

Jul 31 2007 2:41PM

No. 6816 P. 2

# Declaration of Protective Covenants for the Auburn Hills Subdivision, Division No. 1 360872

Jefferson County, Idaho  
(Re-Recorded to Correct #360147)  
(See Notice of changes)  
Last Page

Microfilm No. \_\_\_\_\_  
 At 2:17 O'Clock P M  
 CHRISTINE BOULTER  
 Jefferson Co. Recorder  
 Fee \$ \_\_\_\_\_ Deputy  
 Recorded at Request of Thompson Eng

1. RECITALS:

KNOW ALL MEN BY THESE PRESENTS:

That the undersigned, Auburn Hills, LLC, being the Owners of all the certain parcel of real property situated in Jefferson County, State of Idaho and described as follows:

**Lots 1 through 14 of Block 1, and Lots 1 through 15 of Block 2, Lots 1 through 9 of Block 3, and Lots 1 through 9 of Block 4 of the Auburn Hills Subdivision, Division No. 1, Jefferson County, State of Idaho as per the duly recorded plat thereof.**

WHEREAS, the undersigned intend to divide said property into six-tenths (0.60) acre of building sites, hereafter referred to and mentioned as "Lots" and desire, owners of the respective properties within said area, to provide for certain use restrictions which shall govern and control the use and enjoyment of the lots within said described property.

NOW, THEREFORE, the undersigned do hereby certify and declare that all or any portion of the above described lots shall, upon conveyance thereof by the undersigned, be owned, held and enjoyed by the respective grantees thereof, their heirs and assignees, subject to the following restrictions.

2. RESIDENTIAL AREA COVENANTS:

2.1 Lot Use:

No lot shall be used except for residential purposes. No building shall be erected, altered, placed or permitted upon any of the lots in the Auburn Hills Subdivision other than one attached single family dwelling, not to exceed two stories in height with an attached three car garage for personal use. Other outbuildings must be approved by the Architectural Control Committee.

2.2 Architectural Control:

No building or structure shall be erected, placed or altered on any lot until the construction plans and specifications showing the location of the structure on said lot have been approved by the Architectural Control Committee as to the quality of workmanship and materials, harmony of exterior design with existing structures, and as to location with respect to topography and finish grade elevation. The topography or grade on any lot shall not be altered so drainage water will or could run on any other lot.

2.3 Dwelling size, and finished grade:

Each dwelling, excluding basement and garage shall have a minimum of 1500 square feet of floor area. A multiple story dwelling shall have a minimum of 1500 square feet on the ground floor, excluding garage and basement. In addition to the size requirements listed above, each dwelling must appraise for no less than \$250,000. The Minimum Roof pitch will be 7:12. Finished main floor elevation shall be between two (2) and three (3) feet above the public street asphalt grade. Finished garage floor elevation shall be between one (1) and two (2) feet above the public street asphalt grade.

2.4 Building Location:

Jul 31 2007 2:42PM

No. 6816 P. 3

nearer to the side or interior line than 15 feet. No building for the housing of animals or poultry, except cats or dogs, will be allowed. Buildings for the housing of cats or dogs shall not be located nearer to any center of a public street than 80 feet. All building locations shall comply with county codes and regulations.

*2.5 Lot Area and Width:*

No lot shall be subdivided in any manner whatsoever other than as per the duly recorded plat thereof, nor shall more than one dwelling be placed on any building site or lot.

*2.6 Public Utility Easements:*

The owner of each lot shall allow for the use of easements as recorded on the Auburn Hills Subdivision Plat from time to time as may be necessary for maintenance of any electrical power, telephone line, gas lines, water lines, sewer lines, irrigation ditches, and drainage facilities reasonably necessary for the benefit of any other portion of said premises, provided that such easements shall be exercised without doing any more damage than reasonably necessary to the lot involved.

*2.7 Community Park and Landscaping Berms:*

The Homeowners Association will maintain and upkeep the East and West entry way berms and the Community Park shown as Lot 9 in Block 3 and Lot 9 in Block 4. The developer will pay for and install a well, sprinkler system, five (5) trees, and grass seed the parks. It is then the Home Owner's Association responsibility to maintain the entrance and the parks.

*2.8 Nuisances:*

No noxious or offensive activity shall be carried on upon any portion of said property, which may be or may become an annoyance or nuisance to the neighborhood. This includes any activity or practice prohibited by law, ordinance, or regulation lawfully imposed by any governmental authority.

*2.9 Temporary Structures:*

No basement house, tent, shack, garage, barn, trailer house, camper trailer, double wide manufactured home, or other structure shall be allowed on any lot as a residence.

*2.10 Signs:*

No signs of any kind shall be displayed in the public view on any lot except one professional sign of not more than 6 square feet advertising the property for sale. Signs used by the builder and sub-contractors to advertise the property during the construction and sale thereof may be allowed, but must be removed after the sale of the dwelling.

*2.11 Animals, Livestock, Fowl and Poultry:*

No animals, livestock, fowl or poultry of any kind shall be raised, bred or kept on any lot. However, one may keep household pets of up to 2 cats, and up to 2 dogs, not to exceed a combined total of 3 pets, which must be kept in fenced yard or on a leash. Noise of animals must be controlled. All violations will be subject to a fine at the discretion of the Architectural Control Committee.

*2.12 Occupations and Professions:*

No dwelling or lot shall be used for commercial purposes except home occupations, or where the dwelling is the office of a person practicing a profession, or as currently allowed by the County Planning & Zoning Committee. However, there shall be no signs displayed, maintained or used other than previously described or other conspicuous addition to said dwelling used to attract attention to said occupation or profession.

*2.13 Garbage and Refuse Disposal:*

Jul 31 2007 2:42PM

No. 6816 P. 4

No lot shall be used or maintained for a dumping ground for rubbish, trash, garbage, or other waste. All containers or other equipment for the storage of or disposal of such materials shall be kept in a clean and sanitary condition. All violations will be subject to a fine at the discretion of the Architectural Control Committee.

*2.14 Well and Sewer Location and Construction:*

Lots within the Auburn Hills Subdivision will be served by a Sand Filter In-Trench Septic System and constructed in accordance with the standards of the Eastern Idaho Public Health District. Approval of such system shall be obtained from the health authority having jurisdiction. The Well and Sewer Drain field locations are shown on the *Well & Sewer Layout* Drawing recorded in the Jefferson County Courthouse as Instrument No. 360148. It is the responsibility of the Builder and/or homeowner to locate the exact location of the well and sewer drain field location prior to the installing of said utilities. Failure to do so may result in re-drilling of the well and/or the re-location of the drain field at the Builder's and/or Homeowner's expense. Site locations will be checked by the Eastern Idaho Public Health District.

*2.15 Protective Screening:*

No boundary fence or retaining wall shall be erected without written consent of the adjoining owner whose property such fence borders. Screening fences shall be equipped with a gate to provide access to the rear yards and storage areas. No chain link fences will be allowed. The Architectural Control Committee must approve all fences.

*2.16 Parking:*

The driveway space shall not be used for purposes other than parking and operating useable/drivable automobiles. The parking of campers, boats, trailers, and any vehicles larger than a pickup truck must be provided for on the lot behind said dwelling. No cars or trailers shall remain on the street from 10 p.m. to 6 a.m. In no case shall a lot be used for the storage or maintenance of heavy equipment, non-operable vehicle, or tractor-trailer trucks.

*2.17 Sight Distance at the Intersection:*

No fence, wall, hedge, shrub, or any other object which obstructs the sight lines at elevations between two and six 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 the lines connecting them at a point forty five feet from the street lines.

*2.18 Construction and Maintenance:*

All outbuildings shall be constructed of the same material and color as the dwelling and maintained in a style and manner that harmonizes with the appearance of the dwelling. Outbuildings must be approved by the Architectural Control Committee.

2.18.2 Exterior finish of all personal dwellings shall be of brick, stucco, rock, vinyl, or pre-finished siding, such as steel or aluminum. One-Hundred percent (100%) of the front elevation must be brick, stone or stucco. No hardboard or other wood sidings shall be permitted.

2.18.3 Personal dwellings shall have an attached three-car garage, and shall have a finished concrete or asphalt driveway extending to the subdivision road. A five foot (5') sidewalk will be constructed at the builder/homeowners expense along the Subdivision Road Right-of-Way as shown on the Road Detail Drawing on Sheet 1 of the Recorded Auburn Hills Subdivision Plat. The driveway and the five foot (5') sidewalk must be completed before an Occupancy Permit will be issued for the dwelling.

Jul 31 2007 2:42PM

No. 6816 P. 5

2.18.4 Any construction of any buildings or structures or appurtenances thereto shall be completed within one year of the beginning of said building, structure, or appurtenance. An underground sprinkler system with grass and a minimum of four (4) trees will be planted at the completion of the dwelling.

2.18.5 No lot or lots shall be neglected or permitted to fall into and unsightly state, or permitted to be overgrown with weeds, or strewn with rubbish. The Architectural Control Committee shall have the power and shall be authorized in its discretion and at the request of any other owners in such area, to remove or take any other action upon such premises which shall remove rubbish, garbage, overgrown weeds or such other unsightly state without responsibility or liability to the owners thereof at the expenses of the owners thereof.

### 3. ARCHITECTURAL CONTROL COMMITTEE:

#### *3.5 Members:*

The Architectural Control Committee is composed of Jaramie Magera. None of the members of the committee shall be entitled to compensation for services performed pursuant to this covenant. When all the lots are sold, the then record owners of a four fifths majority of the lots shall have the power through a duly recorded written instrument, to change the membership of the committee or to withdraw or restore to the committee any of its powers and duties.

#### *3.6 Procedure:*

The Committee's approval or disapproval as required in these covenants shall be in writing. In the event the committee 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.

### 4. GENERAL PROVISIONS:

#### *4.1 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 thirty (30) years from the date these covenants are recorded, after which said covenants shall automatically be extended for successive periods of ten (10) years unless an instrument signed by a four fifths (4/5) majority of the then owners of the lots has been recorded to change said covenants in whole or in part.

#### *4.2 Enforcement:*

Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenants by such person or persons claiming such violation, either to restrain the violation or to recover damages. The Architectural Control Committee has no responsibility for any such enforcement as such covenants are running with the land and shall be enforced as set out here in.

#### *4.3 Severability:*

Invalidation of any one of these covenants by judgment or court order shall be in nowise effective on any of the other provisions, which shall remain in full force and effect.

### 5. PROPERTY OWNERS ASSOCIATION

#### *5.1 Creation:*

Jul 31 2007 2:42PM

No. 6816 P. 6

As soon as all lots have been sold, Owners shall create a home owners association (herein referred to as the Association) for the purpose of maintaining the standards and enforcing the covenants and restrictions contained in this document and for such additional purposes as its membership shall, from time to time, deem necessary of proper.

*5.2 Procedure for creation:*

When all lots are sold The Architectural Control Committee of the property will give all recorded lot owners written notice of the fact, and said notice will be mailed to the last known address of said owners per the tax records of Jefferson County. Said notice shall contain the proposed by-laws of the Association and shall provide all said owners notice of the day and time of the first meeting of the Association. At the first meeting, the said proposed by-laws will be approved and adopted, along with any changes approved by said owners, by a majority vote of the owners in attendance at said meeting. The initial officers of the Association shall be elected at the first meeting.

*5.3 Membership:*

All owners of lots within the property shall, by acceptance of their deeds, become members of the Association once it is created by the Owner. Said membership shall subject all owners to the rules and regulations of the Association. Each recorded lot owner shall have one (1) vote per lot owned by the owner. Each lot owner shall be deemed to covenant and agree to pay to the Association any annual or special assessments. The said annual or special assessments, together with interest thereon and cost of collection, shall be a continuing lien on the property affected and shall also be a personal obligation of the owner of the lot on the date when the assessment is due.

*5.4 Owner's Responsibility assumed by Association:*

Subsequent to the adoption of the said by-law and election of said officers, the Owner shall have no further responsibility of liability for the maintenance of the property's common areas or the payment of taxes or insurance thereon. Such responsibility and liability shall then belong solely to the Association. Ownership and title of the common areas of the Property will be conveyed to the Association on the date the Association is created by the Owner and the first meeting is held.

*5.5 Powers of Association:*

The Association shall have, in addition to those powers and authority contained elsewhere in this document and as contained in the said by-laws (said by-laws may more specifically define and power enumerated herein), and not by way of limitation of restriction, the following powers and authority:

- A. To enforce and provide for the enforcement of the covenants contained herein.
- B. To reasonably maintain all common areas within the property, to pay taxes thereon, and to maintain and pay for insurance thereon.
- C. To provide for the common protection and security of the Property.
- D. To assess and collect from all recorded owners of the Property such monetary sums as may be reasonably necessary or proper to maintain the entrance, roads, well lot, and any other common areas of the Property, and for the payment of taxes and insurance thereon.

*5.6 Enforcement:*

Enforcement of these covenants and restrictions shall be by proceedings at law or equity against any person or persons, owner or owners, violating or attempting to violate any covenant of restriction herein, and such proceedings may be either to recover damages or to restrain or both. Such proceedings may be brought by the Owner, any lot owner or the Association.

Jul. 31. 2007 2:43PM

No. 6816 P. 7

UTILITY EASEMENTS:

A 12-foot utility easement will be provided as per plat and enclosed protective covenants. Utilities shall have the right to install, maintain, and operate their equipment above and below ground and all other related facilities within the Public Utility Easements identified on this plat map as may be necessary or desirable in providing utility services within and without the lots identified herein, including the right of access to such facilities and the right to require removal of any obstructions including structures trees and vegetation that may be placed within the PUE. The utility may require the lot owner to remove all structures within the PUE at the lot owner's expense. At no time may any permanent structures be placed within the PUE or any other obstruction which interferes with the use of the PUE without the prior written approval of the utilities with facilities in the PUE.

STATEMENT OF WATER RIGHTS:

No surface irrigation water rights will be issued with, sold to, or provided for any of the Forty-Seven (47) lots within the Auburn Hills Subdivision, Division No.1. All surface watering shall be provided by the future buyers and shall be from a private well. Each lot shall be responsible for drilling and maintaining private water well.

IN WITNESS WHEREOF THE undersigned owners have caused their name to be hereunto subscribed to these Protective Covenants this 09<sup>th</sup> day of July, 2007.



Jaramie Magefa
Auburn Hills, LLC
Managing Member

State of Idaho )
) SS
County of Jefferson)

On this 09<sup>th</sup> day of July, 2007 before me, the undersigned Notary Public in and for the State of Idaho, personally appeared, Jaramie Magefa, known to me to be the persons whose names are subscribed to the foregoing instrument and acknowledged to me that they executed the same.

S
E
A
L

Daniel Jose
Notary Public

My Commission Expires on: 10/06/2012

Jul 31 2007 2:43PM

No. 6816 P. 8

## Notice of Changes

- *On Recitals, Lots 1 through 14, was Changed to Lots 1 through 15.*
- *2.1: The word (remain) was removed and Auburn Hills Subdivision was placed.*
- *2.3: Added to it: The minimum roof pitch will be 7:12. Finished main floor elevation shall be between two(2) and three (3) feet above the public street asphalt grade. Finished garage floor elevation shall be between one(1) and two(2) feet above the public street asphalt grade.*
- *2.18.3: The paragraph was changed from: Personal dwellings shall have an attached two or three-car garage, and shall have a finished concrete or asphalt driveway extending a minimum of 24 feet from the garage doors. The remaining driveway, beginning 24 feet from the garage doors and extending to the street, must be completed using one or more of the following materials: concrete, asphalt or 3/4" crushed rock road base. The driveway must be completed within one year of finishing construction on the dwelling.*
- *2.18.4: Paragraph was changed from: any construction of any buildings or structures or appurtenances thereto shall be completed within one year of the beginning of said building, structure, or appurtenance. An underground watering sprinkler system is recommended in both the front and back yard, and grass and minimum of four(4) trees will be planted within one year from the completion of the construction of the personal dwelling.*