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STATE OF IDAHO COUNTY OF GOODING

Filed for record at the request of

Walt Nelson
15 min past 12 o'clock P.m. this 21st

of June 19 99 2:00

By Tenny Archibald Deputy

DECLARATION OF COVENANTS, CONDITIONS & RESTRICTIONS

FOR B. W. NELSON ESTATES SUBDIVISION

THIS DECLARATION is made on the date hereafter set forth by the undersigned, hereinafter referred to as "Declarant".

WITNESSETH:

WHEREAS, B.W. Nelson Estates Subdivision is situated in Gooding County, and is more particularly described on the official plat thereof recorded in the Office of County Recorder, Gooding County, Idaho, on 14 June, 1999, as Instrument No. 180953; and

WHEREAS, the Declarant is the record title owner of all real property situated within B.W. Nelson Estates Subdivision; and

WHEREAS, the undersigned desires by this instrument to adopt and place of record certain covenants, conditions and restrictions for B.W. Nelson Estates Subdivision, and the development of lots and parcels of real property contained therein.

NOW, THEREFORE, Declarant hereby declares that all the property situated within B.W. Nelson Estates Subdivision (the "Subdivision") is and shall hereafter be held, conveyed, encumbered, developed, and used subject to the following covenants, conditions, restrictions and equitable servitudes, which shall run with the real property included within the Subdivision, and shall be binding upon, and benefit, all persons or entities having or acquiring any right, title or interest in or to the Subdivision, or any lot or parcel situated therein, including the grantors, and their respective successors in interest.

ARTICLE I

General Provisions

Section. 1. ENFORCEMENT. Any Owner shall have the right to enforce, by any proceeding at law or in equity, all covenants, conditions and restrictions hereinafter imposed pursuant to the provisions of this Declaration. Failure by any owner to enforce any such covenant, condition or restriction shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. SEVERABILITY. Invalidation of any one of these covenants, conditions or restrictions by court order or judgment shall in no way effect the validity or effectiveness of any other provision.

Section 3. AMENDMENT. This Declaration, and any covenant, condition or restriction herein contained may hereafter be amended at any time by an instrument duly signed by not less than eighty percent (80%) of the record title owners of the lots situated within the Subdivision. Any such amendment shall be effective upon recordation in the office of the Gooding County Recorder.

ARTICLE II

Definitions

Section 1. "Owner" shall throughout this Declaration mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any Lot within the Subdivision.

Section 2. "Lot" shall mean and refer to any platted Lot or tract of land shown upon the official plat of the Subdivision, recorded in the official records of Gooding County, Idaho.

Section 3. "Declarant" shall mean and refer to the undersigned, being all of the record title owners of the platted lots or tracts of land contained within the Subdivision, and their respective heirs, successors and assigns.

Section 4. "Dwelling Unit" shall mean and refer to a single family dwelling not to exceed two (2) stories in height built on a Lot within the Subdivision in accordance with these Covenants, Conditions and Restrictions.

Section 5. "Architectural Review Board" shall mean and refer to the board created in accordance with Article IV of these Covenants, Conditions and Restrictions.

ARTICLE III

Development Restrictions

Section 1. LAND USE AND BUILDING TYPE. No Lot shall be used except for residential purposes. No Dwelling Unit, building or structure shall be erected, constructed, or maintained on a Lot other than a single family dwelling not to exceed two (2) stories in height. All garages, storage sheds, workshops and/or similar structures are to be constructed in conformance and harmony with the Dwelling Unit.

Section 2. MINIMUM SIZE. No single story Dwelling Unit shall contain less than 1,650 square feet of living area on the ground floor; nor shall any two-story Dwelling Unit contain less than 1,450 square feet of living area on the ground floor.

Section 3. MAINTENANCE. Each Lot, and all improvements thereon, shall at all times be maintained by the Owner thereof in good condition and repair.

Section 4. PETS AND ANIMALS. No animals, livestock, or poultry of any kind shall be raised, bred, or kept within the Subdivision with the exception of dogs, cats, and other household or domestic pets provided that such pets are not kept, bred, or maintained for any commercial purpose, and provided further that no Owner shall maintain more than two dogs and/or two cats on any Lot. All such pets shall be properly cared for by the Owner thereof, and shall not be allowed to run at large within the subdivision, nor create any nuisance or threat to the other residents within the subdivision, nor their guests or invitees.

Section 5. LANDSCAPING. Promptly after completion of a Dwelling Unit on any Lot, the Owner thereof shall complete the installation of landscaping elements, and related facilities, including grass lawns, underground sprinkler systems and a minimum of two (2) trees. The Owner of any unimproved vacant Lot shall keep said Lot free of debris, trash, junk, refuse, vehicles, boats, motor homes, trailers, campers, machinery and equipment, and shall control weeds and unwanted plants growing on said Lot.

Section 6. SIGNS. No signs shall be permitted except residential identification signs and temporary "For Sale" signs of not more than four (4) feet square in surface area, nor a maximum height in excess of four (4) feet.

Section 7. HOUSE TRAILERS, MOBILE HOMES, AND OFF SITE MANUFACTURED HOMES. No structure of a temporary character, house trailer or shack shall be erected, placed upon, or used on any Lot at any time; provided, however, that during the course of construction of a Dwelling Unit, this covenant shall not be construed to prevent the use of a temporary structure for the exclusive purpose of housing tools and building materials as may be needed to be protected from the elements, or to provide temporary sanitation facilities to building contractors and their employees, provided that any such temporary structure shall not be permitted to remain for a period exceeding 150 days, nor shall it be used at any time as sleeping quarters.

No prefabricated, manufactured or modular residential structure, or mobile homes, shall be permitted within the Subdivision. Any question as to whether a particular structure is a prefabricated, manufactured or modular residential structure, or mobile home, shall be conclusively decided by a majority vote of the Architectural Review Board.

Section 8. SCREENED AREAS. Each Dwelling Unit or residence shall have, at a minimum, an enclosed, attached double-car garage. All motorhomes, travel trailers, boats, snowmobiles, recreational vehicles, campers, inoperable or unsightly vehicles and equipment, lawn and garden equipment, garbage and trash containers, maintenance and service equipment, firewood, stored materials, satellite dishes and similar personal property shall be kept in garages or other enclosures, or shall be screened from streets and adjoining Lots by fences, berms, hedges, or similar landscaping.

Section 9. OFF STREET PARKING. Each Lot shall have a finished hard surface driveway or parking space for at least two (2) vehicles, which at least two (2) vehicles can approach from the street. No vehicle may be parked for more than forty-eight (48) hours on any street within the Subdivision.

Section 10. EXTERIOR COLORS AND FINISHES. Colors of all exterior building surfaces shall be of natural tones which harmonize with the existing landscape and neighboring structures. No reflective finishes shall be used, with the exception of hardware and detail items, and no exposed concrete block construction shall be allowed.

Section 11. ROOFS. Roof design and construction of all buildings and/or structures erected, constructed, or maintained on a Lot shall include, at a minimum, the following:

- (a) Roofs shall have at least a 5/12 pitch;
- (b) Roofs shall have eaves which extend beyond the exterior walls of a Dwelling Unit two (2) feet; and
- (c) No reflective material shall be used as roofing material and, no tar and gravel roofing materials shall be permitted. Asphalt, wooden or sawed shingles may be used subject to prior approval of the Architectural Review Board.

Section 12. FENCES. All fences, visual screens, and similar exterior structures and extensions hereafter constructed within the Subdivision shall be of wood, vinyl, composite, brick or chain link material, with the exception of hardware, fasteners and footings. No fence shall be constructed which extends beyond the front facade of any Dwelling Unit constructed on a Lot.

Section 13. EXTERIOR LIGHTING. The light source of any exterior lighting fixtures shall be shielded from direct projection onto any other Lot, and all reasonable efforts shall be made to minimize the harshness or glare of any such exterior lighting. Promptly after completion of a Dwelling Unit on any Lot and before occupying said Dwelling Unit, the Owner thereof shall install a free-standing yard light. Said yard light shall have a minimum height of sixty (60) inches, a minimum bulb wattage of one hundred (100) watts, shall automatically operate from dusk to dawn and shall be located no more than ten (10) feet nor less than five (5) feet from the street or road fronting the Dwelling Unit.

Section 14. ANTENNAS. Antennas and similar devices shall be installed in a manner and location minimizing visibility from roads and adjoining Lots. Satellite dishes may be no larger than twenty-four (24) inches in diameter.

Section 15. BUILDING LOCATION. All buildings, structures and/or Dwelling Units constructed on any Lot, shall be situated within the building setback line set forth on the official plat of the Subdivision.

Section 16. RESUBDIVISION. No resubdivision of any Lot or Lots shall be allowed; provided, however, that the Architectural Review Board may waive this restriction at the request of an Owner. Any proposed resubdivision of a Lot must be requested in writing and presented to the Architectural Review Board for review. All decisions of the Architectural Review Board concerning resubdivision of a Lot shall be submitted in writing to the applicant and signed by all members of the Architectural Review Board participating in such decision. In the event the Architectural Review Board disapproves of the resubdivision, it shall inform the applicant of the specific reasons for disapproval. In the event the Architectural Review Board fails to approve or disapprove the requested subdivision of a Lot within 21 days after the same has been submitted to it, approval of the Architectural Review Board shall conclusively be deemed given.

Section 17. NUISANCES. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may become an annoyance or nuisance to the residents of the Subdivision.

Section 18. GARBAGE AND REFUSE DISPOSAL. No Lot shall be used or maintained as a dumping ground for rubbish, trash, garbage or other waste material. All such material shall be kept in sanitary containers and shall be prevented from being scattered or strewn throughout the Subdivision.

Section 19. PROHIBITION ON COMMERCIAL USES. No Lot within the Subdivision shall be used for any industrial, commercial, retail or manufacturing purpose.

ARTICLE IV

Architectural Control

Section 1. ARCHITECTURAL REVIEW AND APPROVAL. No Dwelling Unit, improvement or structure of any kind, including without limitation, any building, garage, fence, wall, swimming pool, tennis court, covered enclosure, driveway or landscaping accompanying the construction of a new Dwelling Unit shall be constructed, installed, placed or maintained upon any Lot, nor shall any exterior addition, modification or alteration thereof be made, until the plans and specifications for the same have been submitted to, and approved

in writing by, the Architectural Review Board (hereinafter "ARB"). All plans and specifications shall be evaluated as to compliance with this Declaration and harmony of the exterior design and materials in relation to surrounding structures and neighborhood design characteristics.

Section 2. ARCHITECTURAL REVIEW BOARD. The ARB shall consist of three (3) members, all of whom shall be Owners of Lots within the Subdivision at the time of their appointment to the board and throughout the term of their membership thereon. At such time as any member of the ARB ceases to be a Lot Owner, he or she shall automatically be terminated as a member of the board. The terms of each member shall continue until such time as said member resigns, in writing, becomes ineligible to continue on the board for the reason set forth immediately hereinabove, or until his or her membership is terminated by a written notice of termination signed by the Owners of a majority of the Lots situated within the Subdivision. Vacancies on the ARB shall be filled by a majority vote of the remaining members of the ARB. A majority of the ARB shall constitute a quorum to transact business at any meeting of the ARB, and the action of a majority present at a meeting at which a quorum is present shall constitute the action of the ARB.

Notwithstanding the foregoing, the initial members of the Architectural Review Board shall be Frank R. Nelson, Fred J. Nelson and Walter C. Nelson. The terms of each initial member shall continue until such time as said member resigns, in writing, or until his membership is terminated by a written notice of termination signed by the Owners of a majority of the Lots situated within the Subdivision.

Section 3. POWERS AND DUTIES OF THE ARB. The ARB shall have the following powers and duties:

- (a) To require submission to the ARB of a complete set of plans and specifications for any Dwelling Unit, improvement or structure, the construction, installation or placement of which is proposed upon any Lot in the Subdivision and any additions, modifications or alterations proposed to the exterior of such Dwelling Unit, improvement or structure. The ARB may also require submission of samples of building materials proposed for any such construction project and may require such additional information as is reasonably necessary to evaluate the proposed work.
- (b) To require the submission of a landscaping plan to accompany any plans for the construction of a new Dwelling Unit on any Lot, which plan shall show the general nature and location of lawns, garden and landscaping areas, and an underground sprinkler or irrigation system. At the request of the ARB, the applicant shall also include an identification of proposed plant materials to be incorporated in the

