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JUN 27 10 44 AM '94

WILLIAM C. DENABUE  
AUDITOR  
SPOKANE, COUNTY, WASH.

SECOND AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS,  
RESTRICTIONS, RESERVATION AND EASEMENTS

FOR  
QUALCHAN HILLS

VOL. 1616 PAGE 1759

THIS SECOND AMENDMENT to the above-referenced Declaration is made as of this 27th day of JUNE, 1994.

RECITALS

WHEREAS, the above-referenced Declaration (the "Qualchan Declaration"), and amendments thereto (if any), were filed and recorded under Spokane County Recording No(s). 911190353;

WHEREAS, the First Amendment to the Qualchan Declaration was filed and recorded under Spokane County Recording No. 9311030063 on November 5, 1993; and

WHEREAS, certain real property more particularly described in Exhibit A attached hereto and incorporated herein by reference, and commonly known as Persimmon Woods at Qualchan ("Persimmon") is currently subject to the provisions of the Qualchan Declaration, and is also subject to the provisions of the Declaration of Covenants, Conditions and Restrictions of Persimmon Woods at Qualchan ("Persimmon Declaration") filed and recorded under Spokane County Recording No. 9308240431; and Restated Declaration of Covenants, Conditions And Restructions of Persimmon Woods at Qualchan ("Persimmon Restated Declaration") filed and recorded under Spokane County Recording No. 9312150005; and the restated Declaration of CC&R's of Persimmon Woods at Qualchan ("PR Dec") filed and recorded under Spokane County Record Number 9312150005; and

WHEREAS, it is desired to amend the Qualchan Declaration as it applied to Persimmon (and to the Common Areas, Lot and Homes therein, and to the Owners thereof and their Association).

WHEREAS, The Qualchan Development may be amended by the affirmative vote of sixty-seven percent (67%) of the voting power of classes A and B combined; and

NOW, THEREFORE, to accomplish the foregoing purposes, the

undersigned Grantor hereby published and declares this Amendment to the Qualchan Declaration as follows:

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1. ARTICLES XIV. The Qualchan Declaration is hereby amended by adding thereto the following Articles XIV:

**ARTICLE XIV**

**PERSIMMON WOODS AT QUALCHAN**

Section 14.1. Application of Qualchan Declaration to Persimmon. The provisions of the Qualchan Declaration shall apply to and govern Persimmon (and the Common Area, Lots, Homes, Owners and Association as those terms are defined in the Persimmon Declaration) only to the extent expressly provided in this Article XIV. Without limiting the generality of the foregoing, it is the intent of this Article XIV) as deleting Persimmon from coverage of the Qualchan Declaration and the jurisdiction of the Qualchan Homeowners Association ("Qualchan Association").

Section 14.2. Provisions of the Qualchan Development Still Governing Persimmon. Except as otherwise provided in Article XIV, Persimmon shall continue to be governed by the following Articles of Sections of the Qualchan Development: Sections 3.05 through 3.10; Article IV; Article VII, to the extent not limited by Sections 14.5 through 14.7 below; Sections 8.02 through 8.07; Article XII, to extent applicable for an actual multi-family development; and Article XIII. Provided, that the following use restriction contained in the Persimmon Declaration shall be deemed valid and enforceable: "No Business of any kind shall be conducted on any Lot with the exception of (a) the business of Declarant in developing and selling all of the Lots and Homes, and (b) such home occupation which may be permitted by the appropriate local government and which is not otherwise in violation of the provisions of this Declaration; provided, no customers or other business invitees shall be permitted to come to the Home in connection with any such home occupation."

Section 14.3. Persimmon Use of Roadways, etc. Persimmon Lot Owners (and their tenants, guests and invitees) shall have a perpetual and non-exclusive easement to use (in common with all other lots within the Qualchan Hills project) all roadways, walkways, trails and unimproved common open spaces (but excluding any improved recreational facilities) located within Qualchan Hills, subject to the rules and regulations of the Qualchan Association applicable to all lots within Qualchan Hills.

Section 14.4. Utility Systems. Subject to the rules and regulations of governmental entities having jurisdiction, Persimmon shall at its sole cost have the right to connect to and use utility systems and facilities within Qualchan Hills (including without limitation sewer, road and water) to the extent necessary to provide adequate utilities service to Persimmon.

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Section 14.5. Kip Lane Repair, etc. Persimmon shall be responsible for eighty-three and 3/10 percent 83.3% of the total Qualchan Association expenses attributable to snow removal, street lighting and street maintenance and repair for Kip Lane from the month development of Persimmon begins.

Section 14.6. Utility Maintenance and Repair. Persimmon shall be responsible for sixty seven percent (67%) of the total Qualchan Association expenses attributable to the maintenance and repair of sewer and water system facilities underlying Kip Lane, including water billing, from the month development of Persimmon begins.

Section 14.7. Roadway, etc., Maintenance and Repair. Persimmon shall be responsible for a fraction of the total Qualchan Association expenses attributable to the maintenance and repair of all roadways, walkways, trails, and unimproved common open spaces (but excluding any improved recreational facilities) located within Qualchan Hills; the numerator of which fraction shall be the total number of Homes within Persimmon for which actual construction has begun and the denominator of which is the total number of Lots within Qualchan Hills (including Persimmon Lots). Provided, in no event shall an assessment under this Section 14.7 exceed the sum of Three Dollars (\$3.00) per Home per month.

Section 14.8. Payment by Persimmon. The Qualchan Association shall annually project the yearly maintenance and repair costs provided for Sections 14.5, 14.6 and 14.7 above, and will divide that annually project into twelve (12) equal amounts to be assessed monthly. The Qualchan Association may also make supplemental assessments as necessary, if maintenance and repair expenses exceed the projections. Each monthly or supplemental assessment not paid within thirty (30) days after it is due will subject Persimmon, the Persimmon Lot Owners and (so long but only so long as the Persimmon Declarant is exercising control of the Persimmon Association in lieu of a Board elected by Lot Owners) the Persimmon Declarant to the enforcement provisions of Section 14.9 below.

Section 14.9. Enforcement of Payment. The enforce payment of monthly and supplemental assessments, the Qualchan Association shall have the same remedies against Persimmon, the Persimmon Lot Owners and (so long but only so long as the Persimmon Declarant is exercising control of the Persimmon Association in lieu of a Board elected by Lot Owners) the Persimmon Declarant as it has against lot owners under Sections 8.02 through 8.07 of the Qualchan Declaration; provided, any Persimmon Lot Owner who has paid its prorata share of any Qualchan monthly or supplemental assessment shall be relieved of further liability for any unpaid portion of such assessment.

Section 14.10. Persimmon Voting Rights. With respect to any issue affecting the provisions of this Article XIV and the matters governed thereby, the Persimmon Lot Owners shall each have the

right to vote as if they were a Class A member of the Qualchan Association.

Section 14.11. Amendment to Article XIV. The provisions of this Article XIV may not be amended, modified or otherwise restricted or limited without the consent of at least seventy-five percent (75%) of the Persimmon Lot Owners.

2. EFFECTIVE DATE. This Amendment shall take effect upon recording.

3. OTHER PROVISIONS. Except as modified specifically herein, all other provisions of the Qualchan Declaration shall remain in effect.

IN WITNESS WHEREOF, the undersigned have executed this Amendment to the Declaration as of the date first above given.

GRANTOR:

QUALCHAN PROPERTIES, INC.

By: LaMont B. Davis  
President

By: Salmon J. Carter  
Secretary

QUALCHAN ASSOCIATION:

QUALCHAN HILLS HOMEOWNERS ASSOCIATION

By: LaMont B. Davis  
President

By: Kyle Martin  
Secretary

PERSIMMON DECLARANT CONSENT: The undersigned hereby approves and consents to the foregoing Amendment and agrees to be bound by the same.

QUALCHAN INVESTMENTS SPOKANE, INC.

By: John Stone By: Kevin Tanell