

Third Amended Declaration of Covenants, Conditions and Restrictions for Deer Meadows Subdivision Phase 1

This Third Amended Declaration of Covenants, Conditions and Restrictions is executed

this ___ day of _____, 2011 by the Municipal Building Authority of North Ogden City ("the MBA"), a municipal building authority organized under the authority of the Local Building Authority Act, Utah Code Ann. §§ 17D-2-101 et. seq.

RECITALS

The MBA was the developer and owner of a certain tract of land located between approximately 2600 North and Fruitland Drive in North Ogden, Weber County, State of Utah ("the Property"). The Property is more fully described in Exhibit "A."

The MBA elected to develop a portion of the Property (approximately 15 acres) for residential purposes.

The MBA recorded a subdivision on the Property known as Deer Meadows Subdivision Phase 1 ("the Subdivision").

In order to comply with its agreement with the previous owner of the Property, to create a desirable single-family residential community within North Ogden City and to create a residential development which would be in harmony with Barker Park, the MBA recorded certain Covenants, Conditions and Restrictions to run with the land.

The MBA recorded an original Declaration of Covenants, Conditions and Restrictions for the Subdivision on February 5, 2001. The original declaration was recorded as Entry Number 1750207, beginning on page 1954 of Book 2114 of the Official Records of Weber County. The original declaration was first amended on July 16, 2001 and was recorded as Entry Number 1784097, beginning on page 2438 of Book 2154 of the Official Records of Weber County. The "Second Amended Declaration of Covenants, Conditions and Restrictions for Deer Meadows Subdivision Phase I" was recorded in the Official Records of the Weber County Recorder on April 8, 2005, as Entry Number 2095919, Pages 1-9.

Since recordation of the above-mentioned documents, the MBA has divested itself of all ownership in Deer Meadows Subdivision Phase I.

Pursuant to the authority which it retained pursuant to paragraph 28 of the Second Amended Declaration of Covenants, Conditions and Restrictions for Deer Meadows Subdivision Phase I, the MBA now exercises its right to amend these Covenants, Conditions and Restrictions.

The purpose of this Third Amended Declaration of Covenants, Conditions and Restrictions for Deer Meadows Subdivision Phase 1 is for the MBA to abdicate its rights and responsibilities in regard to the Subdivision in general and the enforcement of covenants, conditions and restrictions in favor of the present and future owners of the Property.

NOW THEREFORE, the MBA hereby vacates the Second Amended Declaration of Covenants, Conditions and Restrictions for Deer Meadows Subdivision Phase I and enacts in its place this Third Amended Declaration of Covenants, Conditions and Restrictions for Deer Meadows Subdivision Phase I which shall read as follows:

1. Uses and Design Approval. The lots in the Subdivision shall be used for single-family residential purposes only.

a. The exterior design of all homes and outbuildings shall be approved by the ~~Building Official~~ an "Owner's Committee" prior to construction. The Owners Committee shall consist of representatives of owners of all lots located within the Subdivision. The Owner's Committee shall elect a chair person from among its members. A quorum of the Owner's Committee shall consist of three representatives and any matter to be approved by the Owner's Committee may be approved by a simple majority of all those representatives voting. Only single-family homes may be approved and the ~~MBA~~ Owners Committee shall not approve any multi-family dwellings. Plans for proposed homes and outbuildings shall be submitted to the ~~Building Official~~ Owners Committee for approval. ~~Pursuant to an agreement between the MBA and the City, all plans for homes and outbuildings shall be referred to the City's building inspection and community development departments for approval.~~

b. The ~~Building Official~~ Owners Committee shall approve or disapprove all proposals within thirty (30) days of the time the proposals are submitted. If the ~~Building Official~~ Owners Committee disapproves a proposed design, it shall state in writing the reasons for the rejection. If the ~~Building Official~~ Owners Committee fails to take any action on a proposal within the thirty (30) day period, the proposal shall be deemed to be approved, except that this provision may not be used to claim that the ~~Building Official~~ Owners Committee has approved any multi-family dwelling or a design which does not meet the size requirements of paragraph 2.

c. Buildings which are typically appurtenant to a single-family dwelling, such as outdoor sheds and detached garages, may be constructed in the Subdivision only with the written approval of the ~~Building Official~~ Owners Committee. The approval shall be obtained before construction begins. Additional buildings shall be approved only if they are architecturally compatible with the single-family home on the lot.

d. No trailer, tent shack, garage, barn or other outbuilding erected in the Subdivision shall at any time be used as a residence, nor shall any structure of a temporary character be used as a residence.

2. House footprint.

a. The footprint of any house (excluding attached garage) to be constructed on any lot in the Subdivision shall be 2,400 square feet, provided that smaller homes may be built on lots as provided in subparagraphs b., c. and d. of this paragraph 2.

b. An owner may build a home with a footprint as small as 2,000 square feet (not including garage) if the home will have an interior floor area of at least 3,000 square feet, not including the garage or any basement or half-basement.

~~e. If the Barkers choose to purchase one or more of lots 1, 2, 19, or 20, they may build a home with a footprint as small as 1,500 square feet (not including the garage) on those lots. The Barkers may not build homes with a footprint as small as 1,500 square feet on any other lots and if lots 1, 2, 19 and 20 are purchased by any other person, the owner may not build a home with a footprint less than 2,400 square feet or 2,000 square feet as described above.~~

~~d. Pursuant to the agreements between the MBA and the Barkers, the Ray Barker family has the right to purchase up to two (2) lots in the Subdivision and the Carl Barker family has the right to purchase up to four (4) lots in the Subdivision.~~

~~i. On those lots which the Barker purchase under the terms of their agreements with the MBA, the footprint of the house (excluding attached garages) shall be no less than 1,800 square feet, provided:~~

~~(a) That the Barkers indicate the lots they intend to purchase under their agreements with the MBA within the time limits set in those agreements;~~

~~(b) If the Barkers fail to build a home on any lot which they purchase pursuant to the terms of their agreements with the MBA before selling the lot to a third party, the third party shall not be entitled to the Barkers' right to build a smaller home and must build a home with a footprint of at least 2,400 square feet; and~~

~~(c) Any lots which the Barkers purchase which ate in addition to those allowed in their agreements with the MBA shall be governed by the footprint requirements of paragraph 2.a. above.~~

~~ii. The MBA shall record a notice indicating which lots the Barkers have purchased under the terms of the agreements with the MBA.~~

E(c). No house shall be constructed on a lot until the siting of the house on the

lot and the size of the house's footprint have been approved by the ~~Building Official~~ Owners Committee. Siting plans shall be submitted to the ~~Building Official~~ Owners Committee prior to construction and the ~~Building Official~~ Owners Committee shall have thirty (30) days to approve or reject the plans. If the ~~Building Official~~ Owners Committee fails to take any action on the siting plans within thirty days, the siting plan shall be deemed to be approved.

3. Exterior materials and design approval.

a. No less than eighty percent (80%) of the exterior facing of the house to be constructed on any lot shall be brick or stone. Simulated stone may be used if the specific simulated stone to be used is approved in writing by the ~~Building Official~~ Owners Committee prior to construction.

b. Stucco may be used to cover no more than twenty percent (20%) of the exterior of the homes in the Subdivision.

c. No aluminum, wood or vinyl siding may be used on the exterior of any home in the Subdivision, except that siding may be used for trim, soffits, facing and fascia on homes in the Subdivision if the materials and colors are approved by the ~~Building Official~~ Owners Committee prior to the construction of the home.

d. The roofs of the homes in the Subdivision may be constructed of wood shakes or terra cotta shingles. Architectural grade asphalt shingles may also be used. No other materials may be used on the roofs of homes in the Subdivision without the prior written consent of the ~~Building Official~~ Owners Committee.

4. New Materials. Only new materials shall be used in the construction of homes in the Project, except that old brick may be used if approved in writing by the ~~Building Official~~ Owners Committee prior to the commencement of construction.

5. Exterior Antennae. No exterior antennae larger than two feet (2') in diameter shall be permitted on any home within the Subdivision unless the antenna has been approved in writing by the ~~Building Official~~ Owners Committee. The ~~Building Official~~ Owners Committee shall approve no exterior antenna unless the antenna is completely hidden from view from the street.

6. Setbacks. All houses in the Subdivision shall be set back at least 40 feet from the public street upon which the lot has frontage.

7. Trees and Landscaping. All lots shall be landscaped within one (1) year of the time the City issues a Certificate of Occupancy for the home located on the lot.

a. All owners of lots in the Subdivision shall maintain the landscaping on their lots so that the lots present a neat, clean and pleasing appearance.

b. All landscaping in the Subdivision shall include the planting of lawn grass

on at least forty percent (40%) of the lot which is not included in the footprint of the house. The remaining sixty percent (60%) of the lot shall be neatly landscaped, but may use other plants, rock, ponds and other landscaping techniques typically used in the area.

c. Owners shall not allow their grass to grow to a length greater than six inches (6") before mowing or cutting the grass.

d. At a minimum, each lot owner shall, within one (1) year of receiving a Certificate of Occupancy, plant at least two (2) trees having a diameter of at least two inches (2") in the park or planter strip between the sidewalk and the street upon which the lot has frontage. The types of trees planted shall be approved by the City Planner and the lot owner shall be responsible for maintaining the trees as well as the park strip.

e. All yards shall be maintained in a neat and orderly condition, and no discarded appliances, building or fencing materials, cars, equipment, garbage, debris or other unsightly materials may be left in any yard.

8. Fences. As part of the development of Barker Park, the MBA ~~shall install~~ installed a privacy fence along the back lot line of each lot in the Subdivision. The installation of these fences ~~shall include~~ included installing a corner post at the corner of each lot so that the owners of the lots may attach side fences to the corner post if they desire to do so.

a. Whenever the owner of a lot desires to replace or repair the fence, the owner shall ensure that the new fence is consistent with the fence originally installed by the MBA. Owners of lots in the Subdivision may, but shall not be required to, install privacy fences along the side lines of their lots. If the owners decide to install fences along the side lot lines, the fences shall comply with the following:

i. The fences shall be consistent and compatible with the fences the MBA originally installs ~~installed~~ on the back lot lines.

ii. The fences shall be no more than six feet (6') tall.

iii. The fences shall extend no further forward than the front wall of the house. No fences shall be constructed in the front yards of the homes in the Subdivision.

9. Animals. Owners and/or occupants of lots in the Subdivision shall be allowed to keep household pets, such as cats, dogs, fish and birds, on their lots, provided that no owner or occupant may engage in commercial animal breeding. For purposes of this paragraph "commercial animal breeding" shall mean purposely producing a litter of animals for sale. No other animals may be kept on any lot. No dog kennels may be kept on any lot in the Subdivision and dog runs may not be located along the side lot lines or in the front yard of any lot.

10. Addresses. The addresses of each lot in the Subdivision shall be stenciled on the

curb in front of the home on the lot. These stenciled address numbers shall be maintained in a legible condition at all times. In addition to the stenciled address numbers, owners of houses in the Subdivision shall have house numbers on the front portion of the house or garage. These address numbers shall be designed so that they can be read from the street.

11. Nuisances. No owner, resident, tenant, or other person using any property in the Subdivision may permit, suffer, create or maintain a nuisance in the Subdivision.

a. For purposes of this Declaration, a nuisance shall include, but not be limited to: 1) noxious, embarrassing, disturbing or offensive activities and 2) exterior whistles, bells, horns, or other sound-emitting devices. In addition, owners of unoccupied lots must:

i. maintain the lot so that no weeds, grasses or other plants grow on the lot in excess of six (6) inches in height,

ii. not allow any debris to remain on the property; and

iii. not allow any storage on the lot of any kind.

12. Exterior furniture and appliances. Exterior furniture on porches and patios shall be limited to chairs, bench swings and other furniture intended for outdoor use. No refrigerators or other appliances shall be allowed on porches or patios. .

13. Painting. All permitted structures shall be stained, painted, stuccoed, or sided. No structure shall be allowed to remain unfinished past the time that a Certificate of Occupancy or Certificate of Completion is issued for the structure. For the purposes of this paragraph, the term "structure" shall mean sheds, accessory buildings, wooden fences, and other structures which are permitted in the Subdivision and will permanently remain in the Subdivision.

14. Garbage containers. All garbage containers shall be kept hidden from sight from the road, except for the day on which garbage pick-up is scheduled. On days on which garbage pick-up is scheduled, the garbage containers may be left at the curb for collection, provided that no garbage shall be allowed to escape the container and no garbage shall be placed or stacked outside of the container. Following garbage pick-up, the garbage containers shall be promptly removed from the curb and returned to their usual storage area.

15. No re-subdivision. There shall be no re-subdivision of lots in the Subdivision.

16. Compliance with all laws. In addition to complying with terms of this Declaration, all owners of lots in the Subdivision shall comply with all laws affecting the Property, including all environmental laws, hazardous substance laws, zoning ordinances, subdivision ordinances and all other federal, state or local laws which may affect ownership of property in the Project.

17. Lighting. No exterior light may be positioned so that it shines directly into any house on any lot other than the lot upon which the light is installed.

18. Reconstruction. In the event any improvement (including landscaping) is damaged, the owner of the lot upon which the improvement is located shall repair or replace the improvement within six (6) months of the date of the damage.

19. No model homes. No model homes shall be allowed on any lot in the Project.

20. No fuel tanks. No fuel tanks (including propane tanks) or similar fuel storage facilities over 5 gallons in capacity shall be allowed on any lot in the Subdivision.

21. Clothes Lines. Any exterior clothes lines must not be visible from the road.

22. No mining. No excavation shall be made in the Subdivision except for walls, basements or cellars of permitted buildings and grading required or permitted by North Ogden City. No mining, refining, quarrying or drilling operations may be conducted on any lot in the Subdivision. In addition, no blasting, discharging of explosives, or discharging of firearms shall be permitted in the Subdivision.

23. Signs. No signs shall be allowed in the Subdivision, except a) street identification signs, b) "For Sale" and "For Rent" signs, and c) identification signs, which shall only be mounted to the front wall of the house which they identify. No sign in the Subdivision shall be larger than allowed in the City's then-current sign ordinance.

24. Mobile Homes and Vehicles.

a. No mobile homes, storage containers, stripped-down vehicles, non-functioning motor vehicles or large commercial vehicles shall be permitted in the Subdivision. For purposes of this Declaration, a motor vehicle shall be deemed to be non-functioning if it is not registered or if it is incapable of the self-propelled motion for which it was designed.

b. No work on motor vehicles, except for routine maintenance such as adding oil and other fluids, shall be permitted in the Subdivision.

c. No recreational vehicle may be allowed to remain in the Subdivision for longer than 48 hours unless the vehicle is: 1) parked on a cement pad constructed especially for vehicles, and 2) screened by a privacy fence at least six feet (6') tall between the street and the vehicle.

25. Fires. No exterior fires are permitted in the Subdivision, except for barbecue fires in established barbecue pits.

26. No camping. No camping shall be allowed in the Subdivision, except for children

spending a single night in a tent erected in a back yard. For purposes of this Declaration, "camping" shall include occupation of a motor home parked in the Subdivision.

27. Garages. The interior of all garages in the subdivision shall be sheet rocked.

28. Reservation of Right to Modify or Cancel. The MBA reserves the right to change, amend, alter or cancel any or all of the restrictions contained in this Declaration, if in its judgment the development or lack of development of the Subdivision or adjacent property makes that course necessary or desirable.

29. Yard Lighting. All lots in the subdivision shall have one yard light as follows:

a. The yard light shall be located in the front yard and shall be located no more than 10 feet behind the sidewalk and 10 feet from the driveway. The yard light shall be in a style approved by the ~~Building Official~~ Owners Committee. The yard light shall be either gas or electric. No other lighting methods may be used without the written approval of the ~~Building Official~~ Owners Committee.

d. The yard light shall meet the minimum illumination standards set by the ~~MBA~~ Owners Committee.

30. Release of restrictions on a particular lot. The restrictions on any lot in the Subdivision may be removed only by:

a. written consent of the ~~MBA~~ Owners Committee, duly acknowledged and recorded, and

b. the unanimous written consent, duly acknowledged and recorded of all of the other owners of lots in the Subdivision.

~~31. Effect of dissolution of the MBA. In the event the MBA is dissolved either by act of the City or repeal of the act authorizing the MBA, all rights and responsibilities of the MBA shall become vested in the City and shall be exercised by the city council.~~

~~3231.~~ Validity. The covenants and restrictions contained in this Declaration shall operate as covenants running with the land for the benefit of all persons who now own, or may hereafter own, one or more lots in the Subdivision.

a. The covenants, conditions and restrictions contained in this Declaration shall be binding on all owners of lots in the Subdivisions, tenants residing in a home in the Subdivision, and any other person who uses any lot or other property in the Subdivision.

b. All owners of lots in the Subdivision are specifically given the right to enforce these covenants, conditions and restrictions through any proceedings, at law or in equity, against

any person or persons violating or threatening to violate these restrictions and to recover any damages suffered as a result of any violation or threatened violation thereof.

c. In any suit brought by an owner of a lot under this paragraph, the owner shall be entitled to an injunction enjoining the continuation of any violation and prohibiting any future violations.

d. If any owner brings a suit against any other owner for a violation of this Declaration, the prevailing party shall be entitled to recover its reasonable attorney's fees.

3332. Waiver. Failure of any lot owner at any time to require performance of any provision of this Declaration shall not limit the lot owner's or any other lot owner's right to enforce the provision, nor shall any waiver of any breach of any provision be a waiver of any succeeding breach of any provision.

3433. Law Governing. This Agreement shall be governed by and construed in accordance with the laws of the State of Utah.

3534. Computation of Time. In computing any period of time contained in this Declaration, the day of the act, event or default from which the designated period of time begins to run shall not be included. The time period shall run for the specified number of days, unless it will end on a Saturday, Sunday or a legal holiday, in which event the period shall run to the next day which is not a Saturday, Sunday or a legal holiday.

36. Titles and Captions. All article, section and paragraph titles or captions contained in this Agreement are for convenience only and shall not be deemed part of the context nor affect the interpretation of this Agreement.

37. Pronouns and Plurals. All pronouns and any variations thereof shall be deemed to refer to the masculine, feminine, neuter, singular or plural as the identity of the Person or Persons may require.

38. Savings Clause. If any provision of this Declaration, or the application of a provision to any person or circumstance, shall be held invalid, the remainder of this Declaration, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

39. Duration. These restrictions shall be binding on all lots in the Subdivision for an initial period of twenty-five (25) years after the execution of this Declaration. After the initial twenty-five (25) year period, the restrictions shall be automatically extended for successive ten (10) year periods unless a majority of the lot owners agree to change or repeal the restrictions. If a majority of the lot owners desire to change, amend, alter or repeal the covenants, conditions and restrictions contained in this Declaration, they shall describe the new or amended covenants, conditions and restrictions in a written document. The document shall be signed and

acknowledged by all of the lot owners agreeing to the amendment and must be recorded at least thirty (30) days before the expiration of the initial twenty-five (25) year period or any successive ten (10) year period.

**MUNICIPAL BUILDING AUTHORITY
OF NORTH OGDEN CITY**

Richard G. Harris
President

STATE OF UTAH :
 : ss
WEBER COUNTY :

On this ____ day of _____, 2011, Richard G. Harris, the duly appointed president of the North Ogden Municipal Building Authority (“MBA”), whose identity is known to me, appeared personally before me and signed the foregoing “Third Amended Declaration of Covenants, Conditions and Restrictions for Deer Meadows Subdivision Phase I” in my presence and under oath as an official act on behalf of the MBA.

NOTARY PUBLIC