

32277

DECLARATION OF PROTECTIVE COVENANTS AND RESTRICTIONS
APPLYING TO PLAT "E" SHERWOOD HILLS SUBDIVISION

I. DEDICATION

KNOW ALL MEN BY THESE PRESENTS: That the undersigned, Flying Diamond Development Corporation, the "Owner," caused to be surveyed and platted the lands hereinafter described under the name of Plat "E" Sherwood Hills Subdivision, and has caused the same to be subdivided into blocks, lots, streets, avenues, drives, and public ways as shown on the accompanying plat. Flying Diamond Development Corporation herewith makes the following declaration of protective covenants and restrictions which shall apply to and run with all of the lots located in Plat "E" Sherwood Hills Subdivision.

II. DESCRIPTION

The real property which is, and shall be, held, transferred, sold, conveyed, and occupied, subject to this Declaration is located in the City of Provo, County of Utah, and State of Utah, more particularly described in Exhibit A attached hereto and by this reference made a part hereof.

III. RESERVATIONS, RESTRICTIONS AND COVENANTS

The Owner declares that the aforesaid land shown on the plat above referred to, is held and shall be conveyed subject to the reservations, restrictions and covenants herein set forth.

IV. DEFINITIONS

For the purpose of these restrictions, the word "Street" shall mean any street, road, lane or avenue of whatever name which is shown or indicated on the aforesaid recorded Plat of Plat "E" Sherwood Hills Subdivision, and which has been heretofore dedicated to the public for the purpose of a public street.

The word "Lot" may mean either any lot as platted, or any tract or tracts of land conveyed which may consist of one or more lots, or a part or parts of one or more lots as platted, and upon which a residence may be built as set forth in the individual deeds from the Flying Diamond Development Corporation or from its successors and assigns.

V. USE OF LAND

A. No land shall be used, and no building or structure shall be constructed, enlarged, moved, or maintained except in conformity with the use, area, frontage, and other regulations as set forth by the applicable Zoning Ordinance in which it is located.

B. No used or secondhand structure, no building of a temporary character, no mobile home, house trailer, tent, shack or outbuilding shall be placed or used on the Lots, either temporarily or permanently, except that necessary appurtenances for and during actual construction may be used and trailers and structures of a temporary nature may be used during the period of permanent construction of an approved and allowed improvement, but for a period no longer than 12 months without the written consent of the Architectural and Building Committee.

C. No tank for the storage of fuel may be maintained above the surface of the ground without the written consent of the Architectural and Building Committee.

COMMITTEE PROCEDURE

- A. Preliminary Plans of proposed residences (as defined herein).
- B. Final Plans of proposed residences (as defined herein).
- C. Planning Problems or complaints by property owners.

The Committee shall act within ten (10) days on any of the above, and place its action in writing to be held as a permanent record, with copies to the parties concerned. If the Committee fails to accept or reject any of the above within ten (10) days, the same shall be automatically accepted.

An owner whose plans are rejected shall meet with the Committee at the Committee's invitation where he shall be informed of the reason for the action so that he can take the steps necessary to obtain approval of his plans.

The Committee has the authority to judge building, materials, fences, etc., on whatever basis available to it with the aim of preserving what it feels are the best interests of the Property Owners. The criteria shall include aesthetics, reasonable protections of view, permanence of material, etc. All decisions of the Committee shall be final.

VIII. EASEMENTS

An easement is reserved over the rear and side five (5) feet of each lot for the utility installation and maintenance. The Owner shall have the right at any time to extinguish or vacate such easements and rights of way as to all or any portion of said property.

IX. TREES PROHIBITED

In order to assure uniformity of street appearance, no trees are to be planted upon city property or property on the street side of any through sidewalk without specific approval in writing of the Architectural and Building Committee. The following trees, because of their undesirable characteristics, are prohibited in the said subdivision:

<u>SPECIES NAME</u>	<u>POPULAR OR COMMON NAME</u>
Allanhus altissima	Tree of heaven
Platanus occidentalis	American plane tree
Populus alba	Silver poplar
Populus alba bolleana	Bolleana poplar
Populus angustifolia	Narrow-leaf poplar
Populus deltoides	Carolina poplar
Populus fremontii	Fremont's poplar
Populus nigra italica	Lombardy poplar
Robinia Pseudoaa	Black locust
Ulmus Pumila	Siberian elm

Further, in order to maintain the present nature of the area, builders, developers, and individuals constructing homes should retain as much of the native vegetation as possible.

X. GENERAL PROVISIONS

All the restrictions herein set forth shall continue and be binding upon the owner and upon his successors and assigns for a period of twenty-five (25) years from date, and shall automatically be extended thereafter for successive periods of twenty-five (25) years; provided, however, that the owners of the legal title to 60% or more of the lots in the area may at any time release all the said lots hereby restricted from any one or more said restrictions.

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VI. ARCHITECTURAL AND BUILDING COMMITTEE

The Architectural and Building Committee shall consist of three members: John F. Jennings, Stephen G. Stewart and Wendy H. Stewart, who are hereby appointed by the Owner. The majority of the Committee shall constitute a quorum and the concurrence of at least two members shall be necessary to carry out the provisions applicable to this committee. Until July 1, 1979, any or all members of the Committee may be removed by the Owner for any reason. In the event of death, removal or resignation of any of the members and until July 1, 1979 upon failure of the Owner to appoint a replacement within thirty (30) days, then the surviving members of the Committee shall have full authority to appoint another person to fill the vacancy. Except for members appointed by the Owner, all members of the Committee must be residents of the subdivision at the time of their appointment. Should any member move his residence outside of the subdivision, he shall be disqualified to serve and the Committee shall declare a vacancy.

VII. NEW BUILDING AND PROCEDURE

To maintain a degree of protection to the investment which house owners in this area may make, homes of superior design are requisite. Designs shall be limited to those prepared by architects licensed to practice in the state of Utah or by designers who in the opinion of the Committee possess outstanding ability and whose previous work may be reviewed as part of the approval process.

Preliminary drawings shall be filed for approval and accepted, before working drawings will be reviewed. Drawings shall include, as a minimum, the following:

1. Plot Plan to scale of entire site with buildings located and elevation of floors shown above or below a designated point on the street.
2. Floor Plans of each floor level to scale.
3. Elevations to scale of all sides of the house.
4. One major section through house.
5. A perspective (optional).

Outline specifications shall give basic structure system and include all materials to be used on the exterior of the residence.

Final Plans shall be filed for approval and accepted before construction is begun. Drawings shall include, as a minimum the following:

1. Plot plans to scale showing the entire site, building, garages, walks, drives, and retaining walls, with elevations of floors from a designated point on the street.
2. Detailed floor plans.
3. Detailed elevations, indicating all materials and showing existing and finished grades.
4. Detailed sections - cross and longitudinal.
5. Details of cornices, porches, windows, roofs, garages or carports, garden walls, steps, patios, etc.

Specifications shall give complete descriptions of materials to be used supplemented with a notation of the colors of all materials to be used on the exterior of the residence.

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D. No building material of any kind or character shall be placed or stored upon any lot until the owner thereof is ready to commence improvements and then the material shall be placed within the property lines of the lot upon which the improvements are to be erected, and shall not be placed in the streets or between the curb and the property line.

E. No noxious or offensive trade or activity shall be carried on upon any lot nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.

F. The ground-floor area of all dwellings, exclusive of basements, one-story open porches and garages, shall not be less than 1,400 square feet except as may be specifically permitted in writing by the Architectural and Building Committee provided herein.

G. On-site parking shall be provided on each lot sufficient to accommodate all automobiles owned by persons living on the property.

H. Keeping of animals other than those ordinarily kept as family pets shall be forbidden, except with the written permission of 2/3 of subdivision property owners.

I. No signs, billboards or advertising structures may be erected or displayed on any lots hereinafter described or parts or portions thereof, except that a single sign, not more than 3 x 5 feet in size advertising a specific unit for sale or house for rent, or construction sign, may be displayed on the premises affected.

J. No lot shall be divided or by title description separated, nor shall more than one single family dwelling be erected upon any lot within the subdivision.

K. No owner of any lot within the subdivision shall rent or lease rooms or portions of any structure, less than the whole of said structure including all of the improvements upon any lot within the subdivision, and specifically shall not take in boarders, tenants, or students for hire nor shall any owner lease or rent any lot with improvements thereon for any purpose other than single family residence.

L. All natural drainage channels within the area of the subdivision are to remain open, and the owner does hereby retain an easement of ten (10) feet in width on each side of all natural drainage channels within the area of the subdivision to provide for maintenance of said channels and possible future channel improvements.

M. All structures commenced shall be prosecuted diligently to completion.

N. No fences, walls, or other barriers shall be permitted except with the written consent of the Architectural and Building Committee.

O. Every Lot, including improvements, shall be kept and maintained by the owner thereof in a clean, safe, attractive and sightly condition, and in good repair; no inoperative private automobile shall be placed or remain on any lot or adjacent street for more than 48 hours; no commercial type vehicles and no trucks shall be stored or parked on any lot or residential street except while engaged in transportation; trailers, mobile homes, trucks, boats, tractors, campers not on a truck, vans of any kind, buses, snow removal equipment and garden or maintenance equipment shall be kept at all times, except when in actual use, in a closed structure or screened from view; service areas, storage piles, facilities for hanging, drying or airing clothing for household fabrics shall be appropriately screened from view, and no lumber, grass, shrub or tree clippings or plant waste, metals, bulk materials, scrap, refuse or trash shall be kept, stored or allowed to accumulate on any lot.

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XI. RIGHT TO ENFORCE

The restrictions herein set forth shall run with the land and bind the Owner, its successors and assigns, and all parties claiming by, through or under it shall be taken to hold, agree and covenant with the Owner, its successors and assigns, and with each of them to confirm to and to observe said restrictions as to the use of said lots and the construction or improvements thereon, but no restrictions herein set forth shall be personally binding on any corporation, person or persons, except in respect to breaches committed during its, his, or their seizin of title to said land, and the Owner, its successors and assigns, of any of the above land, shall have the right to sue for and obtain an injunction, prohibitive or mandatory, to prevent the breach of, or to enforce the observance of; and failure by the Owner or any other party to enforce any covenants or restrictions above set forth at the time of its violation, shall, in no event, be deemed to be a waiver of the right to do so thereafter.

XII. OWNERS RIGHTS TO ASSIGN

The owner, by appropriate instrument, may assign or convey to any person, organization or corporation any or all of the rights, reservations, easements, and privileges herein reserved by it, and upon such assignments or conveyance being made its assigns or grantees may at their option exercise, transfer or assign such rights, reservations, easements and privileges or any one or more of them at any time or times, in the same manner and way as though directly reserved by them, or him in this instrument.

XIII. SEVERABILITY

Invalidation of any one of these covenants by judgment or court order shall in no wise affect any of the other provisions which shall remain in full force and effect.

IN WITNESS WHEREOF, the Owner, Flying Diamond Development Corporation, has executed the above instrument this 6th day of June, 1977.

FLYING DIAMOND DEVELOPMENT CORPORATION

Attest:

John F. Jennings
Assistant Secretary

By H. P. McLish
Vice President

STATE OF COLORADO)
City and County of Denver) ss.

On the 6th day of June, 1977, before me appeared H. P. McLish and John F. Jennings, who being by me duly sworn did say, each for himself, that they, the said H. P. McLish is the Vice-President, and John F. Jennings is the Assistant Secretary of Flying Diamond Development Corporation, and that the within and foregoing instrument was signed in behalf of said corporation.

Rebecca L. Korop
Notary Public



Commission Expires:
My Commission expires March 5, 1978

**EXHIBIT A
TO DECLARATION OF PROTECTIVE
COVENANTS AND RESTRICTIONS
APPLYING TO PLAT "E"
SHERWOOD HILLS SUBDIVISION**

Beginning at the most northerly corner of Lot 117, Sherwood Hills, Plat "C", Utah County Records, being also North 1286.23 feet and East 213.23 feet from the Northeast corner of Section 19, T6S, R3E, SLB&M; thence N 54° 00' 00" E 206.00 feet; thence N 36° 00' 00" W 115.54 feet; thence N 02° 30' 00" E 645.89 feet; thence N 53° 58' 00" W 113.00 feet; thence N 36° 02' 00" E 87.54 feet; thence N 53° 58' 00" W 56.00 feet; thence 30.65 feet along the arc of a non-tangent curve concave to the southeast whose tangent bears N 36° 02' 00" E, having a radius of 106.00 feet, through an angle of 16° 34' 05"; thence N 54° 07' 51" W 225.65 feet; thence S 35° 52' 09" W 175.00 feet; thence N 00° 13' 25" W 132.00 feet; thence S 89° 46' 35" W 144.00 feet; thence S 00° 13' 25" E 43.16 feet; thence S 89° 46' 35" W 116.28 feet; thence S 00° 13' 25" E 105.08 feet; thence S 45° 00' 04" W 70.71 feet; thence S 86° 11' 09" W 225.50 feet; thence S 59° 44' 37" W 69.46 feet; thence S 27° 33' 10" 129.71 feet; thence S 53° 07' 48" W 125.00 feet; thence S 79° 45' 15" W 116.38 feet; thence N 88° 05' 16" W 155.66 feet; thence S 39° 18' 34" W 146.00 feet; thence S 33° 00' 18" E 161.44 feet; thence S 24° 20' 00" W 116.80 feet; thence 141.13 feet along the arc of a tangent curve concave to the east, having a radius of 156.00 feet, through an angle of 51° 50' 00"; thence S 27° 30' 00" E 55.61 feet; thence 31.42 feet along the arc of a tangent curve concave to the west, having a radius of 20.00 feet, through an angle of 90° 00' 00"; thence S 62° 30' 00" W 109.00 feet; thence 31.42 feet along the arc of a tangent curve concave to the north, having a radius of 20.00 feet, through an angle of 90° 00' 00"; thence S 62° 30' 00" W 80.00 feet; thence S 27° 30' 00" E 172.00 feet to the northwesterly corner at the end of Foothills Drive as shown on Osmond Estates, Plat "A", Utah County Records; thence N 62° 30' 00" E 80.00 feet; thence along the east line of said Foothills Drive, the following six (6) courses: (1) 511.48 feet southerly along the arc of a radial curve concave to the east, having a radius of 2548.32 feet, through an angle of 11° 30' 00"; (2) S 39° 00' 00" E 250.32 feet; (3) 153.00 feet southerly along the arc of a tangent curve concave to the northeast, having a radius of 922.77 feet, through an angle of 09° 30' 00"; (4) S 48° 30' 00" E 178.86 feet, (5) 176.11 feet along the arc of a tangent curve, concave to the southwest, having a radius of 366.93 feet, through an angle of 27° 30' 00"; and (6) 150.58 feet along the arc of a tangent curve concave to the northeast, having a radius of 686.41 feet, through an angle of 12° 34' 10", to the north line of Windsor Drive as shown on Sherwood Hills, Plat "C", Utah County Records; thence along the northerly line of said Windsor Drive the following seven (7) courses: (1) 38.50 feet along the arc of a tangent curve concave to the north, having a radius of 20.00 feet, through an angle of 110° 18' 04"; (2) N 36° 07' 46" E 35.68 feet; (3) 69.52 feet along the arc of a tangent curve concave to the northwest, having a radius of 308.02 feet, through an angle of 12° 55' 51"; (4) N 23° 11' 55" E 85.46 feet; (5) 126.79 feet along the arc of a tangent curve concave to the west, having a radius of 170.21 feet, through an angle of 42° 40' 52"; (6) 211.27 feet along the arc of a tangent curve concave to the east, having a radius of 219.43 feet, through an angle of 55° 09' 51"; and (7) 20.52 feet along the arc of a tangent curve concave to the east having a radius of 440.24 feet, through an angle of 02° 41' 12"; thence along the westerly and northerly lines of the aforesaid Sherwood Hills, Plat "C", the following eight (8) courses: (1) N 53° 30' 00" W 195.01 feet; (2) N 15° 00' 00" E 60.00 feet; (3) N 19° 56' 11" E 196.50 feet; (4) N 07° 10' 31" W 128.34 feet; (5) N 82° 00' 00" E 155.00 feet; (6) N 48° 00' 00" E 185.00 feet; (7) S 36° 00' 00" E 52.00 feet; and (8) N 48° 00' 00" E 107.68 feet to the POINT OF BEGINNING.

Containing 47.32 acres

Myron Diamond
16959 200 W.
Blk. 9-A
Provo, Utah
Myron Diamond

RECORDED AT THE REQUEST OF
STEWART MCGO
BOOK _____ PAGE _____
1977 SEP 28 PM 1:23
NINA H. REID
UTAH COUNTY RECORDS
DEPUTY COUNTY CLERK
PR. ABS. T. R. IND.

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