

5

FIDELITY NATIONAL TITLE AGENCY



**OFFICIAL RECORDS OF
PINAL COUNTY RECORDER
LAURA DEAN-LYTLLE**

When recorded, return to:
WILL CALL:
Mindi McWherter
Fidelity National Title

DATE/TIME: 03/26/04 1056
FEE: \$14.00
PAGES: 5
FEE NUMBER: 2004-021274

**TRACT DECLARATION AND DECLARATION OF ANNEXATION FOR
PEBBLE TRAIL, UNIT 5 AT COYOTE RANCH as
Recorded in Cabinet E Slide 55**

This Tract Declaration (this "Tract Declaration") is executed as of; March 26, 2004, by Gardner Development Corporation, An Arizona Corporation ("Declarant").

RECITALS:

- A. As of the date of this Tract Declaration, Declarant is the owner and holder of all rights of the "Declarant" under the Declaration of Covenants, Conditions and Restrictions for COYTOE RANCH_ recorded on _March 31, 1998, at instrument No.1998-012302, in the official records of Pinal County, Arizona (as amended from time to time, the Master Declaration"). (Capitalized terms not defined in this Tract Declaration have the meanings given them in the master Declaration.)
- B. The real property described on Exhibit A to this Tract Declaration (the "Tract") is a part of the additional property, as that term is defined in the Master Declaration; as of the date of this Tract Declaration, Declarant is the owner of fee title to the Tract
- C. The Master Declaration contemplates that Tract Declarations for property subject to the Master Declaration may be executed and recorded from time to time as development proceeds, as portions of the additional property are annexed to the property (as defined in the Master Declaration) and as land use classifications for such property are established.
- D. Declarant desires to record this Tract Declaration with respect to the Tract.

DECLARATIONS:

Declarant declared as follows:

- 1 **Annexation.** As contemplated by Section 2.3 of the Master Declaration, the Tract is hereby annexed to the Property and made subject to the Master Declaration.
- 2 **Land Use Classification.** The Tract shall have a land use classification of Single Family Residential Use, subject to the provisions of the Tract

Tract Declaration to "Lot" or "Lots" shall be deemed to refer to any Lot or Lots, established or created from the Tract.

3 **Membership** Initially, the Tract shall be deemed to have associated with it 23 Memberships in Association. After and subdivision of the Tract, the number of Memberships associated with the Tract shall be determined as provided in Section of the Master Declaration.

4 **Additional Use Restrictions.** The Tract shall be subject to the following additional provisions:

4.1 No Residential Unit containing fewer than 1,600 square feet of enclosed livable space (not including garages, patios and the like) shall be constructed on any lot within the Tract.

4.2 No residential unit shall be constructed on any lot within the Tract which exceeds one and one-half (1 ½) stories in height, or any portions of which is higher than twenty-five (25) feet above finished grade; however, this section 4.2 shall not be deemed to prohibit Residential Units within the Tract from having below grade basements (subject to approval of the Architectural Committee in accordance with the Declaration).

4.3 Subject to approval thereof by Architectural Committee in accordance with the Declaration, each lot must have constructed thereon, in connection with the construction of a Residential unit on the lot, an attached garage having a capacity of not less than two full-size automobiles.

4.4 Subject to approval thereof by the Architectural Committee in accordance with the Declaration, either a detached guest house or a detached (but not both) may be constructed on any lot. If a guest house is constructed on a lot: (a) such guest house must not have more than 1,000 square feet of enclosed livable space: (b) such guest house may be constructed only at the same time or after construction of the main residential unit on such lot; and (c) such guest houses may not be leased or rented

(except as part of a lease or rental of the entire Lot and all improvements thereon, and only to the same lessee or tenant)

4.5 All visible or exposed roofing on any residential unit, garage or guesthouse must be tile (the color, size, type, and appearance of which shall be subject to the approval of the Architectural Committee pursuant to the Declaration).

5 **Enforcement** As provided in **Section 9.1** of the Master Declaration, the Association or any member shall have the right to enforce the provisions of this Tract Declaration (as one of the Project Documents)

6 **Term** All of the covenants, conditions, restrictions, and other provisions of this Tract Declaration (as amended from time to time): (a) shall run with and bind the Tract and all portions thereof, including but not limited to all lots created therefrom; (B) shall inure to the benefit of and shall be enforceable by the association or by the owner of any property subject hereto, or so long as Declarant owns any portion of the Project or the Additional Property, by Declarant, and by their respective legal representatives, heirs, successors and assigns; and (c) shall remain in full force and effect for a term co-extensive with the term of the Master Declaration, as the same may be extended in accordance with the provisions thereof.

7 **Amendment**: This Tract declaration may be amended only as provided in **Section 2.2** of the Master Declaration. In no event shall any amendment be effective unless and until it is recorded.

8 **Severability: Interpretation: Gender** Invalidation of any provisions of this Tract Declaration by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect. The provisions of this Tract Declaration shall be construed and interpreted with reference to the laws of the State of Arizona. Where the context hereof so requires, any personal pronouns used in the Tract Declaration, whether used in the masculine, feminine or neuter gender, shall include all genders, and singular shall include the plural and vice versa. Titles and Articles and Sections are for convenience only and shall not affect the interpretation hereof. All Exhibits attached hereto are incorporated herein by reference.

9 **Perpetuities** If any of the covenants, conditions, restrictions or other provisions of this Tract Declaration would otherwise be unlawful, void or violable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of the President of the United States in office on the date this Tract Declaration is Recorded.

10 **Declarant's Disclaimer or Representations** While Declarant has no reason to believe that any provisions in this Tract Declaration are or may be invalid or unenforceable for any reason or to any extent, Declarant makes

no warranty or representation as to the present or future validity of enforceability of any such provisions. Any Owner acquiring a lot in reliance on one or more of such provisions shall assume all risks and the validity and enforceability thereof and by accepting ownership of lot agrees to hold Declarant harmless therefrom.

- 11 **Relationship to Master Declaration** This Tract Declaration shall be considered an integral part of the Project Documents and shall be constructed and interpreted in a manner consistent therewith. In the event of any conflict between a provision of the Master Declaration shall control except in the case where the provision in this Tract Declaration places greater or more specific restrictions upon the use, occupancy, improvement or development of the Tract or lots created therefrom, or upon the activities or conduct of Owners, residents or others upon or about the Tract or Lots created therefrom, in which event the provision in this Tract Declaration shall control.

IN WITNESS WEHREOF, Declarant has executed this instrument as of the date set forth above.

DECLARANT:

Gardner Development Corporation,
An Arizona Corporation

By: 

Its: Vice President

STATE OF ARIZONA)
) ss.
County of Pinal)

On this 26th day of March, ~~2000~~²⁰⁰⁴, before me, the undersigned officer, personally appeared Sanders Achen, who acknowledged himself to be Vice President of Gardener Development Corporation, An Arizona Corporation, and he being authorized so to do, executed the foregoing instrument for the purpose therein contained by signing the name of said corporation by himself.

IN WITNESS, I hereunto set my hand and official seal.


Notary Public

My commission expires:

April 5th 2006

