by the Corps of Engineers, the Division of State Lands, the City of Springfield, the Association, and the Owners of any Lots that include the respective wetland buffer areas. In any court proceeding for the enforcement of these restrictions, the losing party shall pay the attorneys fees of the prevailing party or parties, at trial, on appeal or petition for review, and in enforcing or collecting any judgment, in such reasonable amount as shall be fixed by the court in such proceedings or in a separate action brought for that purpose.
 - (d) The failure to enforce any restriction that applies to the wetland buffer areas shall not be deemed to be a waiver of the right to do so thereafter.