

640343

DECLARATION OF BUILDING AND USE RESTRICTION AND PARTY WALL DECLARATION

KNOW ALL MEN BY THESE PRESENTS: THAT WHEREAS, the undersigned, being the owner of the following described real property located in the City of Clearfield, County of Davis, and State of Utah, to wit:

All of lots 8 to 77 and 77 to 88, inclusive, PLAT OF JULIE ESTATES SUBDIVISION, a subdivision of part of Section 13, Township 4 North, Range 2 West, Salt Lake Meridian, in the City of Clearfield, according to the official plat thereof.

Do hereby establish the nature of the use and enjoyment of said lots in said subdivision and do declare that all conveyances of said lots shall be made subject to the following conditions, restrictions and stipulations:

RESIDENTIAL AREA COVENANTS

1. LAND USE AND BUILDING TYPE: No lot shall be used except for residential purposes. No building shall be erected, altered, placed or permitted to remain on any lot other than one attached single-family dwelling not to exceed two stories in height and private garages and/or carports for not more than three vehicles. All construction is to be of new materials except that used brick may be used with prior written consent and approval of the Architectural Control Committee.
2. ARCHITECTURAL CONTROL: No building shall be erected, placed or altered on any lot until the construction plans and specifications and a plan showing the location of the structure have been approved by the Architectural Control Committee as to quality of workmanship and materials, harmony of external design with existing structures, and as to location with respect to topography and finish grade elevation. No fence or wall shall be erected, placed or altered on any lot nearer to any street than the front building setback line unless similarly approved. Approval shall be as set forth hereinafter under the designation of "Architectural Control Committee."
3. DWELLING COST, QUALITY, AND SIZE: No dwelling shall be permitted on any lot at a cost of less than \$30,000.00 exclusive of lot, based upon cost levels prevailing on the date these covenants are recorded, it being the intention and purpose of the covenant to assure that all dwellings shall be of a quality of workmanship and materials substantially the same of better than that which can be produced on the date these covenants are recorded at the minimum cost stated herein for the minimum permitted dwelling size. The main floor area of the main structure, exclusive of one-story open porches and garages, shall be not less than 800 square feet.
4. BUILDING LOCATION: (a) No building shall be permitted or located on any lot nearer than 25 feet to the front lot line, nor nearer than 20 feet to any side street line. (b) Dwellings shall have a common wall with an adjoining dwelling on an adjacent lot and have a zero side yard, but in each case a minimum 8 foot side yard shall be maintained and required on the opposite side of the building. No dwelling shall be located nearer than 25 feet to the rear lot line on any interior lot. Detached garages or other permitted accessory buildings shall be located seven feet or more from the rear lot line and shall not encroach on any easements on the lot. (c) For the purpose of this covenant, eaves, steps, and open porches shall not be considered as part of the building, provided, however, that this shall not be construed to permit any portion of any building on a lot to encroach upon another lot, except as provided herein. Where an attached dwelling is constructed on a lot, using a zero lot line AN EASEMENT five feet in width adjoining said zero lot line is hereby created and granted on the adjoining lot for any overhanging eaves of the building and for any required maintenance and repair of said dwelling.
5. LOT AREA AND WIDTH: No dwelling shall be erected or placed on any lot having a width less than 50 feet at the front building setback line nor shall any dwelling be erected or placed on any lot having an area of less than 5000 square feet, except that a dwelling may be erected or placed on all corner and cul-de-sac lots as shown on the recorded plat, provided that the above yard clearances are maintained.

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 On Margin
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12-130-41

6. **EASEMENTS:** Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat and over the rear 7 feet of each lot. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each lot and all improvements in it shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or utility company is responsible.
7. **NUISANCES:** No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. No clothes drying or storage of any articles which are unsightly in the opinion of the Architectural Control Committee will be permitted in carports, unless in enclosed areas designed for such purpose. No automobiles, trailers, boats, or other vehicles are to be stored on streets or front or side lots unless they are in running condition, properly licensed and are being regularly used.
8. **TEMPORARY STRUCTURES:** No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuildings shall be used on any lot at any time as a resident either temporarily or permanently. No Mobile Homes are permitted.
9. **SIGNS:** No sign of any kind shall be displayed to the public view on any lot except one professional sign of not more than one square foot, one sign of not more than five square feet advertising the property for sale or rent, or signs used by a builder to advertise the property during the construction and sales period.
10. **LIVESTOCK AND POULTRY:** No animals, livestock, or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or other household pets may be kept provided that they are not kept, bred, or maintained for any commercial purpose and are restricted to the owner's premises or on leash under handler's control.
11. **GARBAGE AND REFUSE DISPOSAL:** No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition. Each lot and its abutting street are to be kept free of trash, weeds and other refuse by the lot owner. No unsightly materials or other objects are to be stored on any lot in view of the general public.
12. **SIGHT DISTANCE AT INTERSECTIONS:** No fence, wall, hedge, or shrub planting which obstructs sight lines at elevations between 2 and 6 feet above the roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection of the street lines or in case of a rounded property corner from the intersection of the street property lines extended. The same sight-line limitations shall apply on a driveway or alley pavement. No tree shall be permitted to remain within such distance of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.
13. **OIL AND MINING OPERATIONS:** No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained, or permitted upon any lot.
14. **LANDSCAPING:** Trees, lawns, shrubs, or other planting provided by the developer shall be properly nurtured and maintained or replaced at the property owner's expense upon request of the Architectural Control Committee.

15. **SLOPE AND DRAINAGE CONTROL:** No structure, planting or other material shall be placed or permitted to remain or other activities undertaken which may damage or interfere with established slope ratios, create erosion or sliding problems, or which may change the direction of flow of drainage channels or obstruct or retard the flow of water through drainage channels. The slope control areas of each lot and all improvements in them shall be maintained continuously by the owner of the lot, except for those improvement for which a public authority or utility company is responsible.

ARCHITECTURAL CONTROL COMMITTEE

1. **MEMBERSHIP:** A majority of the committee may designate a representative to act for it. In the event of death or resignation of any member of the committee, the remaining members of the committee shall have full authority to select a successor. Neither the members of the committee, nor its designated representative, shall be entitled to any compensation for services performed pursuant to this covenant. At any time, the then record owners of a majority of the lots shall have the power through a duly recorded written instrument to change the membership of the committee or to withdraw from the committee or restore to it any of its powers and duties. The Architectural Control Committee is composed of John L. Higley, Mark L. Higley, and Edwin M. Higley, all of 150 South State Street, Clearfield, Utah 84015.
2. **PROCEDURE:** The Committee's approval or disapproval as required in these covenants shall be in writing. In the event the committee, or its designated representative, fails to approve or disapprove within 30 days after plans and specifications have been submitted to it, or in any event, if no suit to enjoin the construction has been commenced prior to the completion thereof, approval will not be required, and the related covenants shall be deemed to have been fully complied with.

GENERAL PROVISIONS

1. **TERM:** These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of 40 years from the date these covenants are recorded, after which time, said covenants shall be automatically extended for successive periods of 10 years unless an instrument signed by a majority of the then owners of the lots has been recorded, agreeing to change said covenants in whole or in part.
2. **ENFORCEMENT:** Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant, either to restrain violation or to recover damages.
3. **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.
4. **AMENDMENT:** These covenants are to run with the land and shall be binding on all parties and all persons claiming under them unless an instrument signed by 75% of the then owners of the lots has been recorded, agreeing to change said covenants in whole or in part.

PARTY WALL DECLARATION

THAT portion of the boundary line of any lot upon said property occupied or covered by a building containing a division wall will be construed to exactly longitudinally bisect said division wall; the owners of the wall on each half of said wall shall have an easement of support in the other one half of said wall, and said wall shall be a party wall for the benefit of both parties, subject to the following rights and obligation:

- A. Should said party wall at any time be damaged or destroyed by the default or negligence of one of said parties, such party shall rebuild or repair said wall to a condition equal or better than immediately prior to it's being damaged and shall compensate the other party for any damage to the property to such other party.

- B. Should said party wall be damaged or destroyed by any cause other than the act or negligence of the other party, the same shall be rebuilt or repaired to a condition equal to or better than immediately prior to its being damaged, at the joint expense of both parties, provided that any sum received by insurance against such damage or destruction shall be first applied to such restoration.
- C. In the event either party desires to extend their respective buildings either longitudinally along said boundary line or vertically from the location of said party wall, said extension shall be on top of and / or on the same line as the present wall or any extension thereof. When either party shall so extend said wall, the other party shall have the right to use as a party wall and join the same by paying the other party one-half of the cost of such wall as he shall use, it being understood that any such extension shall at all times be a party wall.
- D. The rights and obligations of said parties in and to said party wall shall be perpetual, shall run with the land and shall benefit and apply to their respective heirs, administrators, executors, Personal Representatives, and Assigns.

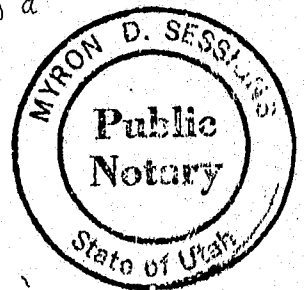
WITNESS our hand this 15th day of February, A.D., 1983.

M & J CONSTR., INC.

By: Mark L. Higley
Mark L. Higley, President

STATE OF UTAH)
SS.
COUNTY OF DAVIS)

On the 15th day of February, A.D. 1983, personally appeared before me Mark L. Higley being by me duly sworn, did say, that he is the President of M & J CONSTR., INC., the within named corporation, that he signed the within instrument for and on behalf of said coporation by authority of a resolution of its Board of Directors, and said MARK L. HIGLEY duly acknowledged to me that said corporation executed the same.



Myron D. Sessions
NOTARY PUBLIC
Residing at: 1305 1/2 300 N. Cleveland St.
My commission expires: 3-31-86