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DECLARATION OF PROTECTIVE COVENANTS

for

PRISTINE POINT AT CRESTED BUTTE

Gunnison County, Colorado

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DECLARATION OF PROTECTIVE COVENANTS

PRISTINE POINT AT CRESTED BUTTE

THIS DECLARATION, made this 16th day of September, 1997, by Pristine Point, Inc., a Colorado corporation ("Declarant").

ARTICLE 1 DECLARATION

Declarant hereby declares that the Property (hereinafter defined) shall be held, sold and conveyed subject to the following covenants, conditions, restrictions and obligations, all of which are declared and agreed to be for the protection of the value of the Property and for the benefit of all persons acquiring an interest therein, shall be deemed to run with the land, and shall be a benefit and burden to all persons acquiring an interest in the Property, their grantees, successors, heirs, legal representatives and assigns and their tenants, employees, guests and invitees.

ARTICLE 2 PURPOSES AND PROPERTY AFFECTED

2.1 General Purpose. This Declaration is established to provide that the Property shall be developed and maintained as a single-family residential area of the highest possible quality, value, desirability and attractiveness; notwithstanding the foregoing statement, the Declarant has reserved Lot 17 for development of affordable housing, which may include affordable multifamily residential structures on that lot only.

2.2 Property Affected. Declarant is the owner of the real property ("Property"), described on attached EXHIBIT A which is hereby made subject to the provisions of this Declaration.

ARTICLE 3 DEFINITIONS

3.1 Declarant. "Declarant" shall mean the Declarant and its successors and assigns. No party shall be deemed a successor or assign of Declarant unless such party is specifically designated as a successor or assign of Declarant under this Declaration by a written Designation of Successor or Assign executed by Declarant. The Association hereinafter provided for may become a successor or assign of Declarant.

3.2 Property. "Property" shall mean the real property described on EXHIBIT A hereto and made subject to the provisions of this Declaration.

3.3 Lot. "Lot" shall mean any parcel of the Property shown on the Plat and identified therein as a lot or site in Pristine Point at Crested Butte.

3.4 Common Elements. "Common Elements" shall include, but shall not be limited to, open space, utility facilities, public parking areas, Meridian Lake Park Reservoir No. 1 and its dam and spillway (until such time as the dam and reservoir are conveyed to the Mt. Crested Butte Water and Sanitation District) private roadways, bridge, pedestrian access easements, miscellaneous structures, entryway gate(s), and private road signage.

3.5 Owner. "Owner" shall mean the party or parties who own fee simple title to a Lot or own that estate or interest with respect to a Lot which is most nearly equivalent to fee simple title.

3.6 Association. "Association" shall mean Pristine Point Owners' Association, a Colorado nonprofit corporation.

3.7 Architectural Control Committee. "Architectural Control Committee" shall mean the Architectural Control Committee appointed as provided in Section 6.1 of this Declaration.

3.8 Plat. "Plat" shall mean the Plat of Pristine Point at Crested Butte, recorded in the offices of the Clerk and Recorder of the County of Gunnison, State of Colorado, as it may be modified or supplemented from time to time.

ARTICLE 4 RESTRICTIONS ON USE OF THE PROPERTY

4.1 Residential Use. Each Lot except Lot 17 shall be used exclusively for single-family residential purposes and such purposes as are customarily incident thereto. No Lots may be combined.

4.2 Access. No house or other structure may have access from open space. All structures shall have access only from designated roadways, except as may be adjusted for site conditions as approved by the Architectural Control Committee.

4.3 Privacy Walls and Fences. The height, material and color of any wall or fence constructed on the Property shall conform to the Architectural Standards set

forth in this Declaration. Solid, high wall types of fences shall be discouraged. Open, shorter types of fencing, such as split rail, shall be preferred.

4.4 No Business or Commercial Activity. No Lot shall be used at any time for business commercial or professional activity, excluding home occupations, so long as those activities show no visible exterior signs or conduct of those activities, and so long as no more than two (2) vehicles are connected with that activity while visiting that Lot, except that Declarant or its nominee may use any portion of the Property owned by Declarant in connection with the real estate sales efforts until such time as all Lots have been sold.

4.5 Limitation on Improvements. No Lot, except Lot 17, shall be improved except with a residential structure designed to accommodate no more than a single family, its domestic employees and occasional guests, plus other improvements and structures as are necessary or customarily incident to a single-family residence, all as approved by the Architectural Control Committee. No outdoor recreational improvements, facilities or equipment shall be permitted except with the specific written consent of the Architectural Control Committee, which consent shall not be granted unless the Architectural Control Committee determines that such improvements, facilities and equipment will not constitute an infringement on the use and enjoyment of other Lots.

4.6 Minimum Floor Area. The residential structure on each Lot except Lot 17 shall have a minimum improved floor area for living space of two thousand (2,000) square feet, exclusive of unfinished basements, garages, porches, patios and accessory structures.

4.7 Height Limitations. No structure or other above-ground improvement on any Lot shall rise to a height greater than thirty-five (35) feet as measured from its median height.

4.8 Setback Requirements. All improvements on a Lot, except landscaping and necessary crossings by access drives and underground utility lines, shall be set back from the boundaries of the Lot as prescribed by the Architectural Control Committee, the Plat, or ordinances of the County of Gunnison, whichever is most restrictive. Setback requirements for Lot 18 shall be as depicted on the Plat.

4.9 Garages Required. Construction of a residential structure on each Lot, except Lot 17, shall include construction of a garage upon the Lot which shall at a minimum be of a size sufficient to accommodate two full-sized automobiles.

4.10 Landscaping Requirement. At the time of, or as soon as reasonably possible, following construction of the residential structure on a Lot, but no later than

seven (7) months or one (1) growing season after substantial completion of the residential structure, disturbed areas shall be landscaped with grass, shrubs and trees. Thereafter, all grass, shrubs and trees shall be kept and maintained in an attractive healthy, live and growing condition. All dead or diseased grass areas, shrubs and trees shall be promptly removed and replaced with suitable replacement landscaping.

4.11 Maintenance. All improvements on Lots shall be kept and maintained in a clean, safe, and attractive condition and shall be kept in good repair. Unimproved Lots shall be kept and maintained in a clean, safe, and attractive condition.

4.12 Utilities. All utility lines shall be underground. Owners will be responsible only for running utility lines from the Lot line to structures.

4.13 Reservoir. The dam, spillway, and structural elements of the Meridian Lake Park Reservoir No. 1 shall be maintained as required by the Colorado Division of Water Resources by the Association until such time as the dam and reservoir are conveyed to the Mt. Crested Butte Water and Sanitation District. Thereafter, the District shall maintain the dam, spillway, and structural elements of the Reservoir.

4.14 No Noxious or Offensive Activity. No noxious or offensive activity shall be carried on within the Property nor shall anything be done or placed on any Lot or any other portion of the Property which is or may become a nuisance or cause annoyance to other Owners. Habitually barking, howling or yelping dogs shall be deemed a nuisance. Patios and balconies shall not be used for storage other than of patio furniture.

4.15 Urban/Wildland Interface. All Lots within the Property shall comply with NFPA 299 - Standard for Protection of Life and Property from Wildfire.

4.16 No Hazardous Activities. No activities shall be conducted on the Property and no improvements shall be constructed on the Property which are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms shall be discharged upon the Property and no open fires shall be lighted or permitted on the Property except in a contained barbecue unit while attended and in use for cooking purposes or within a safe and well designed interior fireplace.

4.17 Visible Items and Conditions. No unsightliness that is visible from any street or from any other Lot shall be permitted on any Lot. Without limiting the generality of the foregoing:

4.17.1 All unsightly facilities, equipment, objects and conditions shall be enclosed within a structure approved in writing by the Architectural Control Committee for such purposes;

4.17.2 Campers, campers not on a truck, mobile or motor homes, trucks other than pick-up trucks and other large vehicles shall not be permitted on the Property except within a structure approved in writing by the Architectural Control Committee for such purposes and except for vehicles of guests and visitors;

4.17.3 Tractors, permitted vehicles other than automobiles, snow removal equipment and garden or maintenance equipment shall be kept at all times, except when in actual use, in a structure approved in writing by the Architectural Control Committee for such purpose;

4.17.4 Refuse, garbage and trash shall be kept at all times in a covered bear-proof container which shall be kept within a structure approved in writing by the Architectural Control Committee for such purpose and each Owner shall contract for private trash removal service commencing on the date a building permit is issued for such Owner's Lot;

4.17.5 Service areas and facilities for hanging, drying or airing of clothing or fabrics shall be kept within a structure approved in writing by the Architectural Control Committee for such purpose;

4.17.6 Pipes for water, gas, sewer, drainage or other purposes, and wires, poles, antennae and other facilities for the transmission or reception of audio, electronic or visual signals or electricity, and utility meters or other facilities shall be approved in writing by the Architectural Control Committee for such purposes or kept below the surface of the ground;

4.17.7 No lumber, grass, shrub or tree clippings or plant waste, compost, metals, bulk materials or scrap, refuse or trash shall be kept, stored or allowed to accumulate on the Property unless within a structure approved in writing by the Architectural Control Committee for such purpose, except for a reasonable period of time; and

4.17.8 Garage doors shall be kept closed when the garage doorway is not in use.

4.18 Lights, Sounds or Odors. All exterior lighting shall be designed and directed as approved in writing by the Architectural Control Committee. No light shall be emitted from any Lot which is unreasonably bright or causes unreasonable glare. All exterior lights shall be shielded to the extent practicable to minimize or eliminate, if possible, visibility of such exterior lights from adjacent property. No sound shall be emitted from any Lot which is unreasonably loud or annoying. No odor shall be emitted from any Lot which is noxious or offensive to other Owners.



4.19 Restriction on Animals. No animals, including horses and livestock, shall be kept on any Lot, except that Owners may keep dogs, cats, birds or other animals which are *bona fide* household pets, so long as such pets are not kept for commercial purposes and do not make objectionable noises or otherwise bother or constitute a nuisance to other residents or to wildlife. Dogs shall be kept within the boundary lines of the Lot of the Owner and shall be kept on a leash and under the control of the Owner when outside the Owner's Lot.

4.20 Restriction on Signs. No signs or advertising devices of any nature shall be erected or maintained on any Lot except to identify the address and Owner of the Lot or to indicate that the Lot is for sale. No sign shall be erected or maintained on any Lot without the prior written approval of the Architectural Control Committee. The foregoing shall not restrict the Owner from erecting political signs, providing that such political signs are not erected for more than thirty (30) days prior to, and shall be removed the day after, the election for which they were erected. Notwithstanding the foregoing, the Declarant or Association may erect signs approved by the Declarant or the Association,

- 4.20.1 for Declarant's sales purposes;
- 4.20.2 for identification purposes;
- 4.20.3 to advise of rules and regulations adopted by the Association;
- 4.20.4 to caution or warn of danger; or,
- 4.20.5 which are required by law.

4.21 Address Signs and Associated Lighting. At the time of construction of a residential structure on a Lot, the Owner shall be required to construct or install a sign showing the address number of the Lot and associated lighting pursuant to uniform standards prescribed in writing by the Architectural Control Committee and consistent with the limitations on outdoor lighting contained in Section 4.18 this Declaration.

4.22 Solid Fuel Burning Devices. All solid fuel burning devices shall be designed to reduce polluting emissions from burning wood and other fuel and shall comply with all applicable requirements of Gunnison County and the Environmental Protection Agency. All stoves shall comply with Regulation No. 4 of the Colorado Air Quality Control Commission.

4.23 No Subdivision of Lots. No Lot except Lot 17 may be divided or subdivided or a fractional portion thereof sold or conveyed so as to be held in divided

ownership, except that adjoining Lot Owners may sell or purchase adjoining property to accomplish relocation of the boundary line between such Lots if approved in writing by the Architectural Control Committee and if such sale and purchase will not cause or result in a violation of law or of any setback, building or other restriction contained herein. In such cases, the new boundary line thus established shall be deemed the new boundary line between the respective Lots but no setback line or easements established with respect to the former boundary line shall be changed or shifted by reason of the change of boundary line.

4.24 No Mining or Drilling. No Lot shall be used for the purpose of mining, quarrying, drilling, boring or exploring or removing water, oil, gas or other hydrocarbons, minerals, rocks, stones, gravel or earth.

4.25 No Temporary Structures. No temporary building, improvement or structure shall be placed upon any Lot, except by Declarant for use in connection with the sales of Lots, or except with the prior written consent of the Architectural Control Committee obtained in each instance, which consent shall be granted only for a particular social, cultural, entertainment or recreational purpose of a short-term duration.

4.26 Construction Period Exception; Construction Hours. During the course of actual construction of any permitted structure or improvements, and provided construction is proceeding with due diligence, the provisions contained in this Article 4 shall be deemed temporarily suspended as to that Lot to the extent necessary to permit such construction and, provided that, during the course of such construction, nothing is done which:

4.26.1 will result in a violation of any of the provisions of this Declaration upon completion of construction; or,

4.26.2 will constitute a nuisance or unreasonable interference with the enjoyment by other Owners of their Lots.

Notwithstanding anything contained herein to the contrary, no work shall be performed on any Lot prior to 7:00 o'clock a.m. or after 7:00 o'clock p.m., nor shall any work be performed on any Lot on any Sunday or national holiday without the prior written approval of the Architectural Control Committee.

4.27 Damage or Destruction of Improvements. In the event of complete or partial damage or destruction of any improvements on a Lot, for any reason or from any cause whatsoever, the Owner shall promptly proceed to repair and replace such improvements, subject to approval of the Architectural Control Committee, as though such repair or replacement involved construction of an original structure, or shall

promptly proceed to raze the improvement and to landscape the portion of the Lot formerly occupied by such improvement in a manner approved in writing by the Architectural Control Committee.

4.28 Variances by Architectural Control Committee. The Architectural Control Committee may authorize variance from compliance with any of the provisions, covenants, conditions and restrictions contained in this Declaration when circumstances such as topography, natural obstructions or hardship may require. Such variances must be evidenced in writing and shall be recorded by the Owner. If such variances are granted, no violation of the provisions, covenants, restrictions and conditions contained in this Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted, and subsequent Owners may rely on and shall be bound by the provisions set forth in the variance. The granting of such a variance shall not operate to waive any of the provisions, covenants, conditions and restrictions contained in this Declaration for any purpose except as to the particular portion of the Property and the particular provision covered by the variance.

4.29 Maintenance and Emergency Exceptions. The foregoing provisions of this Article 4 shall not be construed to limit any Owner's right to perform routine maintenance, repairs, landscape work, emergency repairs or similar work at such times as are convenient for the Owner; provided that such work does not present a hazard to or constitute a substantial nuisance to other Owners.

4.30 Fire Hydrants. All fire hydrants within the Property shall be mountain standard (snow country risers) and shall be equipped with marker rods or flags approved by the Crested Butte Fire Protection District.

ARTICLE 5 ARCHITECTURAL CONTROL

5.1 Change in the Existing State of Property. "Change in the Existing State of Property" shall mean and include, without limitation:

5.1.1 The construction, alteration or expansion of any temporary or permanent building, structure or other improvement, including, but not limited to, utility facilities, fencing or recreational equipment;

5.1.2 The destruction by voluntary action or the abandonment of any building, structure or other improvement;

5.1.3 The excavation, filling or similar disturbance of the surface of land;

5.1.4 The planting of trees, shrubs and other growing things if, and only if, such planting shall constitute a substantial obstruction of the view of other Lot Owners; and

5.1.5 Any change or alteration, including without limitation, any change of color, texture or exterior appearance, of any previously approved Change in the Existing State of Property.

5.2 Approval of Changes. The approval of the Architectural Control Committee shall be required for any Change in the Existing State of Property, as defined in Section 5.1 above. In addition, the approval of Gunnison County shall be required for any Change in the Existing State of Property defined in subsections 5.1.1 and 5.1.2 above. No work shall be commenced to accomplish a proposed Change in the Existing State of Property until the Architectural Control Committee shall approve the change. No proposed Change in the Existing State of Property shall be deemed to have been approved by the Architectural Control Committee unless its approval is in writing, provided that approval shall be deemed given if the Architectural Control Committee fails to approve or disapprove the proposed change, or to make additional requirements or request additional information in writing within thirty (30) days after a full and complete description of the proposed Change in the Existing State of Property has been furnished together with a specific request for such approval. In the event that any Owner is dissatisfied with any decision of the Architectural Control Committee with regard to such Owner's Lot, the dissatisfied Owner shall have right to appear before the Architectural Control Committee to seek such variance or relief as he deems appropriate. However, the final decision of the Architectural Control Committee shall be conclusive on all matters within the scope of its authority under this Declaration, except as provided in Section 6.2 below.

5.3 Architectural Standards. The Architectural Control Committee shall prepare and furnish to any Owner requesting same written Architectural Standards which shall set forth the general purposes of the Architectural Control Committee in reviewing proposed Change in the Existing State of Property, basic building restrictions and requirements, architectural review procedures and requirements and regulations applicable with respect to construction. Basic building restrictions and requirements shall include the definition of an acceptable building envelope for each Lot, and may include restrictions upon permitted dates for construction of improvements in areas where special geologic conditions exist. Compliance with the Architectural Standards shall be required for approval by the Architectural Control Committee of any Change in the Existing State of Property. The procedures, requirements and regulations contained in the Architectural Standards shall be consistent with the provisions of this Declaration. In the event of any conflict, this Declaration shall control.

5.4 Fee for Architectural Review. Each Owner shall be required to pay a fee to the Association as a condition to approval of any Change in the Existing State of Property to cover costs and expenses in reviewing and commenting on proposals for Change in the Existing State of Property by the Architectural Control Committee. The amount of the fee shall be established by the Association and shall be set forth in the Architectural Standards. Such fee shall not be in excess of One Hundred Dollars (\$100.00) with respect to any one proposed Change in Existing State of Property in connection with the original construction or modification of a residential structure nor in excess of Fifty Dollars (\$50.00) for any other type of proposed Change in Existing State of Property. Said amounts may be increased a reasonable percentage for good cause by the Association. No fee shall be charged for any required review of plans concerning changes to the landscaping of any Lot.

5.5 General Criteria for Committee. Subject to the right of appeal described in Section 6.3, the Architectural Control Committee shall have complete discretion to approve or disapprove any Change in the Existing State of Property. The Architectural Control Committee shall exercise such discretion with the following objectives in mind, among others:

5.5.1 To carry out the general purposes expressed in this Declaration;

5.5.2 To prevent violation of any specific provision of this Declaration or any Supplementary Declaration;

5.5.3 To prevent any change which would be unsafe or hazardous to any person or property;

5.5.4 To minimize obstruction or diminution of the view of other Owners;

5.5.5 To preserve visual continuity and to prevent any marked or unnecessary transition between improved and unimproved areas;

5.5.6 To assure that any change will be of good and attractive design and in harmony with development on other portions of the Property; and

5.5.7 To assure that materials and workmanship for all improvements are of high quality comparable to other improvements on the Property.

5.6 Completion of Work After Approval. After approval by the Architectural Control Committee of any proposed Change in the Existing State of Property, the proposed change shall be accomplished as promptly and diligently as possible and in complete conformity with the description of the proposed change and with any plans and specifications therefor given to the Architectural Control

Committee. Failure to accomplish the change within two (2) years after the date of approval or to complete the proposed change strictly in accordance with the description thereof and the plans and specifications therefor shall operate automatically to revoke the approval of the proposed change. If approval is thus revoked, upon demand by the Architectural Control Committee the Property shall be restored as nearly as possible to its state existing prior to any work in connection with the proposed change. The Architectural Control Committee shall have the right and authority to record a notice to show that any particular Change in the Existing State of Property has not been approved or that any approval given has been revoked.

5.7 **Estoppel Certificate.** The Association shall be authorized to, and shall, upon the reasonable request of any interested person, after confirming necessary facts with the Architectural Control Committee, furnish a certificate with respect to approval or disapproval by the Architectural Control Committee of any Change in the Existing State of Property and any person, without actual notice to the contrary, shall be entitled to rely on said certificate with respect to all matters set forth therein.

ARTICLE 6 ARCHITECTURAL CONTROL COMMITTEE

6.1 **Architectural Control Committee Membership.** The Architectural Control Committee shall consist of three (3) members, at least one (1) of whom shall be a licensed architect, a licensed contractor, a registered engineer, a professional landscape architect or a professional land planner. Members of the Architectural Control Committee shall be appointed by and shall serve at the pleasure of the Board of Managers of the Association. The Association shall promptly furnish the names and addresses of the current members of the Architectural Control Committee to any interested person.

6.2 **Action by Architectural Control Committee.** The vote or written consent of any two (2) members of the Architectural Control Committee shall constitute action by the Architectural Control Committee. The Architectural Control Committee shall report in writing all approvals and disapprovals of any proposed Change in the Existing State of Property to the Association and the Association shall keep a permanent record of all such reported action.

6.3 **Appeals.** Any action of the Architectural Control Committee may be appealed to the Board of Managers by any affected Owner. Within thirty (30) days after receipt of an appeal from an affected Owner, the Board shall conduct a hearing. Written notice of the location, date and time of the hearing shall be sent to all members of the Architectural Control Committee and all Owners, any of whom may attend and be heard at the hearing. After such hearing, the Board of Managers may overrule the

Committee on matters not involving restrictions or requirements imposed by Gunnison County or this Declaration, requirements of the Architectural Standards, or structural or environmental criteria.

6.4 Power to Employ Consultants. The Architectural Control Committee shall be empowered to employ consultants and agents as it may deem necessary to assist it in the performance of its duties. If the cost of employing such consultants exceeds the fee paid by the Owner pursuant to Section 5.4, the Owner may be required to pay such excess cost as a condition of approval.

6.5 Association Payment of Compensation and Costs. Except as provided in Section 6.4, the Association shall be obligated to pay any reasonable compensation to members of the Architectural Control Committee for actual services rendered, not to exceed submittal fees, and to reimburse the Architectural Control Committee for actual and reasonable expenses incurred and shall be entitled to utilize for such purposes the fee payable for review of proposed Change in the Existing State of Property as provided in Section 3.4 hereof, together with other funds of the Association, if necessary.

ARTICLE 7 OWNERS' ASSOCIATION

7.1 Creation of Association. Pristine Point Owners' Association, Inc., a Colorado nonprofit corporation, shall have all powers vested in a subdivision property owners' association under Colorado law and shall be governed by and shall exercise all powers and privileges and perform all duties and obligations set forth in this Declaration, the Architectural Standards and the Articles of Incorporation and Bylaws of the Association. The Association shall have the right to contract with the Master Association for the Association to perform any function which the Master Association can or does perform, or vice versa.

7.2 Maintenance of Common Elements. The Association shall maintain, repair and replace as necessary all Common Elements as defined in Section 3.4.

7.3 Road and Driveway Maintenance. The Association shall maintain and repair all roads within the Property, including snow removal and snow storage, until Gunnison County accepts such roads for plowing or maintenance. The Association shall provide snow removal from driveways on Lots. Notwithstanding the foregoing, the Owner of Lot 18 shall be solely responsible for the cost and performance of maintenance, repair and snow removal on the road which extends from the South end of the cul-de-sac of Pristine Point Drive to Lot 18.

7.4 Security Services. The Association may, if it deems it necessary or

desirable, provide police or security protection for the Property. In addition, the Association shall provide access to, and require Owners to participate in, a security system for the protection of individual residences located on the Property.

7.5 Trash Removal. The Association may, if it deems it desirable, efficient and economical, provide for regular trash collection services to the Property.

7.6 Enforce Declaration. The Association shall enforce the provisions, covenants, conditions and restrictions contained in this Declaration and the Bylaws of the Association as and to the extent hereinafter provided and as provided in the Bylaws.

7.7 Association May Take Action if Noncompliance by Owners; Compliance Expenditures. In the event of a failure by an Owner to comply with any provision of this Declaration or the Bylaws, the Association, after written notice to the Owner mailed or delivered to the Owner at the address for his Lot, shall be authorized to and shall have the power to take such action as the Association deems necessary or desirable to cause compliance with the provisions of this Declaration or the Bylaws with respect to such Owner or the Lot of such Owner, and all costs and expenses of the Association, including, but not limited to, reasonable attorneys' fees (collectively "Compliance Expenditures") shall be payable by such Owner on demand by the Association.

ARTICLE 8 OPERATION OF ASSOCIATION

8.1 Membership in Association. There shall be one (1) Membership in the Association for each Lot, which Membership shall be appurtenant to the fee simple title to such Lot. The Owner of a Lot shall automatically be the holder of the Membership appurtenant to that Lot and the Membership for that Lot shall automatically pass with fee simple title to that Lot. If fee simple title to a Lot is held by more than one party, the Membership appurtenant to that Lot shall be shared by all such parties in the same proportionate interest and by the same type of ownership as fee simple title to the Lot is held. Declarant shall be deemed to hold a Membership with respect to each Lot owned by Declarant. Voting rights of those Owners holding a Membership shall be as set forth in the Articles of Incorporation and Bylaws of the Association.

8.2 Board of Managers. The affairs of the Association shall be managed by a Board of Managers which may, however, by resolution, delegate any portion of its authority to a Committee or an Officer or Manager of the Association.

8.3 Certificate of Incorporation and Bylaws. The purposes and powers of the Association and the rights and obligations with respect to Memberships may and shall be amplified by provisions of the Articles of Incorporation and Bylaws of the Association. Such Articles and Bylaws may include any reasonable provisions with respect to corporate matters, including provisions with respect to notices, record dates and quorums for meetings of Managers and Members, but no such provisions may be inconsistent with any provision of this Declaration.

8.4 Assessments, Fines and Compliance Expenditures. Each Owner of a Lot shall be obligated to pay and shall pay to the Association, at least annually, amounts herein called Assessments, to pay such reasonable and uniformly applied fines imposed by the Association for violation of rules and regulations adopted by the Association and to pay any Compliance Expenditures as provided in Section 7.7 hereof.

8.5 Determination of Budgets; Special Assessments. The total amount required to be collected by Assessments shall be determined by the Board of Managers of the Association at least once in each year and shall be based upon a budget to be approved by the Board of Managers showing, in reasonable detail, the various matters proposed to be covered by the budget, the estimated costs and expenses of the Association, the amounts deemed necessary or desirable as a contingency reserve, capital improvement fund, maintenance and replacement fund or any other fund deemed necessary and appropriate by the Board of Managers, and the total amount required to be raised by Assessments to cover such estimated amounts. The budget shall cover all costs and expenses expected to be incurred by the Association in performing its functions or in providing services required or permitted under this Declaration. The budget may be revised by the Board of Managers as necessary from time to time. Assessments may be raised or lowered by the Board of Managers as required to meet such revised budget. The Board of Managers may also levy special assessments if deemed necessary by the Board of Managers in order to enable the Association to properly fulfill its responsibilities and/or pay its expenses.

8.6 Amount of Assessment for Each Lot. The amount of the Assessment for any Lot shall be computed by multiplying the total amount to be raised by Assessments as reflected in the budget of the Association by a fraction, the numerator of which shall be the number of "Assessment Points" for such Lot and the denominator of which shall be the total number of "Assessment Points" for all Lots then subject to this Declaration. The "Assessment Points" for any unimproved Lot owned by Declarant or others shall be one (1) and the "Assessment Points" for each improved Lot shall be three (3). The amount of the Assessment for any Lot shall not be reduced because the Lot or the Owner thereof does not receive a benefit from any costs or expenses incurred by the Association whether by choice or election of the Owner or otherwise.

8.7 **Other Matters Relating to Assessments.** Subject to the foregoing provisions, the Board of Managers of the Association shall have the power and authority to determine all matters in connection with assessments, including power and authority to determine where, when and how Assessments shall be paid to the Association and each Owner shall be required to comply with any such determinations.

8.8 **Lien for Assessments, Fines and Compliance Expenditures.** The Association shall have a lien against each Lot to secure payment of any Assessment, fine, Compliance Expenditure or other amount due and owing to the Association by the Owner of that Lot, plus interest from the date such amount was due and payable at a rate of eighteen percent (18%) per annum, plus a late charge in an amount determined by the Board of Managers of the Association, plus all costs and expenses of collecting the unpaid amount, including, but not limited to, reasonable attorneys' fees. The lien may be foreclosed in the manner of foreclosure of mortgages in the State of Colorado. The lien provided herein shall be junior to the lien of any first mortgage or first deed of trust on any Lot taken in good faith and for value and perfected by recording in the office of the County Clerk and Recorder of the County of Gunnison, State of Colorado, prior to the time of recording in said office of a Notice of Lien but shall be prior to any and all other liens. The Notice of Lien shall set forth the amount of any Assessment, fine, Compliance Expenditure or other amount due and owing to the Association, specifying the date such amount was due and payable and from which interest accrues, specifying all costs and expenses, including reasonable attorneys' fees, of collecting the unpaid amount to the date of recording of such Notice of Lien, describing the Lot affected by the lien and specifying the name or names, last known to the Association, of the Owner or Owners of the Lot.

8.9 **Right of Entry of Association Representatives.** Any agent or officer of the Association may at any reasonable hour or hours during construction or remodeling, enter and inspect any Lot as to its maintenance or improvements to determine if there has been compliance with the provisions hereof. The Association, and any agent, or officer thereof, shall not be deemed guilty of any manner of trespass for such entry or inspection. The Association may issue a certificate of completion and compliance as to any property so inspected, solely for the purposes of this Declaration.

**ARTICLE 9
ADDITIONAL REQUIREMENTS FOR LOT 18**

9.1 **General Limitations.** Use of Lot 18 and any construction thereon is subject to the provisions of Resolution No. 14, Series 1995, of the Board of Commissioners of Gunnison County, Colorado.

9.2 **Specific Limitations.** In addition to any other provisions of this Declaration, use of Lot 18 and any construction thereon is subject to the following

special limitations. In the event of a conflict between the general provisions of this Declaration and the following special limitations, the following limitations shall govern the use of Lot 18. The following limitations are imposed in order to minimize the impact of any structure on Lot 18 upon users of Meridian Lake (also known as Long Lake).

9.2.1 The maximum size of the house shall not exceed 3,500 square feet of finished living area for the main and upper floor.

9.2.2 The design of the house shall be horizontal in elevation (lower and wider rather than higher) to limit the apparent height. The house will be set into the existing grade by stepping the structure with the site.

9.2.3 Grading around the homesite shall prohibit unnecessary fill.

9.2.4 The maximum height above the natural grade facing Meridian Lake shall not exceed 25 feet.

9.2.5 Traditional, natural-colored log siding shall be used.

9.2.6 Painted surfaces shall be earth tones.

9.2.7 The residential structure shall be no closer than 175 feet from the edge of Meridian Lake, based on the Site Plan and Site Cross Section, Sheet A-1, dated 11-28-95, Attachment 17 to Preliminary Plan Submittal to Gunnison County.

9.2.8 Use of hip rather than gable roofs is encouraged. Gables, when used, shall be hipped to eliminate the peak of the gable.

9.2.9 Receptacles for construction trash shall be provided for daily clean-up during construction.

9.2.10 Debris fencing capable of retaining blowing construction trash shall be provided during construction.

9.2.11 Construction debris and receptacles shall be promptly removed from the site at completion of construction.

9.2.12 Landscaping utilizing native tree species at least ten (10) feet tall shall be utilized between the homesite and Meridian Lake to partially screen the residential structures from views from the lake, consistent with wildfire prevention setbacks.

9.2.13 Existing vegetation on the side of the residential structure farthest from Meridian Lake shall be substantially retained.

9.3 **Perpetual Deed Restriction.** The restrictions contained in this Article 9 shall be specifically referenced in perpetuity in every deed or other instrument of conveyance which conveys any interest in Lot 18.

ARTICLE 10 SPECIAL NOTICES

10.1 **Geologic Conditions.** In accordance with the requirements of Gunnison County, prospective purchasers of Lots are notified that the following studies have been performed regarding the Property which reveal geological conditions relevant to use of and construction of improvements upon the Property: "Surficial Geology Investigation Report and Mapping" dated November 5, 1992; "Geologic Hazard Review" dated June 7, 1994; "Snow Avalanche Review" dated August 3, 1995 (all prepared by Lincoln DeVore, Inc.); and "Review Comments" by Colorado Geological Survey dated June 19, 1996. Copies of the studies named are attached to this Declaration as EXHIBITS B, C, D and E.

10.2 **Geologic Considerations.** Issuance of building permits by Gunnison County for construction of improvements on the Property will require compliance with the site-specific recommendations contained in "Geologic/Geotechnical Considerations, Pristine Point at Crested Butte, Colorado, Lots 1 - 18". A copy of this report is attached to this Declaration as EXHIBIT F.

10.3 **Indemnity of Gunnison County.** As provided on the Plat, by accepting conveyance of a Lot, Owners covenant to indemnify and hold Gunnison County harmless from any liability related to geologic hazards, if any. This covenant shall run with the land.

ARTICLE 11 RESERVATION OF LOT 17 FOR AFFORDABLE HOUSING

11.1 **Declaration.** In order to provide owner occupied long-term housing for persons who live and work within the local community but who cannot afford to purchase housing at market prices, Declarant subjects Lot 17, and any subdivisions thereof, to the following special restrictions which shall be perpetuated by the deed restrictions described below.

11.2 **Creation of Units.** Subject to approval by Gunnison County, two duplex buildings, each containing two dwelling units containing no less than 600 square feet nor more than 1,600 square feet of living area, shall be constructed on Lot 17. Upon approval by Gunnison County, Lot 17 may be subdivided into two lots for this purpose. Each of the four dwelling units thus created shall be offered for sale as Affordable Housing Units to Qualified Purchasers, as defined in Section 11.3. When sold, title to the Affordable Housing Units shall be conveyed by a deed which contains a restriction limiting resale of the Affordable Housing Units to Qualified Purchasers.

11.3 **Qualified Purchaser.** To be eligible to purchase an Affordable Housing Unit, a person must be a current resident within Gunnison County and meet the criteria set out in this Section 11.3. If the prospective Qualified Purchaser of an Affordable Housing Unit is more than one person, all persons who will take title to the Affordable Housing Unit must meet the criteria set out in this Section 11.3. For the purpose of this Section, a "current resident" is any person who has resided within Gunnison County for at least six (6) months who has demonstrated to the satisfaction of the Board of Managers that he or she intends to establish permanent residency within Gunnison County.

11.3.1 Eighty percent (80%) of all income of a Qualified Purchaser must be "earned income" earned within the boundaries of Gunnison County. "Earned income" shall be defined by Internal Revenue Code Section 32(c)(2), as amended.

11.3.2 A Qualified Purchaser may not own other real estate at the time of closing on a purchase of an Affordable Housing Unit. Prospective Qualified Purchasers who own real estate must sell such real estate to an unrelated person or legal entity in which the prospective Qualified Purchaser has no ownership interest, for not less than fair market value, prior to the closing of the purchase of an Affordable Housing Unit. Notwithstanding the foregoing, if a prospective Qualified Purchaser owns an undivided interest in real estate, he or she may convey that interest to the remaining owner(s) with or without receiving consideration. No person may own any interest in more than one Affordable Housing Unit, nor may the spouse of the owner of an Affordable Housing Unit own any interest in another Affordable Housing Unit.

11.3.3 The Qualified Purchaser must certify under oath that he or she shall occupy the Affordable Housing Unit as a year-round permanent residence. Rental of Affordable Housing Units shall not be permitted, except that the Qualified Purchaser may rent space within the Affordable Housing Unit to no more than two (2) co-occupants, so long as the Qualified Purchaser simultaneously occupies the premises with the co-occupants.

11.3.4 If an otherwise Qualified Purchaser cannot qualify for institutional financing of the purchase of an Affordable Housing Unit, the Qualified Purchaser may obtain a cosigner for such financing; provided, however that the Qualified Purchaser must be a record owner and the occupant of the Affordable Housing Unit.

11.4 Initial Sale Procedure.

11.4.1 When Affordable Housing Units are constructed and become available for sale, the party offering such units for sale shall place an announcement in the legal publications section of the official newspaper of the Town of Crested Butte, Colorado announcing a description of the Affordable Housing Units offered for sale, the offering price and the date upon which such units will become available for sale and occupancy; the criteria for Qualified Purchasers; and that those persons meeting the criteria for Qualified Purchasers may make an offer on the Affordable Housing Units for a period of thirty (30) days following the date of publication of the notice. The offers shall be addressed to the Association at the address set forth in the announcement. A representative of the seller with authority to enter into a contract shall be available during the thirty (30) day offer period.

11.4.2 In the event that contracts for purchase and sale of all of the Affordable Housing Units are not executed as a result of the initial offering, or in the event that all of the Affordable Housing Units are not sold as a result of such contracts, the seller shall continue to place announcements of the availability of Affordable Housing Units until all of the Units have been sold.

11.4.3 In the event that the number Qualified Purchasers who make offers exceeds the number of available Affordable Housing Units, Qualified Purchasers shall be chosen by the Association by lottery. The names of all Qualified Purchasers shall be drawn, assigned a number and placed in that order by priority of eligibility. All Qualified Purchasers will be given the opportunity to purchase the Unit of their choice in the order drawn until all Units are sold.

11.5 Resale of Affordable Housing Units. Following the initial sale of an Affordable Housing Unit, no owner may sell such a Unit to a person who does not meet the criteria for Qualified Purchasers. Any conveyance of an Affordable Housing Unit which violates the prohibition of this Section 11.5 shall be void.

ARTICLE 12
COVENANTS OF MASTER ASSOCIATION

The provisions contained in the Declaration of Restrictions, Covenants, Easements, Reservations, and Architectural Control recorded by Meridian Lake, Inc. on December 27, 1993 under Reception No. 298306 in the records of Gunnison County, Colorado, continue to apply to the Property. To the extent that provisions of said Declaration are in conflict with the provisions of this Declaration, the more restrictive provision shall apply.

ARTICLE 13
MISCELLANEOUS

13.1 Duration of Declaration. All provisions contained in this Declaration shall continue and remain in full force and effect until January 1, 2010, and thereafter for successive periods of ten (10) years each unless this Declaration is amended or repealed in accordance with paragraph 13.2.

13.2 Amendment of Declaration. Any provision contained in this Declaration may be amended or repealed, or additional provisions may be added to this Declaration by the recording of a written instrument or instruments specifying the amendment or the repeal, executed by the Owners, as shown by the records in the office of the County Clerk and Recorder of the County of Gunnison, State of Colorado, of not less than a majority of the Lots then subject to this Declaration and approved by Gunnison County. Approval by Gunnison County may not be unreasonably withheld.

13.3 Effect of Provisions of Declaration. Each provision of this Declaration shall be deemed incorporated in each deed or other instrument by which any right, title or interest in any of the Property is granted, devised or conveyed, whether or not set forth or referred to in such deed or other instrument, and each Owner shall be bound by the terms of this Declaration.

13.4 Enforcement and Remedies. The failure of any Owner to comply with the provisions of this Declaration will give rise to a cause of action in the Declarant, the Association in the name of the Association on behalf of the Association and/or the individual owners, in any Owner or in Gunnison County for the recovery of damages or injunctive relief, or both. If court proceedings are instituted in connection with the rights of enforcement of remedies provided in this Declaration, the prevailing party shall be entitled to recover its costs and expenses in connection therewith, including, but not limited to, reasonable attorneys' fees.

13.5 Limited Liability. Neither Declarant, the Association, the Board of Managers of the Association, the Architectural Control Committee, nor any member,



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EXHIBIT A



PARCEL ONE:

A tract of land within NW1/4NW1/4 of Section 22, Township 13 South, Range 86 West, Sixth Principal Meridian, Gunnison County, Colorado, said tract being more particularly described as follows:

Commencing at the Northwest corner of said Section 22; thence South 00°26'30" West 1180.49 feet along the westerly boundary of said Section 22 to the POINT OF BEGINNING for the herein described tract (said POINT being the northwest corner of the property conveyed by deed from Lakecrest Corporation to Pristine Point, Inc. as recorded in Book 711 at page 760 of the records of Gunnison County); thence the following courses around said tract;

1. South 37°21'32" East 130.52 feet along the north boundary of said property;
2. North 00°26'30" East 335.62 feet more or less to a point on the southwesterly edge of the existing road known as County Road No. 811 (Washington Gulch Road);
3. North 27°09'48" West 172.65 feet along said southwesterly edge to a point on the westerly boundary of said Section 22;
4. South 00°26'30" West 385.48 feet along said westerly boundary to the POINT OF BEGINNING.

Bearings are based on assumed bearing of South 00°26'30" West for the westerly boundary of the NW1/4 of Section 22.

PARCEL TWO:

A tract of land within NW1/4 and NE1/4SW1/4 of Section 22, Township 13 South, Range 86 West, Sixth Principal Meridian, Gunnison County, Colorado, said tract being more particularly described as follows:

Commencing at the Northwest corner of said Section 22; thence South 00°26'30" West 1180.49 feet along the westerly boundary of said Section 22 to the POINT OF BEGINNING for the herein described tract; thence the following courses around said tract;

1. South 00°26'30" West 1468.99 feet along said westerly boundary to the West quarter corner of said Section 22;
2. North 89°32'32" East 1333.04 feet along the southerly boundary of said NW1/4 of Section 22 to the northwest corner of said NE1/4SW1/4;

3. South 1329.90 feet along the westerly boundary of the said NE1/4SW1/4 of Section 22 to its southwest corner;
4. East 1335.34 feet along the southerly boundary of said NE1/4SW1/4 of Section 22 to its southeast corner;
5. North 00°06'00" West 858.50 feet along the easterly boundary of said NE1/4SW1/4 of Section 22 to the southeast corner of Meridian Lake Park Filing No. One, a subdivision with a plat thereof recorded on December 27, 1973 and bearing Reception No. 298305;
6. South 78°23'33" West 368.01 feet along the southerly boundary of said Filing No. One;
7. Along the arc of a curve to the LEFT a distance of 166.84 feet said curve having a radius of 210.00 feet and a long chord of North 34°22'05" West 162.49 feet, along the westerly boundary of said Filing No. One;
8. Along the arc of a curve to the LEFT a distance of 31.49 feet said curve having a radius of 15.00 feet and a long chord of South 62°44'13" West 26.02 feet, along the westerly boundary of said Filing No. One;
9. Along the arc of a curve to the LEFT a distance of 43.27 feet said curve having a radius of 91.00 feet and a long chord of South 11°01'09" East 42.86 feet, along the westerly boundary of said Filing No. One;
10. South 65°21'31" West 60.00 feet along said westerly boundary of said Filing No. One;
11. Along the arc of a curve to the RIGHT a distance of 100.39 feet said curve having a radius of 151.00 feet and a long chord of North 05°35'44" West 98.55 feet, along the westerly boundary of said Filing No. One;
12. Along the arc of a curve to the LEFT a distance of 22.20 feet said curve having a radius of 15.00 feet and a long chord of North 28°57'27" West 20.23 feet, along the westerly boundary of said Filing No. One;
13. North 71°21'55" West 51.43 feet along said westerly boundary of said Filing No. One;
14. Along the arc of a curve to the RIGHT a distance of 269.13 feet said curve having a radius of 380.00 feet and a long chord of North 51°04'33" West 263.54 feet, along the westerly boundary of said Filing No. One;

15. North 30°47'11" West 247.55 feet along said westerly boundary of said Filing No. One;
16. Along the arc of a curve to the LEFT a distance of 116.69 feet said curve having a radius of 250.00 feet and a long chord of North 44°09'28" West 115.63 feet, along the westerly boundary of said Filing No. One;
17. North 57°31'44" West 81.77 feet along said westerly boundary of said Filing No. One;
18. Along the arc of a curve to the RIGHT a distance of 232.78 feet said curve having a radius of 700.00 feet and a long chord of North 48°00'08" West 231.71 feet, to the northwest corner of said Filing No. One;
19. North 38°28'32" West 212.00 feet along the westerly boundary of Meridian Lake Park Filing No. Two, a subdivision according to the plat thereof filed in Gunnison County records on December 1, 1975;
20. Along the arc of a curve to the LEFT a distance of 82.68 feet said curve having a radius of 74.02 feet and a long chord of North 70°28'32" West 78.45 feet, to the southwest corner of said Filing No. Two;
21. Along the arc of a curve to the RIGHT a distance of 208.46 feet said curve having a radius of 143.71 feet and a long chord of North 60°55'02" West 190.66 feet;
22. North 19°21'32" West 211.00 feet;
23. South 84°03'28" West 267.00 feet;
24. North 44°21'32" West 195.00 feet;
25. North 59°21'32" West 297.00 feet;
26. North 37°21'32" West 514.81 feet to the westerly boundary of said NW1/4 of Section 22 and the POINT OF BEGINNING of the herein described tract.

Bearings of unrecorded boundaries are based on recorded basis of bearing shown on plat of Meridian Lake Park No. One.



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EXHIBIT B

Lincoln DeVore, Inc.
Geotechnical Consultants
1441 Motor St.
Grand Junction, CO 81505

TEL: (303) 242-8968
FAX: (303) 242-1561

November 5, 1992

Mr. Rich Weaver
Del-Mont Consultants
P.O. Box 486
Montrose, CO 81402

Re: Surficial Geology Investigation
Meridian Lake, Filing #4 Subdivision
(Pristine Point at Crested Butte)
Gunnison County, Colorado

Dear Mr. Weaver:

At your request, personnel from this office have completed a ground reconnaissance of the above referenced site in order to determine the general geologic conditions and constraints relating to construction on the site. This area was previously investigated and a Reconnaissance Geology Map and Section was prepared by Mr. James E. Sharpe, June, 1973. Information from this study, the published Colorado Geological Survey Information Series #5, Geologic Hazards in the Crested Butte-Gunnison Area, James M. Scule, 1976 and unpublished Geologic Mapping of the Crested Butte and Gothic Quadrangles, Edward M. Morris, 1977, was utilized for portions of this report. Following are our findings.

TRACT LOCATION & DESCRIPTION

The tract lies in a portion of the West Half of Section 22, Township 13 South, Range 86 West of the 6th Principal Meridian, Gunnison County, Colorado. The tract is bounded along the east and northeast by the Washington Gulch Road and on the southwest and north by the Gunnison National Forest. The tract contains approximately 51 acres.

The topography of the tract is quite variable, ranging from the fairly flat flood plain of Washington Gulch to the moderate slopes of glacial moraine along the Washington Gulch Road, to the steep slopes of the southern-most extension of Anthracite Mesa. The tract has an extremely variable slope, with the portion southwest of Washington Gulch Creek steeply sloping toward the northeast and the tract portion northeast of Washington Gulch Creek exhibiting moderate to steep slopes toward the southwest. The tract exhibits an elevation range of approximately 9325 feet to 9675 feet above sea level, using the U.S.G.S. 7-1/2 minute mapping of the Gothic quadrangle.

The tract has been used for limited livestock grazing and has not been subject to on-site irrigation. The tract is generally drained inward toward the Washington Gulch Creek from the southwest and northeast and eventually drains off-site to the southeast via Washington Gulch Creek. Washington Gulch Creek eventually enters the Slate River near the town of Crested Butte, Colorado. Surface drainage is fair to good and the subsurface drainage is fair to poor. Twenty-one areas of water seepage and springs were indicated on the reconnaissance geology mapping prepared by James Sharpe, June, 1973. This study, by Lincoln DeVore, was performed in October and most of the spring seepage areas were not active but, evidence of fairly recent seepage was observed across the tract.

The tract has experienced some development within the last 15 years. This development has included the construction of sewage treatment pond near the extreme eastern portion of the tract, which services Meridian Lake Park. Filing No.s 1 and 2. An earth-filled dam across Washington Gulch Creek has been constructed and has been repaired in the southern portion of the tract. The construction materials for this dam came from a variety of sources, to include the road cut up Anthracite Mesa to Meridian Lake. Approximately 50 % of the existing road length is presently on Gunnison National Forest land. This roadway was cut without the benefit of specific geological or geotechnical criteria and exhibits limited amounts of road fill. The cut slopes are relatively steep and have been unmaintained for several years. The drainage of the existing roadcut does not appear to create excessive erosion problems.

GENERAL GEOLOGY

The general geology of this area consists of a thick series of moderate to moderately steeply dipping sedimentary beds of the upper portion of the Mancos Shale Formation, covered with thin to thick deposits of glacial moraine and colluvial morainal materials.

The upper portion of the Mancos Shale Formation is described as a dark gray, indurated, laminated, silty to sandy black to gray-black marine shale. Several thin to thick beds of silty and argillaceous sandstone are within this portion of the Mancos Shale Formation. Some sandy limestones and carbonaceous zones within the shale are evidenced in the formation exposures. The Mancos Shale contains very little amounts of montmorillonite clays and is not generally considered to be highly expansive but, the formation does contain clays which exhibit low to moderate expansive potential.

The Mancos Shale Formation, in the Elk Mountains, has been intruded with quartz monzonite porphyry, which has resulted in sill and laccolith structures. No evidence of a sill or laccolith outcrop was observed on this site during the field reconnaissance. The area-wide influence of laccoliths and sills within several miles of this site has produced a metamorphosis of the shale, which can grade toward a hornfels rock type. In many cases of metamorphosed shale, the expansive potential of the formational clays has been reduced, to produce very little to no expansion.

The Mancos Shale Formation is moderately to well weathered in the exposures along Washington Gulch Creek. The shale is moderately weathered in exposures along the ridge of Anthracite Mesa, adjacent to Meridian Lake. The exposures in the vicinity of Meridian Lake were utilized for strike and dip measurements, with measurements for strike ranging from north 36 west to north 42 west and dips ranging from 31 to 40 degrees southwest. The shale exposures along Washington Gulch Creek exhibited some distortion due to slope creep and, while generally consistent with the measurements obtained up near Meridian Lake, generally appeared to be somewhat distorted and indistinct due to slope movement. Jointing within the shale was observed to follow the regional patterns and, as mapped by James Sharpe in 1975, the statistical average of the primary joints in the area are: north 23 west-75 degrees northeast; north 60 east-67 degrees northwest; north 10 degrees east-43 degrees southeast.

Seismic events have occurred near the Crested Butte area. These events were evaluated as having Richter Magnitudes up to and including 4.7, with little or no reported damages. Utilizing the criteria of the Uniform Building Code, structures in this area of the State of Colorado would be designed under seismic zone I with Factor $S_3 = 1.5$ Section 2312, Method D.

SITE GEOLOGY

The basic topographic forms within the proposed subdivision are the result of glacial periglacial activities. The general valley shape and slope shape of the Washington Gulch Area is a typical glacial U-shaped valley with the lower valley floor comprised of gently rolling to hummocky glacial moraine deposits. These moraine deposits are penetrated by the Washington Gulch Creek. The slope up to Anthracite Mesa and Meridian Lake is fairly steep, quite even and significant topographic features on the slopes are difficult to discern due to the thick forest vegetation on the majority of the slopes.

The glacial deposits are generally concentrated along the Washington Gulch Road and tend to be somewhat reworked by some ancient slope failure activity and by stream action in the southern half of the project area. The glacial deposits are somewhat jumbled and appear to be a combination of poorly developed terminal and lateral moraines, which were apparently deposited by a fairly rapidly retreating glacier.

The areas adjacent to the Washington Gulch flood plain contain varying amounts of colluvial material, which is mostly composed of moraine deposits and weathered Mancos Shale which has been subjected to some stream reworking and down-slope soil movement. These colluvial deposits may exhibit some localized stratification but are generally quite jumbled and unbedded. The composition of the colluvial materials tends to include more rock and boulder sizes on the lower slopes of Anthracite Mesa and north-east of Washington Gulch Creek. The upper slopes of Anthracite Mesa generally exhibit decreasing amounts of moraine-derived material in the colluvium and increasing amounts of weathered Mancos Shale fragments.

The upper slopes of Anthracite Mesa, near Meridian Lake, are composed of moderately weathered exposures of Mancos Shale, which has been previously scoured by ancient glacial action and is generally undergoing in-place weathering. Some exposures of Mancos Shale can be observed along the Washington Gulch Creek however, many of these exposures exhibit distortion due to minor slope failures in this area.

A large number of slope failures are present on this site. These slope failure features range from accelerated soil creep to slumps of the colluvial and glacial soils to small circular and translational failures in the Mancos Shale Formation. Precise definition of the individual failures is normally very difficult to determine and will not be attempted in a general report such as this. In general, the mitigation efforts for site development and construction is quite similar for the variety of relatively small failure features, such as are present on this site.

GROUND WATER

The only permanent ground water noted in this area is within the Washington Gulch Creek flood plain. This ground water level tends to rise and fall only a few feet, on a seasonal basis, depending upon the flow level of Washington Gulch Creek and the contributions from the seasonally saturated valley wall soils, due to surface and subsurface flow in the colluvial materials.

Several springs were identified by James Sharpe in 1973, and in general, these spring areas can still be identified to date. The flow of these springs is enormously affected by amounts of snowfall, the season of observation, and any recent precipitation events. Snowfall was reasonably high during the mapping period in 1973 and it is believed that the spring locations would be representative of fairly wet years. These spring locations probably represent surface expressions of outflow from seasonal free water in the colluvial and moraine soils and possible migration through fractures of the weathered Mancos Shale.

Due to the lateral and, in the lower portions of the site, possibly upward direction of seepage flow on the site, some areas may be in a near "quick" condition during the runoff months and early summer months of the year. Some soils will tend to lose shear strength and may exhibit on-going slope failures which could be aggravated by construction excavation.

SURFACE WATER

At the time of investigation, the surface waters were confined to Washington Gulch Creek, with minor in-flow from a drainage running through Meridian Lake Park Filing #1 and entering the site immediately below the earth-filled dam. In addition, surface water is present in Meridian Lake. During the winter and spring months, surface waters would be expected on most of the slopes due to snow melt and associated runoff. Existing road construction and future road and building construction will directly affect the snow melt runoff direction and concentrations.

Lincoln DeVore has not been informed as to whether the 100-year flood plain (or other appropriate flood frequency analysis) of Washington Gulch Creek is to be addressed for this site. Some analysis was completed as part of the design process for the earth-filled dam which presently exists on this site. Avoidance of flood plains is recommended for all construction related to this development.

ECONOMIC GEOLOGIC DEPOSITS

Numerous mining activities for precious minerals has occurred in the upper reaches of Washington Gulch, to include placer gold mining. No evidences of placer operations were noted on the site and are not expected on or immediately adjacent to this site.

Extraction of bituminous and anthracite coal has occurred in the lower portions of the Mesa Verde Formation, which is exposed on



Anthracite Mesa, north of this site and across the Slate River, to the west of this site. No deposits of coal were found or are anticipated on this site.

Some small gravel pits have been worked along the side of Washington Gulch Road, in the glacial moraine deposits. These deposits tend to be of relatively poor quality, having large amounts of fine materials. Excessive processing is required to produce aggregates of concrete, asphalt, or high-quality road base aggregate. Generally speaking, the on-site colluvial and glacial moraine deposits would produce materials suitable for embankment-type fills or other unclassified fills. Some areas of the glacial moraine materials have been utilized for road construction and road surfacing but, tend to be of medium to low quality and quite variable. It is anticipated that these materials would be utilized for a portion of the road sections to be constructed or completed in this subdivision.

No other economic minerals or deposits are known or anticipated to exist on this site.

GEOLOGIC HAZARDS

This tract is underlined by the Mancos Shale Formation, which is known to contain clays which exhibit expansive properties when moisture is added and, in some circumstances, to undergo limited shrinkage if allowed to dry out. Structure foundations and roads which are near or in contact with the weathered Mancos Shale Formation should be designed with the expansive characteristics as part of the criteria.

The majority of the site exhibits either existing slope failures or potentially unstable slopes, primarily in the glacial and colluvial soils near the Washington Gulch Creek banks and the steeper slopes, present on the majority of the site. The majority of the slopes appear to be in a relatively stable condition at the time of the investigation. However, great care is required to design subsurface drainage and cuts and fills in order to minimize the possibility of a large-scale movement or small failures which would present maintenance problems.

We recommend that buildings be carefully placed on the sites, be well-drained, and that all cuts and fills be controlled to avoid inadvertent triggering of hillside soil creep or mass movement.

The area adjacent to Washington Gulch should be considered as having a permanent high water table and may be classified as wetlands. Construction in this area must be very carefully



accomplished in order to provide stable foundations for any roads, driveways, or buildings. During some portions of the year, primarily during late winter and the spring months, lateral flow of ground water should be expected in the soils immediately adjacent to the Washington Gulch Creek. This lateral flow of ground water will tend to lower slope stability and will require specific design for any construction placed in these areas.

Ground water flows on the lower, middle, and upper slopes of Anthracite Mesa will be seasonal in nature and will normally be in the form of seepage which will flow along the surface of the formational Mancos Shale, in fissures in the formational shale and any strata changes within the colluvial materials. Seepage could be severe enough to present problems in construction, if construction is undertaken during wetter seasons. Such seepage will also affect the long-term stability of cuts and fills placed in the colluvium and may affect any buildings placed in this area. As a result of the seepage potential in this subdivision, subsurface peripheral drain systems may be required for specific structures and some subsurface drainage may be required for cut and fill slope stability.

Steep slopes in the Crested Butte area commonly exhibit snow slide and avalanche potential. Actual definition of this potential is very difficult to accomplish. The majority of mapping is normally based upon previous snow slide or avalanche activity in the area.

Two avalanche scars were noted in the reconnaissance geology the James Sharpe, June 1973. These scars are relatively small, indicating that the potential for snow slide or avalanche could be either increased or decreased by on-site construction. Snow plowing practices and other activities influenced by development. Based on the on-site evidence for snow slides and avalanches on this site, it is believed that individual structures in development must be designed and constructed based on individual hazard studies.

The individual structures, site development, and maintenance practices is believed to have the largest effect on the actual snow slide activity both on-site and affecting adjacent sites. Based upon our field observations and research utilizing air photos and previous activity in the area, the snow slide and avalanche hazard is not sufficient to preclude development on this site, but may affect the actual construction of structures, roads, and vegetation clearing practices.

No evidences of rockfall hazard were observed on this site.



The Mancos Formation and certain igneous intrusions are known to produce varying amounts of radon gas. Individual measurements on undeveloped land have not been undertaken and are normally judged to be a relatively poor indicator of the potential for radon gas production. It is recommended that all building construction be undertaken with radon gas mitigation procedures included in the building design. Such mitigation procedures would probably include radon gas barriers and construction appropriate to minimizing penetration of radon gas into the living areas of structures.

It is believed that all pertinent points have been addressed. If any further questions arise or if LINCOLN-DeVORE can be of any further service, please do not hesitate to contact this office at any time.

Respectfully submitted,

LINCOLN DeVORE, Inc.

A handwritten signature in cursive script, appearing to read "Edward M. Morris".

Edward M. Morris EIT
Engineering Geologist

Reviewed By:

A handwritten signature in cursive script, appearing to read "George D. Morris".

George D. Morris, PE



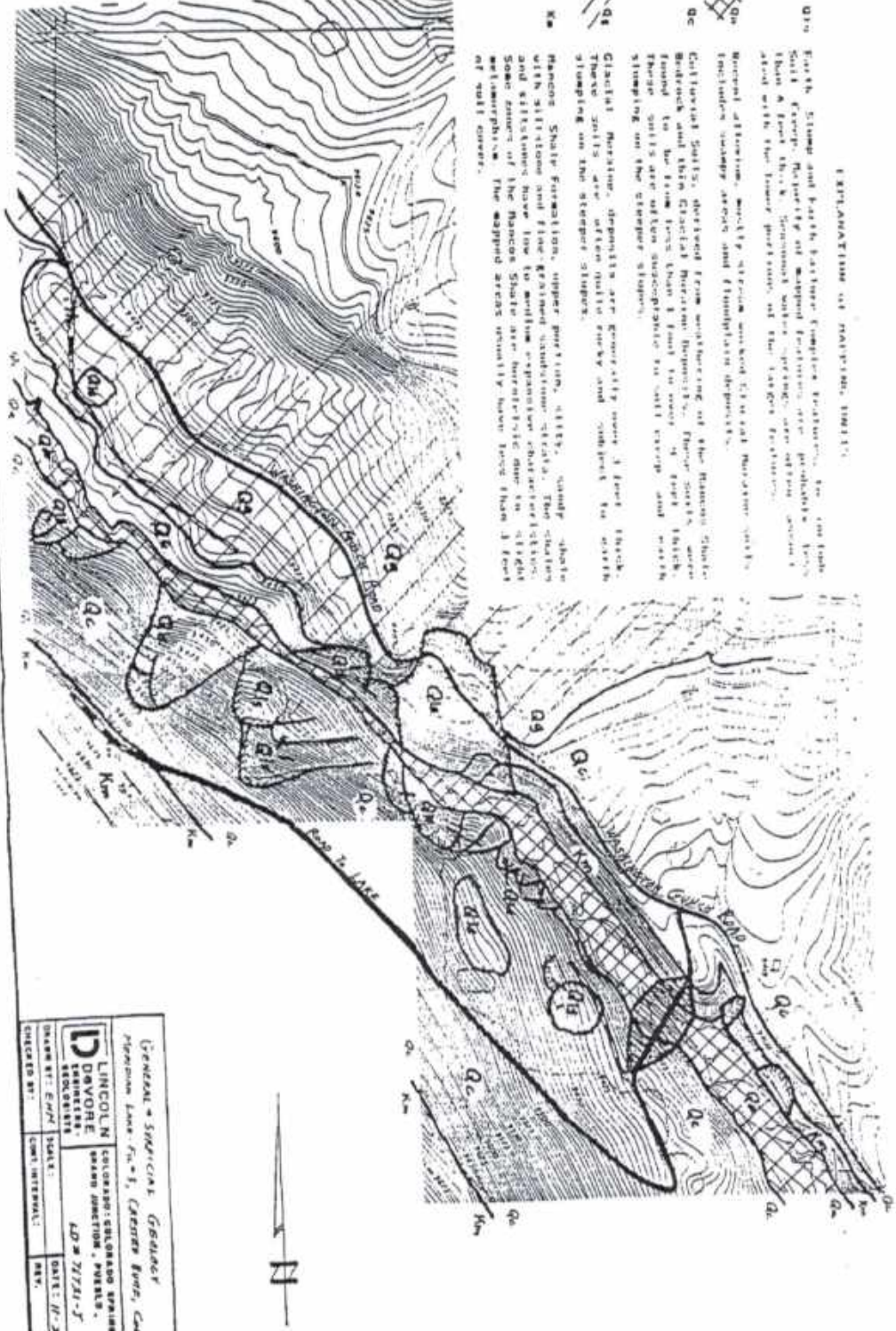
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EXPLANATION OF SYMBOLS, 1981:

- Q10 Earth Slump and Earth Failure Complex Features, for the Lake Salt Flats. Part of mapped features are probably from Basin & Range thrust. Terminal sand dunes are often associated with the lower part of the Basin & Range features. Recent alluvium, mostly stream channel fill and terrace deposits, including sandy areas and fluvial deposits.
- Qc Colluvial Sands, derived from weathering of the Mancos Shale. Includes and thin Clastic River Deposits. These sands were found to be from less than 1 foot to over 100 feet thick. These sands are often susceptible to soil creep and earth slumping on the steeper slopes.
- Qa Clastic Material, deposits are generally more than 1 foot thick. These sands are often quite fine and subject to earth slumping on the steeper slopes.
- Ka Mancos Shale Formation, upper portion, clay, sandy shale with siltstone and fine-grained sandstone shales. The shales and siltstones have low to medium expansion characteristics. Some zones of the Mancos Shale are highly silty due to slight metamorphism. The mapped areas usually have less than 1 foot of soil cover.



General & Special Geology	
Mancos Lm. r. 1, (Crested Butte, Ca)	
D	LINCOLN
DEVOIRE	COLGARD-GRONROD STRAIBS,
RENESSANCE	WASH JUNCTION, PUEBLS,
RENESSANCE	AD 27731-7
DRAWN BY: EPH	SCALE:
CHECKED BY:	DATE: 11-21-92
CONT. INTERVAL:	REV.

DECLARATION OF PROTECTIVE COVENANTS FOR PRISTINE POINT AT CRESTED BUTTE



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EXHIBIT C





Lincoln DeVore, Inc.
Geotechnical Consultants
1441 Motor St.
Grand Junction, CO 81505



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TEL: (303) 242-8988
FAX: (303) 242-1581

June 7, 1994

Mr. Rick Weaver
Del-Mont Consultants, Inc.
P.O. Box 486
Montrose, CO 81402

RE: Geologic Hazard Review
Pristine Point at Crested Butte
Gunnison County, Colorado

Dear Mr. Weaver:

At your request, personnel of Lincoln-DeVore have reviewed the written comments from Joanne Williams of Gunnison County, dated September 24, 1993. In particular, the Soils/Topography/Geology, Item 1 of the Environmental Land Use Policies and Items within the findings and recommendations sections have been reviewed in order to prepare this report.

The Lincoln-DeVore report entitled Surficial Geology Investigation, dated November 5, 1992, identified a number of geomorphic features which may place limitations on the site, as regarding present and future residential development uses. The purpose of the original geologic study was not to provide specific design perimeters, which falls within the realm of a geotechnical study but, to identify existing and potential hazards which may influence development and future use of the tract. The geologic study was conducted and reported in a manner consistent with the intent of specific legislation, commonly referred to as Colorado Senate Bill No. 35.

Development/Sketch Plan

The Sketch Plan, prepared by Del-Mont Consultants dated December 3, 1992 and revised January 18, 1994, incorporates the information contained in the Surficial Geology Investigation conducted by Lincoln-DeVore, dated November 5, 1992. In general, new road construction, lot placement and general building envelopes shown on the plan have been placed in a manner which would minimize the effect of geologic constraints or, in several instances, avoid them entirely.

The road, which crosses the existing earthfill dam crest and traverses up the slope to overlook Meridian Lake, has been in place for over 13 years. For this period of time, the road cut

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Pristine Point, Crested Butte, CO
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has been essentially unmaintained and remained a rough-cut road. During Lincoln-Devore's field observations, conducted in October of 1992, the road cuts and fills were observed to have suffered very little degradation due to natural erosion processes, man-made drainage modifications or actual slope failures. Some small areas of active soil creep were observed in the exposed cut sections. These areas of active soil creep appear to be limited to less than 2 feet in thickness along the road cut. During the field observations, the road was driven utilizing a regular 2 wheel drive, short wheel base car with 13 inch tires. Only two areas of careful negotiation by this car was required, due to rather prominent drainage control furrows and ridges which are spaced along the road length. The condition of this unmaintained road cut and fill indicates the slopes, while being potentially unstable under some instances, do not appear to be extremely sensitive to slope failure for the existing amount of cut and fill.

Expansive Clays

The entire site is underlain by the Mancos Shale Formation which is considered to be bedrock in this area. The clays of the Mancos Shale in this area have a relatively low potential for expansion which will probably affect building foundations placed on Lots 1 through 11 and 18. It is believed the building envelopes on Lots 10 through 17 are underlain by significant thicknesses of glacial moraine which may separate the building foundations from the expansive clays of the Mancos Shale Formation.

At this time Lincoln-Devore has not been provided with copies of any of the foundation/building plans and is, therefore, not informed as to the precise wall or column loading planned within the buildings. Therefore, three foundation types which could be utilized for residential buildings are recommended, based upon our experience in this area. The choice between these foundation types depends upon the internal loading of the foundation members and the amount of excavation planned to achieve the finished lower elevations.

The three foundation types preliminarily recommended are as follows:

1. The voided wall on grade foundation system with the stem wall resting directly on the Shale Formation.
2. The isolated pad and grade beam foundation system in which the grade beam is voided and loads are transferred to the isolated pads.
3. The drilled pier and fully voided grade beam system with the loads transferred to the piers.

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These foundation types have been routinely utilized in the Crested Butte area and throughout the State of Colorado in areas where clays with a relatively low potential for expansion have been encountered.

Soil Creep

Soil Creep is defined as "slow, continuous, inelastic deformations occurring in the soil body under the action of a load...". The applied load is often the soil mass. More specifically, soil creep is limited to surface creep of the soil layer and, to a limited degree, the upper 1 to 3 feet of the weathered rock strata. The term does not include deep soil mass movements, often on the order of 20 to 100 feet in thickness. Deep soil mass movements are rather easily defined by soil mechanics methods, considering time-dependence as a factor. A detailed discussion of Soil Creep mechanics is presented by Adrian E. Scheidegger, PHYSICAL ASPECTS OF NATURAL CATASTROPHES, 1975, Elsevier Scientific Publishing, Amsterdam, Holland.

The term, "soil creep", can be applied to most slopes in the Elk Mountains. The actual severity of soil creep is dependent upon a large number of factors, to include but not limited to: slope angle, soil constituents, soil structure, soil consistency, soil moisture content, slope modifications (natural or man-made) externally applied loads (natural or man-made) and vegetation type and amount.

The qualitative classification of soil creep on this tract can be described as low to moderate. A quantitative classification of soil creep on this tract can be somewhat difficult to arrive at. Each site, with the presently unknown amount of future man-made, applied loads and cut & fill, will have a marked influence on the amount of soil creep which must be dealt with.

It is anticipated the design and construction principles will utilize drainage provisions to improve the slope conditions and decrease future soil creep. Small scale retainage features as actual control elements, will probably be utilized in conjunction with most cuts and fills. Up to a point, building foundations could be reasonably designed for such retainage. It is not anticipated that concrete walls would offer a practical, economical or esthetically pleasing solution.

A large number of retainage systems, utilizing wood cribbing, small rock walls built of imported rocks, boulders and preformed modular block are anticipated for most occurrences of slope



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control encountered on this tract. All of these materials could be utilized for the retainage or may be utilized as facing for a retainage system utilizing the placement of geotextile fabrics or geogrids within a soil or fill mass. These geosynthetics are utilized in many designs and can be easily modified for the conditions of each individual lot and building configuration. Soil Nailing Techniques may be appropriate in some conditions and may be recommended on a site by site basis.

Slope Stability

For the purposes of this study, slope stability does include soil creep but is further expanded to include small earth slumps, translational failures and general conditions of slope instability on this tract. In general, such potential and existing failures involve soil masses in excess of 5 feet in thickness. These potential and existing failures would require specific analysis utilizing soil mechanics methods.

Careful placement of cuts and fills, with consideration for the final methods of slope retainage can only be made on a site by site basis. In general, the construction techniques would be somewhat similar to those utilized for soil creep. It is anticipated the use of geosynthetics would be maximized for slope reinforcement and stabilization. Surface and subsurface drainage features would be incorporated into most designs. It is not anticipated that concrete retaining walls would be heavily utilized considering cost and esthetic considerations.

Wetlands

At this time, Lincoln-DeVore has not been provided with information or mapping defining the areas of wetlands. It is anticipated the margins of Washington Creek would be considered wetlands. The sketch plan for Pristine Point indicates that Lots 10 through 16 adjoin or include the margins of Washington Creek however, the lot configuration allows building envelopes to be easily placed outside the probable limits of the wetlands. It is believed the proposed development plan does not require construction on or infringement in the wetlands area along Washington Creek.

Radon Gas

The potential for radon gas in the Mancos Shale Formation in the Crested Butte area is not well defined at this time. In general,

It is prudent to include construction features and techniques in the original building which will minimize radon infiltration into living areas. Most radon mitigation procedures involve either ventilation of exposed soil areas and minimizing penetration of potential radon gas into living areas of the structures. The use of high density foundation materials with a minimization of building joints and openings to the soil is recommended. The placement of membrane barriers on the exterior portions of foundations or beneath slabs-on-grade are relatively common and simple techniques.

It should be noted that proper foundation construction for structural purposes and the prevention of moisture infiltration would utilize essentially the same principals as radon gas mitigation. If any individual building is suspected of being constructed in an area of relatively high radon gas potential, the placement of specific foundation or house ventilation may be designed and utilized. It should be stressed that proper construction will often provide effective protection against accumulations of radon gas in living areas.

Erosion

Erosion is a natural condition which is usually considered desirable to reduce or eliminate in areas of construction. The net effect of most man-made construction and development of land is often to reduce the total amount of erosion on a tract but, to concentrate the specific areas which are undergoing erosion at any given time. While the total erosion on the site can be effectively reduced, the areas of erosion which do occur are often more noticeable.

In general, large concentrations of water flow must either be reduced or controlled. Control can be as simple as providing a coarse grained, relatively dense rock, cobble or gravel surface, which is resistant to the erosion from moving water. Erosion Control may also include construction of specific features to slow down the water velocity or trap sediment. Many products are available which can be used to cover small and large slopes, line drainage ways or provide traps for sediment. It should also be noted that proper landscaping and re-vegetation of cut and fill surfaces and areas disturbed by construction often times provides very effective protection against erosion. The proper design and construction of cuts and fills for geotechnical purposes also provides for erosion control and should be specified in the design documents.

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Drainage

While this report considers drainage, both surface and subsurface, as a separate subject, a review of the previous items will review that drainage is considered an intricate part of proper and normal mitigation of expansive clays, soil creep and slope stability.

The heave and building damage caused by expansive clays are initiated by water affecting specific, relatively high density, clays. Soil creep and slope stability are directly influenced by surface and subsurface drainage considerations. Erosion control must be tied directly to surface and subsurface drainage. The actual drainage techniques utilized to improve surface and subsurface water conditions would normally involve surface drainage control in new construction which would include careful grading, possible contouring of cut and fill surfaces, planting and revegetation and placement of materials to decrease water flow velocities and to trap sediment.

Subsurface drainage usually involves the placement of gravel or manufactured drainage media and is often related to surface drainage control to reduce water infiltration into the soil at areas considered critical. Drainage control would also involve protecting any outflow areas with minor retinage and erosion control features. Drainage from one building or construction site should not be directed on to another building or construction site unless specific measures are undertaken to control the water flows on the affected sites.

Building Lot Discussion

The proposed access road and building areas for building Lots 10 through 17 have been situated in a relatively stable portion of the proposed subdivision. The lots have been extended across the Washington Gulch Creek and include the lowest portions of the steeper slopes. These lots enclose a significant number of small soil slumps, soil creep, groundwater and surface water issues. The locations of these recognized Geologic Hazards and the lot configurations would indicate the placement of the diagrammed building envelopes on the Northeast side of the creek is prudent.

For planning purposes, the building locations should be specifically designated as a minimum distance from the creek. Unless further Geologic and/or Geotechnical information becomes available, a minimum building foundation distance of 40 feet North-easterly from the flowing creek edge, measured in the late Fall,



Del-Mont Consultants, Inc.
Pristine Point, Crested Butte, CO
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would probably be considered adequate.

Building Lots 1 through 9, including the proposed road construction, has been placed in a manner to minimize the mapped constraints on this site. It should be noted that Lots 3 through 9 extend to the West and uphill property line and/or the edge of the existing road to Meridian Lake. This particular configuration of lots enable the future individual lot owners to have sufficient control of the uphill drainage and slope stability conditions for the existing slopes. In other words, any construction immediately uphill from a proposed structure and any future unfavorable cuts and fills or changed surface and subsurface water drainage does not have to be anticipated.

The presence of three mapped earth slumps and earth failure complex features in this area indicates these lots should be treated as somewhat sensitive slopes. This identification in the Surficial Geology Investigation, provides a starting point for future geotechnical explorations for the individual lots.

The proposed building area for Lot 18 is on the flat area served by the existing road, along the top of a ridge line. From a Geotechnical standpoint, this is the preferable location on Lot 18 for the building site. The proposed building area for Lot 18 should not present any unusual conditions or building restraints. After building plans have been selected, a site-specific Geotechnical Study for the specific structure should be completed and the recommendations contained in the report should be carefully followed.

Lincoln-DeVore, Inc. has been informed that additional earth fills are not contemplated on Lot 18 at this time. Any earth fills in this building area will require consideration for stability, depending upon the height of the fill. Proper drainage and erosion control is essential, but standard construction principles and techniques are available to incorporate these controls in the final design and construction. The building foundations will probably be founded on the Mancos Shale Formation and will require design for the relatively low expansive potential of these clays. The concentration of roof and surface run-off into drainage ways must be controlled to reduce erosion.

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June 7, 1994 Page 8

Snow Avalanche

Lincoln-DeVore has been requested to identify and describe the potential hazard from snow avalanche which may affect this tract. As a part of our analysis, previous reports by Mr. James Sharp, June 1973 and Author I. Mears, P.E., Inc., June 22, 1993 have been reviewed.

Previous Studies:

Mr. Sharp identified two small avalanche scars in the Southern portion of the tract, both of which intersect the approximate alignment of the then proposed private drive to Lot 18. In addition, these two scars would be located upon and possibly affect Lots 3 & 4 of the January 18, 1994 revised sketch plan.

The report by Mr. Arthur Mears, dated June 22, 1993, appears to be more of a preliminary letter and was based upon an earlier sketch plan which had a different lot configuration and numbering system.

To summarize Mr. Mears letter report, the original Lots 6 through 11 were not affected by avalanches. These lots are Lots 3 through 11, on the January 18, 1994 sketch plan.

Lots 12 through 14 of the earlier sketch plan are located below potential avalanche terrain originating on steep slopes on the South side of Washington Gulch. The January 18, 1994 sketch plan lots for this area would be Lots 12 through 16. It should be noted the proposed house sites are on the North side of Washington Gulch represents the same siting conditions Mr. Mears had opportunity to evaluate.

Mr. Mears also stated that he had not finalized his conclusions regarding the avalanche hazard (if any) on the access road to Lots 1 through 4. Referring to the January 18, 1994 sketch plan, the original Lot 4 is now proposed as open space. Lots 1, 2 & 3 and portions of original Lots 12, 13 & 14, have been incorporated into a single lot, Lot 18.

The existing access road South and West of Lot 3 has significantly changed the slope configuration up this hillside, to the homesite location for Lot 18. The cut and fill, which has resulted from the road construction has created steeper slopes on both the cut and fill sides, which provides an increased poten-

Lincoln-DeVore Study:
Del-Mont Consultants, Inc.
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tial for snow sluffs (very small avalanches). The steeper, man-made slopes, do not contain trees which normally would help hold the snow and retard initiation of snow movement.

The potential for winter plowing along this road would provide rather steep or probably vertical cuts in the snow, which would be susceptible to small snow sluffs. Such phenomena is extremely common along nearby Plowed County roads and along many streets within Mt. Crested Butte. The snow sluffs are more a nuisance for maintenance than a hazard to buildings.

Avalanche Conclusions:

The sketch plan of January 18, 1994, for Lots 1 through 17 provides building locations which are in areas Mr. Mears concluded were not affected by snow avalanches. Based upon two on-site visits by personnel of Lincoln-DeVore since initiation of this present project, a study of several sets of aerial photographs and our previous experience in this area dating from 1972, our conclusions are essentially the same as Mr. Mears for Lots 1 through 17. It should be noted that the building site for Lot 18 is along the ridge, which is above the slopes and would not be directly involved in a snow avalanche.

It should also be noted that the slope area which would affect the road or below the homesite area on Lot 18 would not be considered susceptible to small, medium or large avalanches but rather may be susceptible, in some areas, to snow sluffs. It is believed that plowed cuts would probably be the most susceptible and would present a level of hazard comparable to many nearby County roads and roads within the town of Mt. Crested Butte. The County and Mt. Crested Butte roads used for this comparison are regularly plowed, are constructed along moderate to relatively steep slopes and are not within areas specifically recognized as avalanche hazard zones.

Conclusions And Recommendations

The Sketch Plan, dated January 18, 1994, has placed the proposed roadways and construction sites in a manner which would minimize the geological constraints of the site. Lot sizes are such that most building sites are rather flexible and, sufficient control of the surface and subsurface water and on site slope stability can be properly addressed on a lot by lot basis.

Del-Mont Consultants, Inc.
Fristine Point, Crested Butte, CO
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Planning for the building lots would not benefit from further geologic studies for the placement of the roadways or future structures. Site specific geotechnical studies, utilizing shallow exploration borings and/or exploration pits would be more appropriate at the time of final placement and design of these features. Site specific Geotechnical Information, relative to specific site locations and building designs, can only be obtained when a project has been defined and should be considered a part of the review process for the individual building permits.

It is recommended the surficial Geology Investigation report and mapping prepared by Lincoln-DeVore, dated November 5, 1992 and the review comments by the Colorado Geological Survey be made available to the purchasers of these building lots. These disclosures will allow those responsible for foundation design and other civil construction on these lots to be aware of the geologic concerns for the general area. The geotechnical exploration for each lot may then proceed in an orderly manner and answer the specific concerns for the site, as well as any other geotechnical concerns which may become apparent during the field exploration.

It is believed that all pertinent points have been addressed. If any further questions arise regarding this project or if we can be of any further assistance, please do not hesitate to contact this office at any time.

Respectfully Submitted,
LINCOLN DEVORE, Inc.

Edward M. Morris
by: Edward M. Morris EIT
Engineer/Western Slope Manager

Reviewed By:

George D. Morris
George D. Morris
STATE OF COLORADO



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EXHIBIT D





Lincoln DeVore, Inc.
Geotechnical Consultants

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TEL: (970) 242-8968
FAX: (970) 242-1561

August 24, 1995

Mr. Rick Weaver
Del-Mont Consultants
P.O. Box 486
Montrose, CO 81402

Re: Snow Avalanche Review
Pristine Point, Crested Butte, CO

Dear Mr. Weaver:

At your request, as the representative for Mr. Alan Wolff, personnel of Lincoln DeVore have visited the site of the proposed Pristine Point at Crested Butte Subdivision during the late winter and early spring months of 1995. The purpose of these site visits was to evaluate the snow conditions and identify any avalanches or other possibly unstable features associated with the exceptional deep snowfall during this winter season.

The Lincoln DeVore reports Surficial Geology Investigation, dated November 5, 1992 and Geologic Hazard Review, dated June 7, 1994 provides the background geologic and hazard information for this proposed subdivision. This report will describe on-site conditions observed during 2 site visits. The first visit was made on February 25, 1995 and the second was on April 4, 1995. The first site visit was at a time of poor light conditions (very 'flat' light) and photographs of the snow conditions could not be obtained. The second visit had more favorable lighting conditions however, the quality of the photographs was poor and were not judged suitable. Following are our findings and recommendations.

Site Visit, February 25, 1995

The site visit in February was conducted in the late afternoon and the light conditions were very poor. The sun was not shining directly on this site and the light was somewhat "flat". Observing areas of small snow movement can oftentimes be rather difficult, even under good lighting conditions and was very poor under the lighting conditions at the time of this site observation.

Several small avalanches and sluffs were visible along the West side of the reservoir, West of lots 10 & 11. These snow failures



are located on the lower elevations, the East, Northeast end of lot 18, indicated on attached map as AREA A. These small avalanches and sluffs were confined to the west side of Washington Gulch and did not affect the building sites of Lots 10 - 16 & 18.

The existing road, South of the subdivision and South of Lots 1 & 3 was observed to have several areas of snow accumulation due to wind action. These drifts and minor cornices tended to accumulate on the uphill or West side of the road. Small snow sluffs (very small avalanches) have occurred in this area. Due to the presence of thick stands of trees in this area, the accumulations of wind blown snow are somewhat erratic. The snow accumulations have occurred on the road cut bank and the travel surface of the road was essentially clear.

A small snow avalanche, previously mapped as an avalanche scar, is indicated on the attached map as AREA B. This small avalanche is approximately near the South property line of Lot 3 and exhibited evidence of recent snow movement. Due to the natural lighting conditions, it was difficult to determine how extensive the snow movement was. The snow movement appeared to be concentrated immediately below the existing road cut, at the Southwest Corner of Lot 3. The snow movement appeared to extend downhill approximately 100'. This snow movement appeared to be south of the proposed house site.

No other evidence of snow movement was observed on the other building lots. The vicinity of the proposed house sites was carefully observed but, other than noted above, no snow movement was found in or near the house sites.

Site Visit, April 4, 1995

The site observation on April 4 was conducted in the early to mid-morning hours, with a bright sun and features sculptured by the winds or buried beneath snow were easily observed.

Minor areas of sagging and very small snow slides were evident above the existing reservoir. In general, the most prominent areas of snow failure were on the extreme East line of Lot 18, adjacent to and at the upstream end of the reservoir, indicated on attached map as AREA A. These areas of failure were west of Lots 10 & 11 and are partially located on the lower elevations at the East, Northeast end of Lot 18.



Above Lot 3, to the Southwest and above the tree line is an open area to the ridge crest. A snow cornice (due to wind action) was observed to have formed along the ridge crest, indicated on attached map as AREA C. This snow cornice was observed to be a rather small cornice and was generally continuous along the majority of the ridge line, being controlled by wind currents. No major failure of the snow mass was observed off this cornice. Some areas of minor sluffs were noted but, none traveled more than 100' to 150' down the slope. None of the failures were observed to have reached the tree line or intercepted the existing road or affected any of the proposed building sites.

The very small avalanche feature along or very near the South property line of Lot 3 was again carefully observed. This avalanche feature appears to initiate on the road fill surface for the upper road, Southwest of Lot 3, and is indicated on attached map as AREA B. The small avalanche feature is confined to approximately 20' to 30' wide and runs out before intersecting the road at the Southeast corner of Lot 3. This small snow avalanche appears to be less than 150' long. The scar in the trees is not prominent but can be mapped. This scar area should be mapped and, if necessary, the homesite for Lot #3 should be moved North, as appropriate. The avalanche scar contains several upright trees, indicating the lateral force of the snow is relatively small.

During this site visit, a previously mapped avalanche scar, (Jim Sharp, 1973) approximately on Lots 3 & 4 was traversed several times looking for some evidence of significant snow movement or sloughing. The area is fairly heavily forested, though not as heavy as some of the surrounding lots. No evidence of snow movement, which would indicate an avalanche type of hazard, could be determined. The cut surface of the lower road, immediately Southwest of the reservoir embankment was carefully observed for evidence of snow moving off the slope from the trees onto the road. No evidence of significant snow movement or snow sloughing due to snow movement from the trees could be observed. It is our conclusion this avalanche scar, originally noted on Mr. Jim Sharpe's mapping in 1973, is either a very ancient scar or is not an avalanche scar at all.

Continuing up the road to the homesite on Lot 18, the cornice development along the ridgeline, indicated on attached map as AREA D, was observed to be somewhat random. There was no cornice development where the road cut intercepted the ridge line. An

open area, with a relatively small amount of snow was found at the road cut and ridge intersection, at and around the homesite area of Lot #18. Looking North, beyond the homesite area, the cornice feature resumes approximately 250' to 300' away, indicated on attached map as AREA E. This cornice development is rather small in this area but becomes very prominent approximately 300' North-Northwest of this road cut. This cornice build up is approximately 100 feet north of the proposed homesite for Lot 18 and should not affect proposed development.

Conclusions

No evidence of significant snow movement within the proposed building or travel areas of this subdivision could be observed during the field observations conducted during and at the latter portion of a winter noted for significantly above average snow-fall.

It is recommended that the Surficial Geology Investigation Report and Mapping prepared by Lincoln DeVore, dated November 5, 1992, the Geologic Hazard Review dated June 7, 1994, this report dated August 3, 1995 and the Review Comments by the Colorado Geological Survey be made available to the purchasers of these building lots.

We hope this letter has provided you with the information required. If questions arise or further information is needed, please feel free to contact Lincoln-DeVore at any time.

Respectfully submitted

LINCOLN-DEVORE, INC

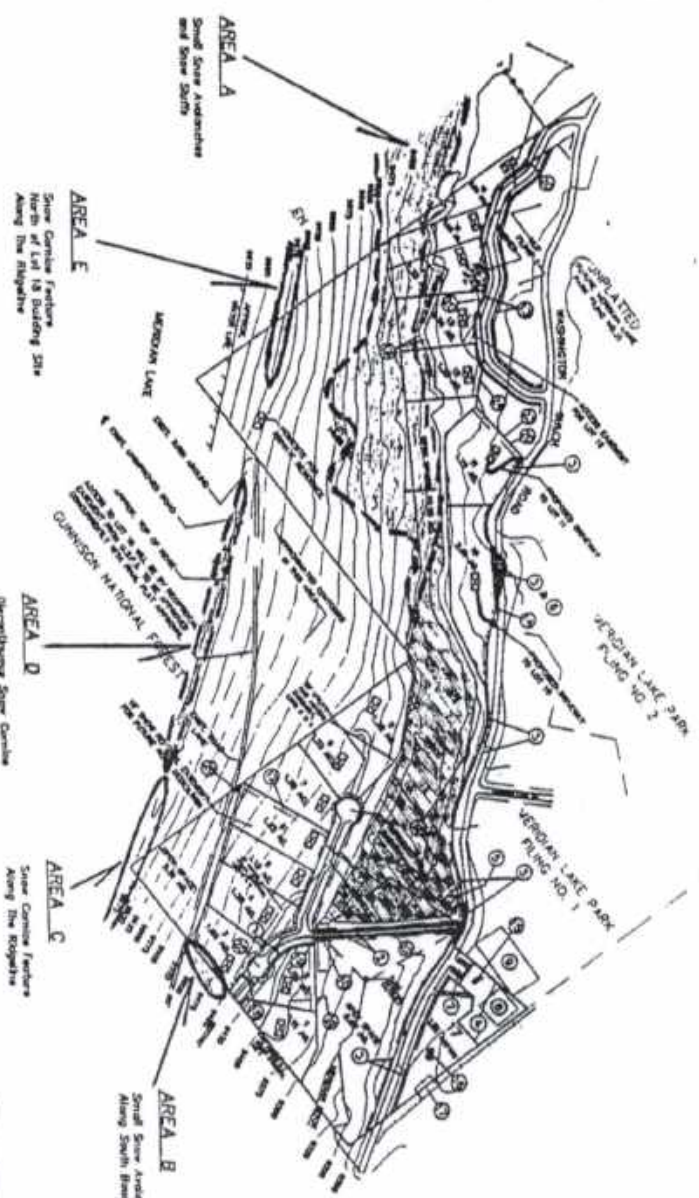
by: Edward M. Morris

Engineer/Western Slope Manager

LD Job # 82967-J



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WARNING PROVIDED BY DEL-MONT CONSULTANTS

D	SNOW AVAILABLE REVIEW DIAGRAM
	PRISTINE POINT AT CRESTED BUTTE, CO.
DEL-MONT CONSULTANTS - MR. ALAN WOLFF	
LINCOLN	1441 MOTOR STREET
DEVORE	GRAND JCT. COLORADO
	COLORADO SPRINGS-PUSHIHO
PROJECT NO. 82967-1	
DATE 1-18-98	
BY E.L. MORRIS	

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EXHIBIT E



STATE OF COLORADO

COLORADO GEOLOGICAL SURVEY

Division of Minerals and Geology

Department of Natural Resources
1313 Sherman Street, Room 715
Denver, Colorado 80203
Phone (303) 866-2611
FAX (303) 866-2481



DEPARTMENT OF
NATURAL
RESOURCES

June 19, 1996

GU-96-0008

Ray Ramer
Governor

James S. Lockhead
Executive Director

Michael B. Long
Division Director

Vicki Cowart
State Geologist
and Director

Gunnison County Planning Department
Courthouse Square, 200 East Virginia
Gunnison, Colorado 81230

Re: Proposed Pristine Point Subdivision -- Washington Gulch/Meridian Lake Area,
Nr. Crested Butte, Gunnison County

Gentlemen:

At your request and in accordance with S.B. 35 (1972), we have reviewed the materials submitted for and made a field inspection of the site of the proposed residential subdivision indicated above. We apologize for the delay in our response which was necessitated by our inability to do meaningful and adequate field work in this area because of winter snow cover. Some of the comments below are based in part on our prior experience in this general area. The following comments summarize our findings.

(1) The general geology of this site consists of glacial (morainal) gravels which have been admixed with residual soil derived from the underlying Mancos Shale bedrock or, in places, the bedrock itself. This admixing is the result of shallow soil creep and landsliding which occurred in this area in the recent geologic past and continues, episodically and especially on steeper slopes, at the present time. Along the banks of the reservoir that is formed by the impoundment of Washington [Creek] Gulch, active slumping was occurring in May 1996. This appeared to be caused, in part, by saturation of these materials by the reservoir.

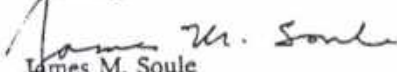
(2) The observations made above are essentially identical to those made by us almost 20 years ago when we performed geologic-hazards studies of the Crested Butte-Gunnison area. They are also supported by the commentary made in the submitted report by Lincoln DeVore Inc., Grand Junction, included with the application materials. The consequences of these conditions for the development as now planned are that most, if not all, of the proposed lots will require mitigation of slope-instability hazards in order to render them safely buildable. Slope movements can be caused and/or aggravated by drainage changes on lots that are caused by road construction and diversions of snowmelt runoff around buildings as well as infiltration beneath them.

(3) Considering the studies and opinions based on them that are made in the technical reports, and after our review and analysis of them in both the office and the field, we

Gunnison County Planning Department
June 19, 1996
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believe that this will be a very difficult area to develop for housing. This does not mean that the planned development will be impossible to do, but rather that it will be problem prone and expensive to undertake. We concur completely with Lincoln DeVore's recommendation that the potential for serious geology-related construction problems be disclosed to potential lot purchasers. We recommend that your approval of this proposal be conditioned on such a disclosure and that appropriate plat notes be made on the final plat.

Sincerely,


James M. Soule
Engineering Geologist



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EXHIBIT F



Lincoln DeVore, Inc.
Geotechnical Consultants
1441 Motor St.
Grand Junction, CO 81505

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TEL: (970) 242-8968
FAX: (970) 242-1561

January 15, 1996

Del-Mont Consultants
P.O. Box 486
Montrose, CO 81402

SUBJECT: Geologic / Geotechnical Considerations,
Pristine Point at Crested Butte, CO.,
Building Lots 1 - 18

REFERENCES:

Surficial Geologic Investigation, Pristine Point at
Crested Butte, LD Job # 76721-J, Nov. 5, 1992

Geologic Hazard Review, Pristine Point at
Crested Butte, LD Job # 80611, June 7, 1994

Snow Ayalanche Review, Pristine Point at
Crested Butte, LD Job #82967-J, August 24, 1995

Gentlemen:

This report presents the results of our field observations during an on-site visit with Mr. Rick Weaver, P.E. of Del-Mont Consultants, September 29, 1995, considers the above referenced reports, presents the findings of additional geotechnical slope stability calculations, and provides additional information necessary for Gunnison County to consider the Preliminary Plan submittal for this project.

Gunnison County approved the Sketch Plan for this project in 1995 based on conditions of approval. These conditions of approval required that the following additional matters be addressed:

Resolution No. 14, Series 1995, Page 5, Item b.l.g. -
"Detailed site-specific engineering studies, where applicable and reasonable, particularly relative to slope stability and evaluating cumulative effects of road and home construction."

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Pristine Point at Crested Butte, CO., Building Lots 1 - 18
January 15, 1996 Page 2

Resolution No. 14, Series 1995, Page 5, Item b.1.d. - "That a geotechnical study of Lot 18 be conducted by a Colorado registered professional geologist or registered professional engineer acceptable to the County, defining what construction constraints are required to ensure that the concept of a one, single family house on Lot 18 within the constraints of sightline, location, setback, partial set-in and height limitation as defined in Alternative "C", and as on the "Exhibit" attached, will be effected by the location and positioning of the structure."

This letter report is intended to provided the additional information the County requested, based on the Sketch Plan for Pristine Point at Crested Butte Subdivision, prepared by Del-Mont Consultants, Inc., revised 1-18-94. A proof copy of a topographic map prepared from aerial photography in 1995 has been utilized to further define the existing and proposed improvements on this site. Additionally, a copy of a preliminary concept site and building plan for a home on Lot 18 dated 11-28-95, prepared by architect Carl Bruckman ("CJB" on drawing) was provided.

SITE SPECIFIC LOT EVALUATIONS

General

The above referenced Lincoln-DeVore reports do not provide specific recommendations for on-site development of individual lots. Specific on-site recommendations can only be provided when specific building plans, site plans, and grading requirements are known. This is appropriate when future homeowners are applying for individual building permits. The Conclusions and Recommendations portion of this report include some guidelines for which the County should consider when evaluating future building permit applications, in the event that these are not already included in the review process.

It is recommended that separate geotechnical evaluations and site plans be made for individual lots in this subdivision to address site grading, drainage, and building foundations. As discussed above, these evaluations should be made as a prerequisite to the County issuing individual building permits.



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Slope stability has been addressed in previous Lincoln-DeVore studies for this project. At this time, slope stability is not expected to be a problem provided the recommendations discussed in this report are followed.

In September 1995, the majority of the project site which is subject to development was walked with the intention of locating conditions that would suggest that further detailed studies were needed relative to slope stability and the cumulative effects of development. The following discussion reflects the findings of this field observation.

Lots 1 through 9

Construction of homes and site improvements on these lots should carefully follow the requirements for cuts, fills, and drainage contained in the following sections of this report.

No other site-specific constraints were identified in this area that would not be addressed by reasonable and customary design and construction practices, and the recommendations made in this report.

Lot 3

The southerly property line for Lot 3 is aligned with a very small past avalanche scar. The majority of this scar is believed to be on Forest Service land and does not encroach on the building site for Lot 3. It is understood that the homesite for the Preliminary Plan submittal has been moved 50 feet to the north to provide clearance from the scar. When building and lot improvements to this lot are made, it is important that site grading, surface drainage and other improvements do not infringe upon this small avalanche scar. We are told that the Preliminary Plat will indicate a setback on Lot 3 from the scar to exclude development of this area.

Lots 10 through 17

In general, construction of homes and site improvements on these lots should not present significant problems. The general requirements for cuts, fills, and drainage discussed in the following sections of this report should be followed. Individual on-site investigations performed just prior to home construction may reveal that cuts and fills may be increased both in depth and inclination from those made in this report. Because of the presence of Washington Creek (for all lots except Lot 17), site

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specific development plan for homes on these lots should indicate the location of the Washington Gulch flow line, any wetland areas, and the 40 foot setback from the flowing Washington Gulch Creek edge, as measured in the late fall.

It is not believed that any additional grading, drainage and topographic information is required for these lots. No site-specific constraints were identified in this area that would not be addressed by reasonable and customary design and construction practices, and the recommendations presented in this report.

Lot 18

Careful review of past Lincoln-DeVore studies, the Proof Topographic Mapping by Merrick & Company, survey reference points in the field, and the concept site and building plans for the home on Lot 18, indicates that this building site is adequate for the structure proposed. It is not in an area of wind blown snow accumulation, anticipated snow movement or severe slope stability concerns, assuming that the improvements follow the general recommendations contained in this report, and as amended by a foundation evaluation to be performed immediately prior to the issuance of a building permit. Additionally, the generalized drainage pattern around the proposed home (5% graded swale to the west and 2% driveway area graded to the east) would not be expected to be associated with significant erosion if properly vegetated (to the north) and gravel surfaced (to the east).

Lincoln-DeVore's initial 1992 report for this project included the results of a subsurface excavation (TH-9) made in the immediate vicinity of the proposed home on this lot. The results were about 4 feet of low-plasticity clay over firm Mancos Shale. The building foundations will probably be founded on the Mancos Shale Formation and will be designed for the relatively low expansive potential of this material. Based on the concept plans for this three-level home on this lot, the soils and formation material encountered are not expected to limit construction, and several types of foundations are available to address specific building loads.

It would be prudent for the County to require engineered foundations and a final site plan for this house, as is the case for all lots within this subdivision, when an individual building permit is obtained.



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It is understood that the Preliminary Plan submittal prepared by Del-Mont, Consultants, together with the preliminary site and building plans prepared by Carl Bruckman, specify geometric constraints that will insure that the sightline, location, partial set-in, and height requirements are met for the home proposed on this lot.

Roadway Considerations

The roads to be constructed within the project have been designed by Del-Mont Consultants. If reasonable and customary design and construction practices are followed, including adequate surface and subsurface drainage, restoration of vegetation, cut and fill slopes as specified herein, and other recommendations presented in this report, construction of roadways and driveways necessary for access to lots on this project are not expected to be a problem.

CUMULATIVE EFFECT

It is understood that the County has asked that cumulative effects of home and road construction be addressed. The general layout of the project lots is linear in form, which minimizes the potential for the effects of development to impact adjoining lots within the subdivision.

Drainage

Typical and customary drainage practice requires that positive surface water drainage be provided to insure that water from roofs and impervious areas is directed away from structures and tops of cut and fill slopes, eventually reaching roadways, where adequate ditches are provided to direct the water to existing water courses. Road plans will be detailed to indicate surface drainage features. Individual lot site plans, when prepared by future home owners, will need to address on-site lot drainage as discussed in the Conclusions and Recommendations section of this report. In this manner, the cumulative effects related to drainage should be adequately mitigated.

Del-Mont Consultants apparently has prepared estimates of pre- and post-development runoff flows and has concluded that the additional increase due to development is negligible from this



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project. On this basis, the cumulative drainage effects of development of this project are insignificant related to adjacent and downstream land owners.

Erosion and Water Quality

It will be important that areas disturbed by construction of roads, utilities, driveways, and homes be revegetated as soon as possible to prevent erosion and to protect surface water quality. When done in a timely manner, the potential for cumulative effects of significant erosion and poor water quality will be minimized. It is understood that Del-Mont will include construction specifications that require revegetation following utility, road, and initial driveway construction. The building permit process should insure that disturbed areas are properly revegetated on individual lots.

Slope Stability

The potential for cumulative slope stability problems is reduced due to the linear layout of the subdivision. However, care should be taken to insure that grading of the project follows the Conclusions and Recommendations specified in this report. Individual lot site plans will need to address slope stability related to foundations and cuts and fills on the lots to confirm that adjoining roadways, driveways and lots are not adversely impacted. As discussed previously, these site plans and geotechnical evaluations should be submitted at the time building permits are obtained.

CONCLUSIONS AND RECOMMENDATIONS

General Discussion

No geologic conditions were apparent during our reconnaissance which would preclude the site development as planned, provided the recommendations contained herein are fully complied with. The individual lots will require specific areas to be addressed immediately prior to individual building permits being obtained, as outlined in the preceding sections of this letter report.



The following recommendations must be somewhat general in nature since the exact magnitude of any future foundation loads and the extent of lot grading is not known at the present time. In addition, proposed cuts and fills for each lot and the proposed road improvements are only preliminary at this time. The following recommendations are somewhat conservative and may be subject to modification based upon site specific studies undertaken prior to construction of individual homesites and once final roadway and utility construction drawings are available.

Grading Recommendations

To avoid reducing the native slope stability on the individual sites, we recommend that the amount of cut and fill performed during individual site grading be held to a minimum. In addition, we recommend that trench excavations greater than 5 feet in depth be constructed with safety provisions which may include sloping and bracing. Excavating must conform to reasonable industry safety practices and to applicable OSHA regulations.

The allowable slope angle for cuts and fills in native soils is dependent on soil conditions, slope geometry, the moisture content and other factors. Based on preliminary slope stability calculations, we suggest that the maximum stable cut or fill slope inclination which can be constructed in the native soil is 1.55 : 1 (horizontal to vertical), for slopes up to 8 feet high without retention measures. Additionally, we recommend that slopes from 8 to 12 feet high constructed using native soils without retainage structures be no steeper than 1.7:1 (horizontal to vertical). Cut and fill slopes greater than 8 feet high will require either benching (similar to terraces) or minor retainage/reinforcement.

At points where fill is placed against an existing slope steeper than 20%, we recommend that the existing slope be benched, and fill be placed against benches in horizontal lifts. We recommend that fill soil be brought to optimum moisture content (+/- 2%) prior to placing, then compacted mechanically to at least 90% of maximum modified Proctor dry density, ASTM D 1557.

Surface / Subsurface Drainage Recommendations

The project site is subject to lateral and upward movement of seepage flow in several areas which could produce significantly weakened soil conditions during periods of snow melt, typically during the spring and early summer. Small water seeps and wet

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areas have been located in the vicinity of Lots 6 through 9 which will require subsurface drainage improvements to be constructed on individual lots to avoid weakened soils for foundations and slopes. Subsurface drainage improvements typically includes French drains (perforated pipe surrounded by gravel and geotextile) installed slightly below foundation footings and above cut slopes, directed to appropriate surface drainage ditches adjacent to driveways and roads. Subsurface drainage improvements may be required in areas other than Lots 6 through 9, but determining where will be necessary during construction in these areas, when excavations are made.

Throughout the project, it is recommended that future snow removal and stockpiling be performed in a manner that will not block surface drainage.

It is believed that all pertinent points have been addressed. If any further questions arise regarding this project or if we can be of any further assistance, please do not hesitate to contact this office at any time.

Respectfully Submitted

LINCOLN DeVORE, Inc.

Edward M. Morris
by: Edward M. Morris
Engineer/Western Slope Manager



LD Job No.: 82967-J